Federal Register

4–14–08 Monday
Vol. 73 No. 72 Apr. 14, 2008

United States
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(ISSN 0097-6326)

Federal Register

4–14–08 Monday
Vol. 73 No. 72 Apr. 14, 2008

Pages 19959–20148

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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:

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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, April 15, 2008
9:00 a.m.–Noon

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

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1150

[Docket No. AMS–DA–08–2004; DA–06–04]

National Dairy Promotion and Research Program; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This document summarizes the results of an Agricultural Marketing Service (AMS) review of the National Dairy Promotion and Research Program (National Dairy Program) conducted under the Dairy Promotion and Research Order (Dairy Order), under the criteria contained in Section 610 of the Regulatory Flexibility Act (RFA). Based upon its review, AMS has determined that the Dairy Order should be continued without change.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain a copy of the review. Requests for copies should be sent to Whitney Rick, Chief, Promotion and Research Branch, Dairy Programs, 1400 Independence Avenue, SW., Stop 0233–Room 2958–South Building, Washington, DC 20250–0233, (202) 720–6909, e-mail: *Whitney.Rick@usda.gov* or by accessing our Web site at *http://www.ams.usda.gov/dairy/dairyrp.htm.*

SUPPLEMENTARY INFORMATION: The Dairy Production Stabilization Act of 1983 [7 U.S.C. 4501–4513] (Dairy Act) authorized the Dairy Order [7 CFR Part 1150], a national dairy producer program designed to develop and finance promotion, research, and nutrition education programs to maintain and expand markets and uses for milk and dairy products. Annual reports concerning the activities conducted under the order are required by statute at 7 U.S.C. 4514.

The National Dairy Program became effective on March 23, 1984, when the Dairy Order was issued. The National Dairy Program is funded by a mandatory assessment of 15 cents per hundredweight on all milk marketed in the 48 contiguous states. Producers can receive a credit of up to 10 cents a hundredweight for payments made to any State or regional dairy product promotion, research or nutrition education programs which is certified as a qualified program pursuant to the Dairy Order.

The Dairy Order provides for the establishment of the National Dairy Promotion and Research Board (National Dairy Board), which is composed of 36 members appointed by the Secretary of Agriculture. Each member represents one of thirteen Regions in the 48 contiguous States. The members of the National Dairy Board serve 3-year terms and are eligible to be appointed to two consecutive terms.

AMS published in the **Federal Register** its plan on February 18, 1999 (64 FR 8014), and most recently updated its plan on March 24, 2006 (71 FR 14827), to review certain regulations using criteria contained in Section 610 of the RFA (5 U.S.C. 601–612). Given that many AMS regulations impact small entities, AMS decided as a matter of policy to review certain regulations which, although they may not meet the threshold requirement under Section 610 of the RFA, warrant review.

The 610 Review was undertaken to determine whether the Dairy Order should be continued without change, amended, or rescinded (consistent with the objectives of the Dairy Act) to minimize any significant economic impact of rules upon a substantial number of small entities. AMS has considered the continued need for the Dairy Order; the nature of complaints or comments received from the public concerning the Dairy Order; the complexity of the Dairy Order; the extent to which the Dairy Order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local government rules; and the length of time since the Dairy Order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the Dairy Order.

A Notice of Review and Request for Written Comments was published in the **Federal Register** on February 28, 2006, (71 FR 9978). Thirty-two written comments were received and are discussed below.

Of the thirty-two comments received, ten comments recommended that the Dairy Order be terminated or re-evaluated. Of those comments, several suggested that non-assessment of imported dairy products were a reason that the program should be discontinued because importers were receiving the benefit of a domestic assessment but were not required to pay assessments. The 2002 Farm Bill (Pub. L. 107–171) amended the Dairy Act to include assessment of imports. A provision also was added to ensure that implementation of an order was consistent with international trade obligations. However, the term United States continued to be defined as the forty-eight contiguous states in the continental United States. Taking into account the narrow definition of United States in implementing the importer provisions of the Dairy Act, USDA concluded that the definition of United States should be amended in the Dairy Act to include Alaska, Hawaii, the District of Columbia and Puerto Rico. Therefore, as part of USDA's 2007 Farm Bill proposal, we have included language that would change the definition of United States in the Dairy Act to include all 50 States, the District of Columbia, and Puerto Rico. When the Dairy Act is amended, USDA intends to resume implementation of the import provisions of the Dairy Act.

Several of these commenters suggested that the assessment should be voluntary as opposed to mandatory. The Dairy Act provides for mandatory assessments. USDA has determined mandatory assessments to finance national generic programs benefits all parties involved. Mandatory assessments ensure that assessments are incurred in a fair and equitable manner and that activities under a program can be administered effectively.

Several commenters also recommended mandatory referendums and the abolition of bloc-voting, whereby a cooperative votes on behalf of its membership in referenda. Section 4507(b) of the Dairy Act requires the

Secretary to hold a referendum on request of a representative group comprising 10 percent or more of the number of producers and importers subject to the Dairy Order to determine whether producers and importers favor the suspension or termination of the Order. We believe a 10 percent threshold avoids unnecessary costs to the industry, while allowing for a referendum if sufficient interest is determined. Additionally, with regard to bloc-voting, Section 4508 of the Dairy Act authorizes cooperative bloc-voting. However, a cooperative is required to inform producers of procedures to follow to cast an individual ballot should the producer choose to do so.

One comment suggested that the program violated the commenter's First Amendment right of free speech. However, in June 2005, the Supreme Court ruled in *Johanns, Secretary of Agriculture,* v. *Livestock Marketing Association* that generic commodity research and promotion programs are considered "government speech" and, therefore, are not subject to First Amendment challenges.

Two comments suggested that the National Dairy Program is used to lobby and conduct activities that are not in the best interest of producers. We disagree. Section 4504(j) of the Dairy Act and Section 1150.154 of the Dairy Order prohibit the use of assessment funds for the purpose of lobbying or influencing governmental action or policy. No funds collected pursuant to the Dairy Order are used for the purpose of lobbying or influencing governmental policy or action. Further, an annual report to Congress is required under 7 U.S.C. 4514 describing activities conducted under the Order and accounting for the receipt and disbursement of all funds received by the Board including an independent analysis of the effectiveness of the program.

Several comments suggested that dairy farmers be permitted to elect members of the National Dairy Board and that the Board is representative of only large farm interests. We disagree. The Dairy Act provides that producer members of the Board be appointed by the Secretary from nominations submitted by organizations certified in accordance with the Act. Similar provisions concerning nominations appear in other generic commodity and promotion programs. The Dairy Act further provides that if the Secretary determines that a substantial number of milk producers are not members, or their interests are not represented by an eligible organization, the nominations may be made in the manner authorized by the Secretary. Additionally, the Dairy Act and Dairy Order require the Secretary to consider size, geography, and other factors when making appointments to ensure that all producers are represented. Similar criteria are considered in determining eligible organizations.

In contrast, twenty-two comments expressed support for the Dairy Order, recognizing the need and advantages which the National Dairy Program provides to dairy farmers at a State level. Further, the same comments noted that the National Dairy Program invests farmer funds into research and promotion of dairy products, therefore, increasing the economic viability of the products produced and contributing to dairy producer profits.

Another comment from a producer recognized that the National Dairy Program works effectively and cooperatively on a national, State, and regional level. Additionally, this producer noted that they are a small dairy farm (150 registered Holsteins, half which are milk cows) and believed that the National Dairy Program contributes effectively to dairy farmer profitability and has minimal impact on small producers and other entities.

Several of the supporting comments noted vast producer support for the National Dairy Program and recognized that the National Dairy Program was vital to increasing dairy consumption and maintaining and increasing profitability for the farmer. Since the program began in 1983, total dairy consumption has increased by more than 35 percent according to USDA.

Another supporting comment noted that the National Dairy Program increases sales; provides greater opportunity for brands and businesses to compete for their share of the beverage category; protects small producers from being severely disadvantaged against large competitors that could undermine industry growth; and, in general builds a more favorable economic environment for farmers, processors, and everyone with a stake in the industry. Additionally, the same commenter wrote that the National Dairy Program has very little adverse impact on small businesses. In fact, the program helps the small producer by protecting the small producer from being severely disadvantaged by larger competition. The paperwork requirements imposed on the farmer are minimal and the assessment is collected as part of the milk-purchase transaction by the purchaser.

One comment submitted by a Qualified Program expressed support for the National Dairy Program and recognized that the program was vital to maintaining and increasing profitability for the farmer and increasing dairy consumption. Additionally, the commenter referenced payments made to State or regional dairy checkoff programs (10 cents per hundredweight) and how such payments support promotion and research programs which directly benefit farmers at the local level. However, the commenter noted that program funds should be used to address pre-harvest dairy production practices and was critical of USDA's policy prohibiting use of program funds for this type of research. Sections 111(j) of the Act and Sections 1150.115 and 1150.161(a)(2) of the Dairy Order are clear that the program's focus is on increasing human consumption of milk and dairy products not on non-human consumption or on improving production or processing efficiencies. This is consistent with the statute's congressional intent.

The Dairy Order is not unduly complex and AMS has not identified regulations that duplicate, overlap, or conflict with the Dairy Order. Over the years, changes to the Dairy Order have been made to reflect current industry operating practices and to solve current industry problems to the extent possible. The program is independently evaluated every year to determine the effectiveness of its programs and the results are reported annually to Congress.

Based upon the review, AMS has determined that the Dairy Order should be continued without change. AMS plans to continue working with the dairy industry in maintaining an effective program.

Dated: April 8, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–7863 Filed 4–11–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0345; Directorate Identifier 2007–NM–194–AD; Amendment 39–15465; AD 2008–08–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310–304, –322, –324, and –325 Airplanes; and A300 Model B4–601, B4–603, B4–605R, B4–620, B4–622, B4–622R, F4–605R, F4–622R, and C4–605R Variant F Airplanes (Commonly Called Model A300–600 Series Airplanes)

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

ACTION: Final rule.

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

Due to the recalculation of loads for the Multi Role Transporter and Tanker (MRTT) aircraft, it has been found that a structural reinforcement at the aft section of the fuselage (FR (frame) 87–FR91) is required for A300–600 aircraft and A310 aircraft with a Trim Tank installed.

* * * * * * *

The unsafe condition is the potential loss of structural integrity in the aft section of the fuselage between FR87 through FR91, inclusive, during extreme rolling and vertical maneuver combinations. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 19, 2008.

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

FOR FURTHER INFORMATION CONTACT: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 19, 2007 (72 FR 71832). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Due to the recalculation of loads for the Multi Role Transporter and Tanker (MRTT) aircraft, it has been found that a structural reinforcement at the aft section of the fuselage (FR (frame) 87–FR91) is required for A300–600 aircraft and A310 aircraft with a Trim Tank installed.

* * * * * * *

The unsafe condition is the potential loss of structural integrity in the aft section of the fuselage between FR87 through FR91, inclusive, during extreme rolling and vertical maneuver combinations. The corrective action is reinforcing the structure at FR91. Related investigative and corrective actions (reinforcement) include:

- Doing a rotating probe inspection for cracking of the fastener holes;
- reaming the fastener holes; and
- contacting Airbus for repair instructions and repairing any crack found in any reamed fastener hole.

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

Comments

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

Request To Update Service Information Reference

Airbus requests that we update the service information citations in the NPRM. Airbus states that new revisions of the cited service bulletins have been released and asserts that no additional work or substantial changes were introduced in the revised service bulletins.

We agree with this request. We have reviewed Airbus Service Bulletin A310–53–2126, Revision 01, dated May 31, 2007; and Airbus Service Bulletin A300–53–6156, Revision 01, dated July 4, 2007; and have confirmed that no additional work or substantial changes were introduced in the new revisions. We have revised the AD accordingly, and given credit for actions done in accordance with the original issue of the service information.

Request To Clarify Reason

Airbus requests that we review the description of the corrective actions specified in the NPRM. Airbus suggests that we revise paragraph (e) of the NPRM to include installing new oversized fasteners (for all airplanes) and installing reinforcing brace plates on the diagonal struts between FR87 and FR91 (for certain airplanes). Airbus asserts that if we revise the NPRM as requested, it will clarify the proposed requirements of the NPRM.

We agree with Airbus that this is useful information. However, when we state in an AD that corrective actions include certain actions, we specify only major corrective actions. The AD requires doing the corrective actions as applicable, and directs operators to the service information for detailed procedures to accomplish those actions. It is not necessary to change the AD in this regard.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 160 products of U.S. registry. We also estimate that it will take about 129 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $5,840 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected

parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,585,600, or $16,160 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–13 Airbus: Amendment 39–15465. Docket No. FAA–2007–0345; Directorate Identifier 2007–NM–194–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 19, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A310–304, –322, –324, and –325 airplanes, certificated in any category, all serial numbers, except those which have received in service application of Airbus Service Bulletin A310–53–2126 (Airbus modification No. 13011). This AD also applies to Airbus A300 Model B4–601, B4–603, B4–605R, B4–620, B4–622, B4–622R, F4–605R, F4–622R, and C4–605R Variant F airplanes (commonly called Model A300–600 series airplanes), certificated in any category, all serial numbers, except those which have received application of Airbus modification No. 13273 in production or application of Airbus Service Bulletin A300–53–6156 in service.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Reason

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

Due to the recalculation of loads for the Multi Role Transporter and Tanker (MRTT) aircraft, it has been found that a structural reinforcement at the aft section of the fuselage (FR (frame) 87–FR91) is required for A300–600 aircraft and A310 aircraft with a Trim Tank installed.

* * * * * * *

The unsafe condition is the potential loss of structural integrity in the aft section of the fuselage between FR87 through FR91, inclusive, during extreme rolling and vertical maneuver combinations. The corrective action is reinforcing the structure at FR91. Related investigative and corrective actions (reinforcement) include:

- Doing a rotating probe inspection for cracking of the fastener holes;
- reaming the fastener holes; and
- contacting Airbus for repair instructions and repairing any crack found in any reamed fastener hole.

Actions and Compliance

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

(1) Within 2,500 flight cycles after the effective date of this AD, reinforce the aft section of the fuselage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–53–2126, Revision 01, dated May 31, 2007; and Airbus Service Bulletin A300–53–6156, Revision 01, dated July 4, 2007; as applicable. Do all related and investigative corrective actions, as applicable, before further flight. Actions done before the effective date of this AD in accordance with Airbus Service Bulletin A310–53–2126 or Airbus Service Bulletin A300–53–6156, both dated November 28, 2006, are considered acceptable for compliance with the corresponding action specified in this AD.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1622; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Airworthiness Directive 2007–0173, dated June 18, 2007; Airbus Service Bulletin A310–53–2126,

Revision 01, dated May 31, 2007; and Airbus Service Bulletin A300–53–6156, Revision 01, dated July 4, 2007; for related information.

Material Incorporated by Reference

(i) You must use Airbus Service Bulletin A310–53–2126, Revision 01, dated May 31, 2007; or Airbus Service Bulletin A300–53–6156, Revision 01, dated July 4, 2007; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on April 3, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7665 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0340; Directorate Identifier 2008–CE–020–AD; Amendment 39–15468; AD 2008–06–28 R1]

RIN 2120–AA64

Airworthiness Directives; Avidyne Corporation Primary Flight Displays (Part Numbers 700–00006–000, –001, –002, –003, and –100)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) to revise AD 2008–06–28, which applies to certain Avidyne Corporation (Avidyne) Primary Flight Displays (PFDs) (Part Numbers (P/Ns) 700–00006–000, –001, –002, –003, and –100) that are installed on airplanes. AD 2008–06–28 currently requires you to do a check of the maintenance records and inspection of the PFD (if necessary) to determine if an affected serial number PFD is installed. If an affected serial number PFD is installed, this AD requires you to incorporate information that limits operation when certain conditions for the PFD or backup instruments exist. Since we issued AD 2008–06–28, we have learned that there is an incorrect serial number (SN) listed in AD 2008–06–28. Consequently, this AD retains the actions of AD 2008–06–28 and corrects the incorrect serial number. We are issuing this AD to prevent certain conditions from existing when PFDs display incorrect attitude, altitude, and airspeed information. This could result in airspeed/altitude mismanagement or spatial disorientation of the pilot with consequent loss of airplane control, inadequate traffic separation, or controlled flight into terrain.

DATES: This AD becomes effective on April 10, 2008 (the effective date of AD 2008–06–28).

We must receive any comments on this AD by June 13, 2008.

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

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

To get the service information identified in this AD, contact Avidyne Corporation, 55 Old Bedford Road, Lincoln, MA 01773; telephone: (781) 402–7400; fax: (781) 402–7599.

To view the comments to this AD, go to *http://www.regulations.gov.* The docket number is FAA–2008–0340; Directorate Identifier 2008–CE–020–AD.

FOR FURTHER INFORMATION CONTACT: Solomon Hecht, Aerospace Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803; telephone: (781) 238–7159; fax: (781) 238–7170.

SUPPLEMENTARY INFORMATION:

Discussion

Several field reports of PFDs displaying incorrect altitude and airspeed information caused us to issue AD 2008–06–28, Amendment 39–15440 (73 FR 15862, March 26, 2008). AD 2008–06–28 currently requires a check of the maintenance records and an inspection of the PFD (if necessary) to determine if an affected serial number PFD is installed. If an affected serial number PFD is installed, this AD requires you to incorporate information that limits operation when certain conditions for the PFD or backup instruments exist.

We received several field reports of PFDs displaying incorrect altitude and airspeed information. These occurrences included incorrect display of information at system startup, including one or more of the following:

- Altitude significantly in error when compared to field elevation with local barometric correction setting entered on PFD.
- Altitude significantly in error when compared to backup altimeter with identical barometric correction settings.
- Non-zero airspeed (inconsistent with high winds or propwash from a nearby airplane) indicated at system startup.
- Altitude or airspeed indications that vary noticeably after startup under static conditions.
- Erroneous airspeed indications in combination with erroneous attitude indications.
- A steady or intermittent "red X" in place of the airspeed indicator, altimeter, vertical speed indicator, or attitude indicator.

The conditions described above occur because of a manufacturing process defect on a certain batch of PFD serial numbers during incorporation of a design improvement on the air data unit assembly. The root cause of this manufacturing process defect is still being analyzed.

Since we issued AD 2008–06–28, we have learned that PFD SN 0030197 is incorrectly listed in AD 2008–06–28. The correct SN is 20030197.

This condition, if not corrected, could result in airspeed/altitude mismanagement or spatial disorientation of the pilot and consequent loss of airplane control, inadequate traffic separation, or controlled flight into terrain.

FAA's Determination and Requirements of This AD

We are issuing this AD because we evaluated all the information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design. This AD revises AD 2008–06–28 by retaining the actions of AD 2008–06–28 and correcting the incorrect serial number.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this

AD, we determined that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and an opportunity for public comment. We invite you to send any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number "FAA–2008–0340; Directorate Identifier 2008–CE–020–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2008–06–28, Amendment 39–15440 (73 FR 15862, March 26, 2008), and by adding a new AD to read as follows:

2008–06–28 R1 Avidyne Corporation: Amendment 39–15468; Docket No. FAA–2008–0340; Directorate Identifier 2008–CE–020–AD.

Effective Date

(a) This AD becomes effective on April 10, 2008 (The effective date of AD 2008–06–28).

Affected ADs

(b) This AD revises AD 2008–06–28; Amendment 39–15440.

Applicability

(b) None.

Applicability

(c) This AD applies to Avidyne Corporation (Avidyne) Primary Flight Displays (PFDs) (Part Numbers (P/Ns) 700–00006–000, 700–00006–001, 700–00006–002, 700–00006–003, and 700–00006–100) that are installed on, but not limited to the following airplanes that are certificated in any category:

(1) Adam Aircraft Model A500;

(2) Cessna Aircraft Company Model 441 (STEC Alliant Supplemental Type Certificate (STC) No. SA09547AC–D incorporated);

(3) Cessna Aircraft Company Models LC42–550FG and LC41–550FG (Columbia Aircraft Manufacturing and The Lancair Company previously held the type certificate for these airplanes);

(4) Cirrus Design Corporation Models SR20 and SR22;

(5) Diamond Aircraft Industries GmbH Model DA 40;

(6) Hawker Beechcraft Corporation Model E90 (STEC Alliant STC No. SA09545AC–D incorporated);

(7) Hawker Beechcraft Corporation Model 200 series (STEC Alliant STC No. SA09543AC–D incorporated); and

(8) Piper Aircraft, Inc. Models PA–28–161, PA–28–181, PA–28R–201, PA–32R–301 (HP), PA–32R–301T, PA–32–301FT, PA–32–301XTC, PA–34–220T, PA–44–180, PA–46–350P, PA–46R–350T, and PA–46–500TP.

Unsafe Condition

(d) This AD is the result of our learning that there is an incorrect serial number (SN) listed in AD 2008–06–28, which is corrected in this AD. We are issuing this AD to prevent certain conditions from existing when PFDs display incorrect attitude, altitude, and airspeed information. This could result in airspeed/altitude mismanagement or spatial disorientation of the pilot with consequent loss of airplane control, inadequate traffic separation, or controlled flight into terrain.

Compliance

(e) To address this problem, you must do the following, unless already done:

TABLE 1.—ACTIONS, COMPLIANCE, AND PROCEDURES

Actions	Compliance	Procedures
(1) Do a logbook check of maintenance records to determine if any PFD (P/Ns 700–00006–000, 700–00006–001, 700–00006–002, 700–00006–003, or 700–00006–100) with any affected serial number listed in TABLE 2—Serial Numbers of Affected PFDs is installed. (i) If, as a result of this check, you find any PFD installed with an affected serial number, do the action required by paragraph (e)(3)(i) or (e)(3)(ii) of this AD (ii) If, as a result of this check, you cannot positively identify the serial number of the PFD, do the inspection required in paragraph (e)(2) of this AD (iii) If, as a result of this check, you positively identify that the PFD installed does not have a serial number affected by this AD, then no further action is required	Within 15 days after April 10, 2008 (the effective date of AD 2008–06–28).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do the logbook check. Make an entry into the aircraft logbook showing compliance with this portion of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(2) If you find, as a result of the check required by paragraph (e)(1) of this AD, you cannot positively identify the serial number of the PFD, inspect any PFD (P/Ns 700–00006–000, 700–00006–001, 700–00006–002, 700–00006–003, or 700–00006–100) for any affected serial number listed in TABLE 2—Serial Numbers of Affected PFDs. You may do the requirement of paragraph (e)(3) of this AD instead of this inspection	Within 15 days after April 10, 2008 (the effective date of AD 2008–06–28).	Not Applicable.
(3) If you find, as a result of the check required by paragraph (e)(1) of this AD or the inspection required by paragraph (e)(2) of this AD, any PFD installed with an affected serial number, do whichever of the following applies. (i) For airplanes with an airplane flight manual (AFM), pilot's operating handbook (POH), or airplane flight manual supplement (AFMS), incorporate the language in the Appendix of this AD into the Limitations section. (ii) For airplanes without an AFM, POH, or AFMS, do the following: (A) Incorporate the language in the Appendix of this AD into your aircraft records; and (B) Fabricate a placard (using at least 1/8-inch letters) with the following words and install the placard on the instrument panel within the pilot's clear view: "AD 2008–06–28 R1 CONTAINS LIMITATIONS REGARDING AVIDYNE PRIMARY FLIGHT DISPLAYS (PFD) AND REQUIRED INCORPORATION OF THESE LIMITATIONS INTO THE AIRCRAFT RECORDS. YOU MUST FOLLOW THESE LIMITATIONS."	Within 15 days after April 10, 2008 (the effective date of AD 2008–06–28).	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may insert the information into the AFM, POH, AFMS, or maintenance records as required in paragraph (e)(3)(i) or (e)(3)(ii)(A) of this AD and/or fabricate the placard required in paragraph (e)(3)(ii)(B) of this AD. Make an entry into the aircraft records showing compliance with these portions of the AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).
(4) Do not install any PFD (P/Ns 700–00006–000, 700–00006–001, 700–00006–002, 700–00006–003, or 700–00006–100) with any affected serial number listed in TABLE 2—Serial Numbers of Affected PFDs.	As of April 10, 2008 (the effective date of AD 2008–06–28).	Not Applicable.

Note 1: If you have an AFM, POH, or AFMS, you may fabricate and install a placard as described in paragraph (e)(3)(ii) of this AD in addition to, but not instead of, the Limitations section requirement of paragraph (e)(3)(i) of this AD.

Note 2: Avidyne Service Alert No. SA–08–001, dated February 12, 2008, pertains to the subject matter of this AD. The service information cautions that all pilots should be vigilant in conducting proper preflight and in-flight checks of instrument accuracy.

TABLE 2.—SERIAL NUMBERS OF AFFECTED PFDS AD 2008–06–28 R1

D1023, D1031, D1037, D1069, D1075, D1080, D1084, D1090, D1101, D1102, D1106, D1112, D1115, D1136, D1138, D1141, D1144, D1158, D1170, D1172, D1174, D1178, D1188, D1197, D1199, D1212, D1234, D1240, D1249, D1253, D1254, D1256, D1259, D1260, D1262, D1270, D1272, D1277, D1283, D1288, D1313, D1319, D1327, D1351, D1364, D1380, D1387, D1391, D1396, D1405, D1412, D1428, D1433, D1434, D1435, F0006, F0011, F0021, F0030, F0031, F0032, F0035, 20002067, 20003147, 20003296, 20003316, 20004297, 20005316, 20005487, 20008167, 20008227, 20008255, 20009297, 20009476, 20010177, 20010255, 20011396, 20011456, 20012337, 20012506, 20013406, 20014027, 20014227, 20015357, 20017286, 20018317, 20018425, 20018486, 20019067, 20019297, 20020297, 20021067, 20021197, 20022177, 20022207, 20022217, 20022286, 20022287, 20022296, 20023197, 20023377, 20024196, 20024217, 20024297, 20024397, 20024407, 20024425, 20025067, 20025177, 20025217, 20025317, 20026067, 20026197, 20026207, 20026265, 20026377, 20026407, 20026506, 20027177, 20027226, 20027317, 20027377, 20028177, 20028337, 20029177, 20029197, 20029246, 20029265, 20029506, 20030197, 20030237, 20031207, 20031217, 20031406, 20031407, 20031516, 20032067, 20032265, 20032337, 20032516, 20033337, 20034207, 20034327, 20035177, 20036197, 20036237, 20036397, 20037265, 20037285, 20038127, 20038197, 20038337, 20039177, 20040127, 20040177, 20040197, 20040265, 20040317, 20041177, 20042197, 20042265, 20042317, 20042337, 20043197, 20043215, 20043237, 20043247, 20044226, 20044237, 20044285, 20045215, 20045265, 20045437, 20046215, 20047127, 20047147, 20047197, 20048197, 20048215, 20048247, 20049147, 20049357, 20050147, 20050287, 20050346, 20050434, 20051215, 20052215, 20053247, 20053257, 20053357, 20054247, 20054257, 20054357, 20055087, 20056247, 20056257, 20057237, 20057346, 20058346, 20061087, 20061247, 20062087, 20062247, 20063087, 20064087, 20064147, 20064226, 20064337, 20066147, 20067087, 20068147, 20068337, 20069087, 20071237, 20072087, 20073087, 20073346, 20073506, 20074207, 20075087, 20075147, 20075207, 20076217, 20076257, 20077087, 20077506, 20078087, 20078217, 20078257, 20078346, 20078496, 20084257, 20085396, 20087257, 20089257, 20089346, 20090346, 20092297, 20093247, 20094107, 20094416, 20097137, 20098037, 20099107, 20099346, 20099416, 20101416, 20102417, 20103396, 20104246, 20106224, 20111224, 20112224, 20114416, 20115346, 20116346, 20118416, 20123416, 20124456, 20126416, 20129346, 20135337, 20139336, 20140336, 20142037, 20142296, 20146037, 20147336, 20153037, 20158097, 20161097, 20164097, 20165097, 20166097, 20170097, 20170175, 20172175, 20177175, 20202257, 20204175, 20209246, 20214175, 20216265, 20217175, 20224175, 20224265, 20229265, 20232175, 20233175, 20236175, 20236265, 20241175, 20243265, 20265355, 20272355, 20273355, 20278355, 20281355, 20302384, 20308384, 20314384, 20317384, 20320305, 20321376, 20330376, 20330384, 20343384, 20347305, 20348305, 20350305, 20356305, 20359305, 20378475, 20380225, 20381225, 20382475, 20388225, 20402174, 20403174, 20438345, 20440345, 20447425, 20452315, 20458315, 20462315, 20467315, 20540094, 20550094, 20576445, 20580445, 20581445, 20582525, 20584525, 20591525, 20595065, 20599065, 20605065, 20615116, 20618065, 20638116, 20656284, 20732074, 20735176, 20739176, 20755493, 20814015, 20815015, 20974365, 20978365, 20978434, 20986365, 20990434, 20998365, 21002365, 21056395, 21060395, 21063184, 21063395, 21067184, 21070184, 21075395, 21191045, 21200045, 21219045, 21294414, 21311414, 21315414, 21324414, 21325414, 21330414, 21334414, 21340414, 21491056, 21493056, 21596354, 21603435, 21604435, 21606435, 21608435, 21610435, 21614435, 21646086, 21668086, 21812514, 21823514, 21826514, 21836304, 21839304, 21852304, 22310186, 22378026, 22380026, 22398294, 22401294, 22405085, 22412385, 22418026, 22418385, 22419026, 22470524, 22471524, 22472524, 22479524, 22483524, 22486524, 22523204, 22525264, 22531204, 22559135, 22568135, 22572135, 22578135, 22579135, 22586135, 22602135, 22603135, 22608135, 22642493, 22647493, 22682076, 22908334, 22921334, 22961354, 23166495, 23169495, 23173495, 23175495, 23182495, 23371455, 23378455, 23443264, 23445264, 23448264, 23581244, 23602244, 23737136, 23738136, 24021335, 24029335, 24231144, 24238144, 24248144, 24381324, 24478515, 24735144, 24746144, 24750144, 24772085, 24773085, 24865155, 24867155, 24870155, 24990084, 24991084, 24993084, 24996084, 25023034, 25027034, 25522465, 25525465, 25530465, 25532465, 25538465, 25600465, 25618106, 26287114, 26528095, 26547095, 26553095, 26569464, 26571095, 26572095, 26584095, 26588464, 26592464, 27865034, 28478495, 28519495, 29019044, 29023044, 29029044, 29031044, 29032044, 29512216, 29514216, and 29522216.

Alternative Methods of Compliance (AMOCs)

(f) The Manager, Boston Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Solomon Hecht, Aerospace Engineer, Boston ACO, 12 New England Executive Park, Burlington, MA 01803; telephone: (781) 238–7159; fax: (781) 238–7170. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Additional Information

(g) For the service alert referenced in this AD, contact Avidyne Corporation, 55 Old Bedford Road, Lincoln, MA 01773; telephone: (781) 402–7400; fax: (781) 402–7599.

Appendix to AD 2008–06–28 R1 Limitations Regarding Avidyne Primary Flight Displays (PFDs)

Before conducting flight operations, pilots must review and be familiar with the Crosscheck Monitor section of the Avidyne Primary Flight Display Pilot's Guide and all limitations contained in the airplane flight manual, pilot's operating handbook, or aircraft operating handbook.

As a normal practice, all pilots should be vigilant in conducting proper preflight and in-flight checks of instrument accuracy, including:

- Preflight check of the accuracy of both the primary and backup altimeter against known airfield elevation and against each other.
- Verification of airspeed indications consistent with prevailing conditions at startup, during taxi, and prior to takeoff.
- "Airspeed alive" check and reasonable indications during takeoff roll.
- Maintenance of current altimeter setting in both primary and backup altimeters.
- Cross-check of primary and backup altimeters at each change of altimeter setting and prior to entering instrument meteorological conditions (IMC).
- Cross-check of primary and backup altimeters and validation against other available data, such as glideslope intercept altitude, prior to conducting any instrument approach.
- Periodic cross-checks of primary and backup airspeed indicators, preferably in combination with altimeter cross-checks.

For flight operations under instrument flight rules (IFR) or in conditions in which visual reference to the horizon cannot be reliably maintained (that is IMC, night operations, flight operations over water, in haze or smoke) and the pilot has reasons to suspect that any source (PFD or back-up instruments) of attitude, airspeed, or altitude is not functioning properly, flight under IFR or in these conditions must not be initiated (when condition is determined on the

ground) and further flight under IFR or in these conditions is prohibited until equipment is serviced and functioning properly.

Operation of aircraft not equipped with operating backup (or standby) attitude, altimeter, and airspeed indicators that are located where they are readily visible to the pilot is prohibited.

Pilots must frequently scan and cross-check flight instruments to make sure the information depicted on the PFD correlates and agrees with the information depicted on the backup instruments.

Issued in Kansas City, Missouri, on April 4, 2008.

David R. Showers,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7802 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0175; Directorate Identifier 2007–CE–105–AD; Amendment 39–15455; AD 2008–08–03]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Model 750XL Airplanes

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

ACTION: Final rule.

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

To prevent electrical malfunction from causing damage to the wiring that may result in arcing or fire, accomplish Pacific Aerospace Service Bulletin PACSB/XL/008.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective May 19, 2008.

On May 19, 2008, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on February, 15, 2008 (73 FR 8831). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

To prevent electrical malfunction from causing damage to the wiring that may result in arcing or fire, accomplish Pacific Aerospace Service Bulletin PACSB/XL/008.

The MCAI requires the addition and replacement of certain pitot heat sensor circuit breakers and the addition of a cooling fan circuit.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 7 products of U.S. registry. We also estimate that it will take about 1.5 work-hours per product to comply with basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $181 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,107, or $301 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the

regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–03 Pacific Aerospace Limited: Amendment 39–15455; Docket No. FAA–2008–0175; Directorate Identifier 2007–CE–105–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 19, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pacific Aerospace Limited Model 750XL airplanes, serial numbers 101 through 107, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 31: Instruments.

Reason

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

To prevent electrical malfunction from causing damage to the wiring that may result in arcing or fire, accomplish Pacific Aerospace Service Bulletin PACSB/XL/008.

The MCAI requires the addition and replacement of certain pitot heat sensor circuit breakers and the addition of a cooling fan circuit.

Actions and Compliance

(f) Unless already done, within 100 hours time-in-service May 19, 2008 (the effective date of this AD), do the following actions following Pacific Aerospace Corporation Limited Mandatory Service Bulletin PACSB/XL/008, dated July 8, 2004:

(1) For airplanes only authorized to operate under visual flight rules (VFR) flight:

(i) Add a ten-amp circuit breaker supplying the pitot heat system to the left hand switch panel;

(ii) Replace the switching circuit breaker used as the pitot heat selector with a switch; and

(iii) Add a three-amp fuse at the power bus at the supply to the avionics cooling fan connection.

(2) For airplanes with serial numbers 101 through 107 that have been modified to operate under instrument flight rules (IFR) flight, contact Pacific Aerospace Corporation Limited at Pacific Aerospace Limited, Private Bag HN3027, Hamilton, New Zealand, *telephone:* +(64) 7–843–6144, *fax:* +(64) 7–843–6134, *e-mail: pacific@aerospace.co.nz.*, for FAA-approved procedures to comply with this AD, and follow the procedures prior to further flight.

FAA AD Differences

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

Other FAA AD Provisions

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

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

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

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

Related Information

(h) Refer to MCAI Civil Aviation Authority of New Zealand AD DCA/750XL/2, dated September 30, 2004; and Pacific Aerospace Corporation Limited Mandatory Service Bulletin PACSB/XL/008, dated July 8, 2004, for related information.

Material Incorporated by Reference

(h) You must use Pacific Aerospace Corporation Limited Mandatory Service Bulletin PACSB/XL/008, dated July 8, 2004; Pacific Aerospace Corporation Ltd 750XL Maintenance Manual Drawing 11–81101, Assembly, Switch Panel—LH, dated October 15, 2003; and Pacific Aerospace Corporation Ltd 750XL Maintenance Manual Drawing 11–81519, Schematics Miscellaneous Circuits, dated October 10, 2003, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Pacific Aerospace Corporation Limited at Pacific Aerospace Limited, Private Bag HN3027, Hamilton, New Zealand, *telephone:* +(64) 7–843–6144, *fax:* +(64) 7–843–6134, *e-mail: pacific@aerospace.co.nz.*

(3) You may review copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Kansas City, Missouri, on March 31, 2008.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7167 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0227; Directorate Identifier 2007–NM–159–AD; Amendment 39–15454; AD 2008–08–02]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 727 airplanes. This AD requires repetitive inspections for cracking or corrosion of the threaded end of the lower segment of the main landing gear (MLG) side strut, and corrective actions if necessary. This AD also requires prior or concurrent inspection for cracking or corrosion of the threads and thread relief area of the lower segment, corrective action if necessary, and re-assembly using corrosion inhibiting compound. This AD results from reports of the threads cracking on the MLG side strut lower segment. We are issuing this AD to

prevent a fractured side strut, which could result in collapse of the MLG.

DATES: This AD is effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 19, 2008.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 727 airplanes. That NPRM was published in the **Federal Register** on November 26, 2007 (72 FR 65913). That NPRM proposed to require repetitive inspections for cracking or corrosion of the threaded end of the lower segment of the main landing gear (MLG) side strut, and corrective actions if necessary. That NPRM also proposed to require prior or concurrent inspection for cracking or corrosion of the threads and thread relief area of the lower segment, corrective action if necessary, and re-assembly using corrosion inhibiting compound.

Comments

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

Conclusion

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

Costs of Compliance

There are about 842 airplanes of the affected design in the worldwide fleet. This AD affects about 459 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Fleet cost
Inspection	12	$80	$960, per inspection cycle	$440,640, per inspection cycle.
Prior/concurrent actions	Up to 6	80	Up to $480	Up to $220,320.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–02 Boeing: Amendment 39–15454. Docket No. FAA–2007–0227; Directorate Identifier 2007–NM–159–AD.

Effective Date

(a) This airworthiness directive (AD) is effective May 19, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Model 727, 727C, 727–100, 727–100C, 727–200, and 727–200F series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of the threads cracking on the main landing gear (MLG) side strut lower segment. We are issuing this AD to prevent a fractured side strut, which could result in collapse of the MLG.

Compliance

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

Inspections and Corrective Actions

(f) At the latest applicable time in paragraph (f)(1), (f)(2), or (f)(3) of this AD: Do detailed and magnetic particle inspections for cracking or corrosion of the threaded end of the lower segment of the MLG side strut and do all applicable corrective actions as specified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 727–32–0338, Revision 4, dated April 7, 2007. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at intervals not to exceed 120 months.

(1) Within 48 months after the last MLG overhaul.

(2) Within 6 months after the effective date of this AD.

(3) Within 120 months after the last MLG overhaul for airplanes on which the actions in Boeing Special Attention Service Bulletin 727–32–0338, Revision 4, dated April 7, 2007, have been accomplished before the effective date of this AD.

Prior/Concurrent Requirements

(g) Prior to or concurrently with the actions required by paragraph (f) of this AD: Do all applicable actions specified in the service bulletins listed in Table 1 of this AD. Where the lubrication and corrosion protection procedures in any service bulletin listed in Table 1 of this AD differ from those in Boeing Special Attention Service Bulletin 727–32–0338, Revision 4, dated April 7, 2007, use the procedures in Boeing Special Attention Service Bulletin 727–32–0338, Revision 4.

TABLE 1.—PRIOR/CONCURRENT REQUIREMENTS

For—	Service Bulletin—	Describes procedures for these prior or concurrent actions—
(1) All airplanes	Boeing Special Attention 727–32–0411, Revision 1, dated February 19, 2007.	Inspecting for corrosion or cracking of the threads and thread relief area of the swivel clevis, and improving the corrosion protection of the swivel clevis fitting threads in commonly affected airplanes.
(2) Airplanes specified as Options III, IV and V configurations in Boeing Special Attention Service Bulletin 727–32–0338, Revision 4.	Boeing 727 Service Bulletin 32–79, Revision 1, dated February 27, 1967.	Modifying the MLG side strut universal joint.
	Boeing 727 Service Bulletin 32–157, dated August 30, 1968.	Replacing the MLG side strut swivel bushing, incorporating only parts kit 65–89855–1, and not installing the lube fitting in the lower segment.
(3) Airplanes specified as Option V configuration in Boeing Special Attention Service Bulletin 727–32–0338, Revision 4.	Boeing Service Bulletin 727–32–268, Revision 2, dated February 20, 1981.	Inspecting and modifying the MLG side strut.
	Boeing Service Bulletin 727–57–163, dated September 17, 1982.	Resolving the interference between the MLG gear beam and the MLG side strut.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

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

Material Incorporated by Reference

(i) You must use the applicable service information listed in Table 2 of this AD to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision	Date
Boeing Special Attention Service Bulletin 727–32–0338	4	April 7, 2007.
Boeing Special Attention Service Bulletin 727–32–0411	1	February 19, 2007.
Boeing 727 Service Bulletin 32–157	Original	August 30, 1968.
Boeing 727 Service Bulletin 32–79	1	February 27, 1967.
Boeing Service Bulletin 727–32–268	2	February 20, 1981.
Boeing Service Bulletin 727–57–163	Original	September 17, 1982.

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7176 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25173; Directorate Identifier 2006–NE–24–AD; Amendment 39–15453; AD 2008–08–01]

RIN 2120–AA64

Airworthiness Directives; McCauley Propeller Systems Propeller Models B5JFR36C1101/114GCA–0, C5JFR36C1102/L114GCA–0, B5JFR36C1103/114HCA–0, and C5JFR36C1104/L114HCA–0

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

ACTION: Final rule.

SUMMARY: The FAA is superseding three existing airworthiness directives (ADs) for McCauley Propeller Systems propeller models B5JFR36C1101/114GCA–0, C5JFR36C1102/L114GCA–0, B5JFR36C1103/114HCA–0, and C5JFR36C1104/L114HCA–0. Those ADs currently require fluorescent penetrant inspections (FPI) and eddy current inspections (ECI) of propeller blades for cracks, and if any crack indications are found, removing the blade from service. This AD requires the same initial inspections, but extends the compliance times and intervals, adds repetitive inspections, and mandates a life limit for the blades. This AD results from our determination that we must require repetitive inspections for cracks, and from reports of blunt leading edges of the propeller blades due to erosion. We are issuing this AD to detect cracks in the propeller blade that could cause failure and separation of the propeller blade and loss of control of the airplane, and to detect blunt leading edges on the propeller blades, which could cause airplane single engine climb performance degradation and could result in an increased risk of collision with terrain.

DATES: This AD becomes effective May 19, 2008. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of May 19, 2008.

ADDRESSES: You can get the service information identified in this AD from McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 67277–7704, telephone (800) 621–7767.

The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Jeff Janusz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Small Airplane Directorate, 1801 Airport Road, Room 100, Wichita, KS 67209; *e-mail: jeff.janusz@faa.gov; telephone:* (316) 946–4148; *fax:* (316) 946–4107.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 by superseding AD 2003–15–01, Amendment 39–13243 (68 FR 42244, July 17, 2003); AD 2003–17–10, Amendment 39–13285 (68 FR 50462, August 21, 2003); and AD 2006–15–13, Amendment 39–14693 (71 FR 42258, July 26, 2006), with a proposed AD. The proposed AD applies to McCauley Propeller Systems propeller models B5JFR36C1101/114GCA–0, C5JFR36C1102/L114GCA–0, B5JFR36C1103/114HCA–0, and C5JFR36C1104/L114HCA–0. We published the proposed AD in the **Federal Register** on November 1, 2007 (72 FR 61824). That action proposed to require the same initial inspections as the three ADs being superseded, but to extend the compliance times and intervals, to add repetitive inspections, and to mandate a life limit for the blades.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the one comment received. The commenter supports the proposal. We also found we needed to clarify that blades that had crack indications were no longer eligible for installation on any other airframe or in any other configuration. We clarified the AD on the point.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 22 propeller assemblies installed on airplanes of U.S. registry. We estimate that it will take about 47 work-hours per propeller to perform the required actions, and that the average labor rate is $80 per work-hour. Required parts will cost about $260 per propeller. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $88,440.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in

the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13243 (68 FR 42244, July 17, 2003), Amendment 39–13285 (68 FR 50462, August 21, 2003), and Amendment 39–14693 (71 FR 42258, July 26, 2006), and by adding a new airworthiness directive, Amendment 39–15453, to read as follows:

2008–08–01 McCauley Propeller Systems: Amendment 39–15453. Docket No. FAA–2006–25173; Directorate Identifier 2006–NE–24–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 19, 2008.

Affected ADs

(b) This AD supersedes AD 2003–15–01, Amendment 39–13243; AD 2003–17–10, Amendment 39–13285; and AD 2006–15–13, Amendment 39–14693.

Applicability

(c) This AD applies to McCauley Propeller Systems propeller models B5JFR36C1101/114GCA–0, C5JFR36C1102/L114GCA–0, B5JFR36C1103/114HCA–0, and C5JFR36C1104/L114HCA–0. These propellers are installed on BAE Systems (Operations) Limited Jetstream Model 4100 and 4101 series airplanes (Jetstream 41).

Unsafe Condition

(d) This AD results from our determination that we must require repetitive inspections for cracks, and from reports of blunt leading edges of the propeller blades due to erosion. We are issuing this AD to detect cracks in the propeller blade that could cause failure and separation of the propeller blade and loss of control of the airplane, and to detect blunt leading edges on the propeller blades, which could cause airplane single engine climb performance degradation and could result in an increased risk of collision with terrain.

Compliance

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

Life Limit

(f) Remove all 114GCA–0, L114GCA–0, 114HCA–0, and L114HCA–0 propeller blades upon reaching 10,000 operating hours time-since-new.

Initial Propeller Blade Inspection

(g) Perform an initial fluorescent penetrant inspection and eddy current inspection of propeller blades. Use the Equipment Required and Accomplishment Instructions of McCauley Propellers Alert Service Bulletin ASB255, dated January 8, 2007, and the following compliance schedule:

TABLE 1.—COMPLIANCE SCHEDULE

If the propeller blade:	Then inspect the propeller blade:
(1) Has more than 2,400 operating hours time-since-new (TSN), time-since-last inspection (TSLI), or time-since-overhaul (TSO).	Within 100 operating hours time-in-service (TIS) after the effective date of this AD.
(2) Has 2,400 or fewer operating hours TSN, TSLI, or TSO	Upon reaching 2,500 operating hours TSN, TSLI, or TSO.

Propeller Blades Found Cracked

(h) Remove from service propeller blades found with any crack indications. Blades found with crack indications are no longer eligible for installation in any configuration. Do not install them in any configuration on any airframe.

Repetitive Propeller Blade Inspection

(i) Thereafter, inspect the propeller blades within 2,500 operating hours TSLI or TSO. Use the Equipment Required and Accomplishment Instructions of McCauley Propellers Alert Service Bulletin ASB255, dated January 8, 2007.

Inspection for Blunt Erosion on the Leading Edge of the Propeller Blade

(j) Every time the propeller is removed for the inspection for cracks, inspect the blade for erosion and, if necessary, repair the erosion. The McCauley Propeller Systems Blade Overhaul Manual No., BOM 100, contains information on inspecting and repairing erosion on the propeller blade.

Reporting Requirements

(k) Within 10 calendar days of the inspection, use the Reporting Form for Service Bulletin 255 to report all inspection findings to McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 67277–7704, telephone (800) 621–7767.

(l) The Office of Management and Budget (OMB) has approved the reporting requirements and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

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

Special Flight Permits

(n) Under 39.23, we are limiting the availability of special flight permits for this AD. Special flight permits are available only if:

(1) The operator has not seen signs of external oil leakage from the hub; and

(2) The operator has not observed abnormal propeller vibration or abnormal engine vibration; and

(3) The operator has not observed any other abnormal operation from the propeller; and

(4) The operator has not made earlier reports of abnormal propeller vibration, abnormal engine vibration, or other abnormal propeller operations that have not been addressed.

Related Information

(o) Contact Jeff Janusz, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Small Airplane Directorate, 1801 Airport Road, Room 100, Wichita, KS 67209; *e-mail: jeff.janusz@faa.gov; telephone:* (316) 946–4148; *fax:* (316) 946–4107, for more information about this AD.

Material Incorporated by Reference

(p) You must use the McCauley Propellers Alert Service Bulletin ASB255, dated January 8, 2007, to perform the inspections required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact McCauley Propeller Systems, P.O. Box 7704, Wichita, KS 67277–7704, telephone (800) 621–7767, for a copy of this service information. You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on March 31, 2008.

Peter A. White,

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

[FR Doc. E8–7162 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0394; Directorate Identifier 2007–NM–252–AD; Amendment 39–15457; AD 2008–08–05]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.27 Mark 050 and F.28 Mark 0100 Airplanes

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

ACTION: Final rule.

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

Recently, a Fokker 100 (F28 Mark 0100) operator noted that the electrical connectors of the PSUs (Passenger Service Units) did not lock properly during installation in the aircraft. The PSU panels installed in Fokker 50 (F27 Mark 050 and Mark 0502) aircraft are similar to those installed in the Fokker 100. Investigation revealed that the lack of locking is caused by the tolerance in thickness of the gaskets (seals) inside the PSU connectors. This condition, if not corrected, may cause the connector to overheat, leading to electrical arcing and subsequent failure of the PSU Panels. In such instances, smoke is likely to be emitted. * * *

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 19, 2008.

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 10, 2008 (73 FR 1848). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Recently, a Fokker 100 (F28 Mark 0100) operator noted that the electrical connectors of the PSUs (Passenger Service Units) did not lock properly during installation in the aircraft. The PSU panels installed in Fokker 50 (F27 Mark 050 and Mark 0502) aircraft are similar to those installed in the Fokker 100. Investigation revealed that the lack of locking is caused by the tolerance in thickness of the gaskets (seals) inside the PSU connectors. This condition, if not corrected, may cause the connector to overheat, leading to electrical arcing and subsequent failure of the PSU Panels. In such instances, smoke is likely to be emitted. To remedy and prevent these problems, the PSU manufacturer Honeywell International Aerospace Electronic Systems (formerly known as Grimes Aerospace Company), has narrowed the tolerances of these gaskets. Since an unsafe condition has been identified that is likely to exist or develop on aircraft of these type designs, this Airworthiness Directive requires inspection [to verify if the J1/P1 and J2/P2 interface connectors can be properly locked and gaskets are present] and, where necessary, replacement of the affected PSU Panel J1 and J2 Interface Connector gaskets.

Corrective actions include installing a gasket, verifying that the J1 and J2 receptacle locking tabs are not deformed, replacing the receptacle, and installing a new PSU panel. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Correction to Quoted Material in the NPRM

We have corrected two instances where we miscopied the references to the PSU panels in the quoted material as I1 and I2, which should have been J1 and J2.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 9 products of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,880, or $320 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–05 Fokker Services B.V: Amendment 39–15457. Docket No. FAA–2007–0394; Directorate Identifier 2007–NM–252–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 19, 2008.

Affected ADs

(b) None.

Applicability

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

(1) Fokker Model F.27 Mark 050 airplanes, equipped with Honeywell International (Grimes Aerospace) Passenger Service Units (PSUs), part number 10–1178–XX series.

(2) Fokker Model F.28 Mark 0100 airplanes, equipped with Honeywell International (Grimes Aerospace) PSUs, part number 10–1178–XX series or 10–1571–XX series, unless modified in accordance with Fokker Service Bulletin SBF100–25–070.

Subject

(d) Air Transport Association (ATA) of America Code 25: Equipment/Furnishings.

Reason

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

Recently, a Fokker 100 (F28 Mark 0100) operator noted that the electrical connectors of the PSUs (Passenger Service Units) did not lock properly during installation in the aircraft. The PSU panels installed in Fokker 50 (F27 Mark 050 and Mark 0502) aircraft are similar to those installed in the Fokker 100. Investigation revealed that the lack of locking is caused by the tolerance in thickness of the gaskets (seals) inside the PSU connectors. This condition, if not corrected, may cause the connector to overheat, leading to electrical arcing and subsequent failure of the PSU Panels. In such instances, smoke is likely to be emitted. To remedy and prevent these problems, the PSU manufacturer Honeywell International Aerospace Electronic Systems (formerly known as Grimes Aerospace Company), has narrowed the tolerances of these gaskets. Since an unsafe condition has been identified that is likely to exist or develop on aircraft of these type designs, this Airworthiness Directive requires inspection [to verify if the J1/P1 and J2/P2 interface connectors can be properly locked and gaskets are present] and, when necessary, replacement of the affected PSU Panel J1 and J2 Interface Connector gaskets. Corrective actions include installing a gasket, verifying that the J1 and J2 receptacle locking tabs are not deformed, replacing the receptacle, and installing a new PSU panel.

Actions and Compliance

(f) Within 36 months after the effective date of this AD unless already done, do the following actions.

(1) Inspect the affected Honeywell International (Grimes Aerospace) PSU Panel Interface Connectors for proper locking of the connectors and to verify that gaskets are installed, in accordance with Part 3., "Accomplishment Instructions," of Fokker Service Bulletin SBF50–25–061 or SBF100–25–108, both dated March 31, 2006, as applicable.

(2) When discrepancies are found, before next flight, do all applicable corrective actions as detailed in Part 3., "Accomplishment Instructions," of Fokker Service Bulletin SBF50–25–061 or SBF100–25–108, both dated March 31, 2006, as applicable.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *ATTN:* Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI Dutch Airworthiness Directive NL–2006–008, dated July 14, 2006; and Fokker Service Bulletin SBF50–25–061 or SBF100–25–108, both dated March 31, 2006; for related information.

Material Incorporated by Reference

(i) You must use Fokker Service Bulletin SBF50–25–061, dated March 31, 2006; or Fokker Service Bulletin SBF100–25–108, dated March 31, 2006; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Fokker Services B.V., Technical Services Dept., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands.

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

Issued in Renton, Washington, on March 31, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7178 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0014; Directorate Identifier 2007–NM–249–AD; Amendment 39–15456; AD 2008–08–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A318, A319, A320, and A321 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Airbus Model A318, A319, A320, and A321 airplanes. That AD currently requires repetitive inspections for cracking in the forward lug of the support rib 5 fitting of both main landing gear (MLG), and repair if necessary. The existing AD also provides optional terminating actions for certain airplanes, as well as other optional methods for complying with the inspection requirements of the existing AD. This new AD continues to require repetitive inspections for cracking in the forward lug of the support rib 5 fitting of the left and right MLG at new repetitive intervals in accordance with new service information, and repair or replacement of any cracked MLG fitting if necessary. This new AD also requires modification of the rib bushings of the left and right MLG, which would end the repetitive inspections. This AD results from cracks found in the forward lug of the MLG support rib 5 fitting. We are issuing this AD to prevent cracking in the forward lug of the MLG, which could result in failure of the lug and consequent collapse of the MLG during takeoff or landing.

DATES: This AD becomes effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 19, 2008.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–11–04, amendment 39–14608 (71 FR 29578, May 23, 2006). The existing AD applies to certain Airbus Model A318, A319, A320, and A321 airplanes. That NPRM was published in the **Federal Register** on January 14, 2008 (73 FR 2200). That NPRM proposed to continue to require repetitive inspections for cracking in the forward lug of the support rib 5 fitting of the left and right main landing gear (MLG) at new repetitive intervals in accordance with new service information, and repair or replacement of any cracked MLG fitting if necessary. That NPRM also proposed to require modification of the rib bushings of the left and right MLG, which would end the repetitive inspections.

Comments

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

Conclusion

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

Costs of Compliance

This AD affects about 466 airplanes of U.S. registry.

The actions that are required by AD 2006–11–04 and retained in this AD take about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the currently required actions is $160 per airplane, per inspection cycle.

The new required inspections take between 3 and 4 work hours per airplane, depending on the type of inspection accomplished, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the new inspections specified in this AD for U.S. operators is between $111,840 and $149,120, or between $240 and $320 per airplane, per inspection cycle.

The new required modification takes about 73 work hours per airplane, at an average labor rate of $80 per work hour. Required parts cost $3,850 per airplane. Based on these figures, the estimated cost of the new modification specified in this AD for U.S. operators is $4,515,540, or $9,690 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14608 (71 FR 29578, May 23, 2006) and by adding the following new airworthiness directive (AD):

2008–08–04 Airbus: Amendment 39–15456. Docket No. FAA–2008–0014; Directorate Identifier 2007–NM–249–AD.

Effective Date

(a) This AD becomes effective May 19, 2008.

Affected ADs

(b) This AD supersedes AD 2006–11–04.

Applicability

(c) This AD applies to Airbus Model A318, A319, A320, and A321 airplanes, certificated in any category, except airplanes on which Airbus Modification 32025 has been accomplished in production.

Unsafe Condition

(d) This AD results from cracks found in the forward lug of the main landing gear (MLG) support rib 5 fitting. We are issuing this AD to prevent cracking in the forward lug of the MLG, which could result in failure of the lug and consequent collapse of the MLG during takeoff or landing.

Compliance

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

Restatement of Certain Requirements of AD 2006–11–04

Repetitive Detailed Inspections

(f) Within 8 days after June 7, 2006 (the effective date of AD 2006–11–04), or before further flight after a hard landing, whichever is first: Perform a detailed inspection for cracking in the forward lug of the support rib 5 fitting of the left- and right-hand MLG, and, if any crack is found, replace the MLG fitting with a new fitting before further flight, in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent). Accomplishing the actions specified in the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Chapter 51–90–00, Revision dated February 1, 2003, is one approved method for performing the detailed inspection. Repeat the inspection thereafter at intervals not to exceed 8 days, or before further flight after a hard landing, whichever is first. As of the effective date of this AD, the repetitive inspections required by paragraph (i) of this AD must be accomplished in lieu of the repetitive inspections required by this paragraph.

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

Optional Inspection Method

(g) Performing an ultrasonic inspection for cracking in the forward lug of the support rib 5 fitting of the left- and right-hand MLG in accordance with a method approved by the Manager, International Branch, ANM–116; or the EASA (or its delegated agent; is an acceptable alternative method of compliance for the initial and repetitive inspections required by paragraph (f) of this AD. Doing the actions specified in the Airbus A318/A319/A320/A321 Nondestructive Testing Manual, Chapter 57–29–03, Revision dated February 1, 2005 (for Model A318, A319, and A320 airplanes), or Chapter 57–29–04, Revision dated May 1, 2005 (for Model A321 airplanes), as applicable, is one approved method for performing the ultrasonic inspection.

Optional Terminating Action

(h) For Model A319, A320, and A321 airplanes: Repair of the forward lugs of the support rib 5 fitting of the left- and right-hand MLG in accordance with a method approved by the Manager, International Branch, ANM–116; or the EASA (or its delegated agent); constitutes terminating action for the requirements of this AD. Doing the repair in accordance with Airbus A319 Structural Repair Manual (SRM), Chapter 5.C., 57–26–13, Revision dated November 1, 2004; Airbus A320 SRM, Chapter 5.D., 57–26–13, Revision dated November 1, 2004; or Airbus A321 SRM, Chapter 5.D., 57–26–13, Revision dated February 1, 2005; as applicable; is one approved method.

New Requirements of This AD

New Repetitive Inspections

(i) At the applicable time specified in Table 1 of this AD, or before further flight after a hard landing, whichever is first: Do a visual inspection or ultrasonic inspection for cracking in the forward lug of the support rib 5 fitting of the left and right MLG, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1138, Revision 01, dated October 27, 2006. Repeat the inspection thereafter at the applicable interval specified in Table 1 of this AD or before further flight after a hard landing, whichever is first, until the modification required by paragraph (k) of this AD has been accomplished. Accomplishing the initial inspection terminates the requirements of paragraph (f) of this AD.

TABLE 1.—COMPLIANCE TIMES

Airplanes	Initial inspection	Repetitive interval
Model A318, A319, and A320 airplanes.	If the most recent inspection is a detailed inspection done in accordance with paragraph (f) of this AD, inspect within 150 flight cycles after the most recent detailed inspection.	Within 150 flight cycles after a visual inspection.
	If the most recent inspection is an ultrasonic inspection done in accordance with paragraph (g) of this AD, inspect within 940 flight cycles after the most recent ultrasonic inspection.	Within 940 flight cycles after an ultrasonic inspection.
Model A321 airplanes ...	If the most recent inspection is a detailed inspection done in accordance with paragraph (f) of this AD, inspect within 100 flight cycles after the most recent detailed inspection.	Within 100 flight cycles after a visual inspection.
	If the most recent inspection is an ultrasonic inspection done in accordance with paragraph (g) of this AD, inspect within 630 flight cycles after the most recent ultrasonic inspection.	Within 630 flight cycles after an ultrasonic inspection.

Corrective Action

(j) If any cracking is found during any inspection required by paragraph (i) of this AD: Before further flight, repair or replace the cracked MLG fitting using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the EASA (or its delegated agent).

Terminating Action

(k) Within 60 months after the effective date of this AD, modify the rib bushings of the left and right MLG, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A320–57–1118, Revision 03, dated April 23, 2007. Accomplishing the modification terminates the requirements of this AD.

Credit for Actions Done According to Previous Issue of Service Bulletin

(l) For Model A319, A320, and A321 airplanes, modifying the lugs of the support rib 5 fitting of the left and right MLG is acceptable for compliance with the requirements of paragraph (k) of this AD if done before the effective date of this AD in accordance with one of the following service bulletins: Airbus Service Bulletin A320–57–1118, dated September 5, 2002; Revision 01, dated August 28, 2003; or Revision 02, dated August 2, 2006.

Alternative Methods of Compliance (AMOCs)

(m)(1) The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

(3) AMOCs approved previously in accordance with AD 2006–11–04 are approved as AMOCs for the corresponding provisions of this AD.

Related Information

(n) EASA airworthiness directive 2007–0213, dated August 7, 2007, also addresses the subject of this AD.

Material Incorporated by Reference

(o) You must use Airbus Service Bulletin A320–57–1118, Revision 03, dated April 23, 2007; and Airbus Service Bulletin A320–57–1138, Revision 01, dated October 27, 2006; as applicable; to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on March 31, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7182 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0420; Directorate Identifier 2008–NE–10–AD; Amendment 39–15466; AD 2008–08–14]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO Series Reciprocating Engines, Teledyne Continental Motors (TCM) TSIO–360–RB Reciprocating Engines, and Superior Air Parts, Inc. IO–360 Series Reciprocating Engines With Certain Precision Airmotive LLC RSA–5 and RSA–10 Series Fuel Injection Servos

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

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting emergency airworthiness directive (AD) 2008–06–51 that was sent previously to all known U.S. owners and operators of Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO series reciprocating engines, TCM TSIO–360–RB reciprocating engines, and Superior Air Parts, Inc. IO–360 series reciprocating engines with certain Precision Airmotive LLC RSA–5 and RSA–10 series fuel injection servos. This AD results from eighteen reports of fuel injection servo plugs, part number (P/N) 383493, that had loosened or completely backed out of the threaded plug hole on the regulator cover of the fuel injection servo. These servo plugs were installed with servo plug gasket, P/N 365533, under the plug hex-head. We are issuing this AD to prevent a lean running engine, which could result in a substantial loss of engine power and subsequent loss of control of the airplane.

DATES: This AD becomes effective April 29, 2008 to all persons except those persons to whom it was made immediately effective by emergency AD 2008–06–51, issued on March 12, 2008, which contained the requirements of this amendment.

We must receive any comments on this AD by June 13, 2008.

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

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

Contact Precision Airmotive LLC at *http://www.precisionairmotive.com* for the service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: For Precision Airmotive LLC, Richard Simonson, Aerospace Engineer, Propulsion Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055; e-mail: *Richard.simonson@faa.gov;* telephone: (425) 917–6507; fax: (425) 917–6590.

For Lycoming Engines, Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; e-mail: *Norman.perenson@faa.gov;* telephone: (516) 228–7337; fax: (516) 794–5531.

For Teledyne Continental Motors, Kevin Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; e-mail: *kevin.brane@faa.gov;* telephone: (770) 703–6063; fax: (770) 703–6097.

For Superior Air Parts, Inc., Tausif Butt, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; e-mail: *Tausif.butt@faa.gov;* telephone: (817) 222–5195; fax: (817) 222–5785.

SUPPLEMENTARY INFORMATION: On March 12, 2008, the FAA issued emergency AD 2008–06–51, that applies to Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO,

AIO, IGO, IVO, and HIO series reciprocating engines, TCM TSIO–360–RB reciprocating engines, and Superior Air Parts, Inc. IO–360 series reciprocating engines with certain Precision Airmotive LLC RSA–5 and RSA–10 series fuel injection servos. That AD requires inspecting servo plugs for looseness and damage on fuel injection servos that have a servo plug gasket, P/N 365533, installed, inspecting the servo regulator cover threads for damage, inspecting the gasket for damage, reinstalling acceptable parts, and torquing the servo plug to a new, higher torque to help maintain the proper clamp-up force against the plug and cover. That AD resulted from eighteen reports of fuel injection servo plugs, P/N 383493, that had loosened or completely backed out of the threaded plug hole on the regulator cover of the fuel injection servo. This condition, if not corrected, could result in a substantial loss of engine power and subsequent loss of control of the airplane.

FAA's Determination and Requirements of This AD

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, we issued emergency AD 2008–06–51 to prevent a lean running engine, which could result in a substantial loss of engine power and subsequent loss of control of the airplane. This AD requires inspecting servo plugs for looseness and damage on fuel injection servos that have a servo plug gasket, P/N 365533, installed, inspecting the servo regulator cover threads for damage, inspecting the gasket for damage, reinstalling acceptable parts, and torquing the servo plug to a new, higher torque to help maintain the proper clamp-up force against the plug and cover.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause existed to make the AD effective immediately on March 12, 2008, to all known U.S. owners and operators of Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO series reciprocating engines, TCM TSIO–360–RB reciprocating engines, and Superior Air Parts, Inc. IO–360 series reciprocating engines with certain Precision Airmotive LLC RSA–5 and RSA–10 series fuel injection servos. These conditions still exist, and we are publishing the AD in the **Federal Register** as an amendment to Section 39.13 of part 39 of the Code Federal Regulations (14 CFR part 39) to make it effective to all persons.

Interim Action

These actions are interim actions and we may take further rulemaking actions in the future.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send us any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include "AD Docket No. FAA–2008–0420; Directorate Identifier 2008–NE–10–AD" in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it.

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

Examining the AD Docket

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary at the address listed under **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–14 Precision Airmotive LLC: Amendment 39–15466. Docket No. FAA–2008–0420; Directorate Identifier 2008–NE–10–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective April 29, 2008, to all persons except those persons to whom it was made immediately effective by emergency AD 2008–06–51, issued March 12, 2008, which contained the requirements of this amendment.

Affected ADs

(b) This AD supersedes AD 2008–06–51.

Applicability

(c) This AD applies to the following reciprocating engines with an installed Precision Airmotive LLC, RSA–5 or RSA–10 series fuel injection servo, having a servo plug gasket, part number (P/N) 365533, installed under the fuel injection servo plug, P/N 383493:

(1) Lycoming Engines IO, (L)IO, TIO, (L)TIO, AEIO, AIO, IGO, IVO, and HIO series reciprocating engines, regardless of displacement, either new, rebuilt, overhauled, or repaired since August 22, 2006, and/or with an affected fuel injection servo installed either new, rebuilt, overhauled, or repaired since August 22, 2006.

(2) Teledyne Continental Motors TSIO–360–RB reciprocating engines, either new, rebuilt, overhauled, or repaired since August 22, 2006, and/or with an affected fuel injection servo installed either new, rebuilt, overhauled, or repaired since August 22, 2006.

(3) Superior Air Parts, Inc. IO–360 series reciprocating engines, either new, rebuilt, overhauled, or repaired since August 22, 2006, and/or with an affected fuel injection servo installed either new, rebuilt, overhauled, or repaired since August 22, 2006.

(4) This AD also applies to any other Precision Airmotive LLC fuel injection servos received since August 22, 2006, or any fuel injection servos that have had the fuel injection servo plug, P/N 383493, removed during maintenance since August 22, 2006.

Unsafe Condition

(d) This AD results from eighteen reports of fuel injection servo plugs, P/N 383493, that had loosened or completely backed out of the threaded plug hole on the regulator cover of the fuel injection servo. We are issuing this AD to prevent a lean running engine, which could result in a substantial loss of engine power and subsequent loss of control of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed before further flight, unless the actions have already been done. The actions required by this AD must be done by an FAA-licensed mechanic.

Initial Inspection

(f) Inspect the fuel injection servo plug, P/N 383493, for looseness, by attempting to turn it by hand, while being careful not to damage the safety wire or seal. If the plug moves, it is loose.

(g) If the plug is not loose, go to paragraph (i) of this AD.

(h) If the plug is loose, do the following:

(1) Carefully cut and remove the safety wire that spans between the servo plug and regulator cover only.

(2) Remove the servo plug while ensuring that the gasket, P/N 365533, that is behind the plug, is not lost. The gasket may be slightly stuck to the regulator cover.

(3) Examine the threads on the servo plug and regulator cover for damage. Threads should be smooth and consistent, with no burrs or chips. The servo plug outer diameter threads should also measure within 0.7419–0.7500-inch.

(4) If the threads on either the servo plug or the regulator cover are damaged, or do not measure within the limits in paragraph (h)(3) of this AD, the servo is not eligible for any installation and must be replaced before further flight.

(5) Inspect the gasket, P/N 365533, for tears and other damage. We are allowing the re-use of undamaged gaskets. Replace damaged gaskets with a new gasket, P/N 365533.

(6) When reassembling, do not install any servo plug or regulator cover that is not eligible for installation. Install the gasket onto the servo plug and reassemble the servo plug to the regulator cover.

(7) Torque the servo plug to a new, higher torque of 90–100 in-lbs, to help maintain the proper clamp-up force against the plug and cover.

(8) Safety wire the servo plug with 0.025-inch diameter wire to the regulator cover. Information on properly safety wiring the plug can be found in Precision Airmotive LLC Mandatory Service Bulletin No. PRS–107, Revision 1, dated March 6, 2008.

(9) Inspect all other safety wire on the servo. Replace any that are damaged.

Repetitive Inspections

(i) At every engine oil change or within every 50 hours of engine run time, whichever occurs first, repeat the inspection and remedial steps specified in paragraphs (f) through (h)(9) of this AD.

Special Flight Permits Prohibited

(j) Under 14 CFR part 39.23, we are prohibiting special flight permits.

Alternative Methods of Compliance

(k) The Manager, Seattle Aircraft Certification Office, may approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(l) Precision Airmotive LLC Mandatory Service Bulletin No. PRS–107, Revision 1, dated March 6, 2008, pertains to the subject of this AD. You can get the service information identified in this AD from *http://www.precisionairmotive.com*.

(m) For Precision Airmotive LLC, Richard Simonson, Aerospace Engineer, Propulsion Branch, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055; e-mail: *Richard.simonson@faa.gov*; telephone: (425) 917–6507; fax: (425) 917–6590.

(n) For Lycoming Engines, Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; e-mail: *Norman.perenson@faa.gov*; telephone: (516) 228–7337; fax: (516) 794–5531.

(o) For Teledyne Continental Motors, Kevin Brane, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Blvd., Suite 450, Atlanta, GA 30349; e-mail: *kevin.brane@faa.gov*; telephone: (770) 703–6063; fax: (770) 703–6097.

(p) For Superior Air Parts, Inc., Tausif Butt, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, Southwest Regional Headquarters, 2601 Meacham Blvd., Fort Worth, Texas 76137; e-mail: *Tausif.butt@faa.gov*; telephone: (817) 222–5195; fax: (817) 222–5785.

Issued in Burlington, Massachusetts, on April 4, 2008.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E8–7574 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0047; Directorate Identifier 2007–NM–295–AD; Amendment 39–15461; AD 2008–08–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 400) airplanes. That AD currently requires revising the airworthiness limitations section of the Instructions for Continued Airworthiness of the maintenance requirements manual (MRM) by incorporating procedures for repetitive functional tests of the pilot input lever of the pitch feel simulator (PFS) units. That AD also requires new repetitive functional tests of the pilot input lever of the PFS unit, and corrective actions if necessary; and after initiating the new tests, requires removal of the existing procedures for the repetitive functional

tests from the MRM. This new AD requires revised procedures for the functional tests. This AD results from a report that the shear pin located in the input lever of two PFS units failed due to fatigue. We are issuing this AD to prevent undetected failure of the shear pins of both PFS units simultaneously, which could result in loss of pitch feel forces and consequent reduced control of the airplane.

DATES: This AD becomes effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of May 19, 2008.

On March 27, 2006 (71 FR 12277, March 10, 2006), the Director of the Federal Register approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–27–144, Revision A, dated February 14, 2006, including Appendix A, dated September 15, 2005.

On February 13, 2004 (69 FR 4234, January 29, 2004), the Director of the Federal Register approved the incorporation by reference of Bombardier Temporary Revision 2B–1784, dated October 24, 2003, to the CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, "Airworthiness Limitations."

ADDRESSES: For service information identified in this AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, New York Aircraft Certification Office, FAA, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7305; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–05–11 R1, amendment 39–14528 (71 FR 15323, March 28, 2006). The existing AD applies to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 400) airplanes. That NPRM was published in the **Federal Register** on January 24, 2008 (73 FR 4125). That NPRM proposed to continue to require revising the airworthiness limitations section of the Instructions for Continued Airworthiness of the maintenance requirements manual (MRM) by incorporating procedures for repetitive functional tests of the pilot input lever of the pitch feel simulator (PFS) units. That NPRM also proposed to continue to require new repetitive functional tests of the pilot input lever of the PFS unit, and corrective actions if necessary; and after initiating the new tests, requires removal of the existing procedures for the repetitive functional tests from the MRM. That NPRM also proposed to require revised procedures for the functional tests.

Comments

We provided the public the opportunity to participate in the development of this AD. No comments have been received on the NPRM or on the determination of the cost to the public.

Conclusion

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

Costs of Compliance

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

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Revise MRM	1	$80	$80	684	$54,720.
Functional tests	1	80	$80, per test cycle	684	$54,720, per test cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14528 (71 FR 15323, March 28, 2006) and by adding the following new airworthiness directive (AD):

2008–08–09 Bombardier, Inc. (Formerly Canadair): Amendment 39–15461. Docket No. FAA–2008–0047; Directorate Identifier 2007–NM–295–AD.

Effective Date

(a) This AD becomes effective May 19, 2008.

Affected ADs

(b) This AD supersedes AD 2006–05–11 R1.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 400) airplanes, certificated in any category, serial numbers 7003 through 7990 inclusive, and 8000 and subsequent.

Unsafe Condition

(d) This AD results from a report that the shear pin located in the input lever of two pitch feel simulator (PFS) units failed due to fatigue. We are issuing this AD to prevent undetected failure of the shear pins of both PFS units simultaneously, which could result in loss of pitch feel forces and consequent reduced control of the airplane.

Compliance

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

Restatement of Requirements of AD 2006–05–11 R1

Revise Airworthiness Limitations (AWL) Section of Maintenance Requirements Manual

(f) For airplanes having serial numbers 7003 through 7990 inclusive: Within 14 days after February 13, 2004 (the effective date of AD 2004–02–07, which was superseded by AD 2006–05–11 R1), revise the AWL section of the Instructions for Continued Airworthiness of the maintenance requirements manual by incorporating the functional check of the PFS pilot input lever, Task R27–31–A024–01, as specified in Bombardier Temporary Revision (TR) 2B–1784, dated October 24, 2003, to the CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, "Airworthiness Limitations," into the AWL section.

New Repetitive Functional Tests and Corrective Actions

(g) Before the accumulation of 4,000 total flight hours, or within 100 flight hours after March 27, 2006 (the effective date of AD 2006–05–11 R1), whichever occurs later: Do a functional test of the pilot input lever of the PFS units to determine if the lever is disconnected, in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–144, Revision A, dated February 14, 2006, including Appendix A, dated September 15, 2005, except as required by paragraph (j) of this AD. Repeat the test at intervals not to exceed 100 flight hours. Accomplishing the initial functional test terminates the requirements of paragraph (f) of this AD and the repetitive functional checks of the PFS pilot input lever, Task R27–31–A024–01, as specified in the AWL section of the Instructions for Continued Airworthiness of CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual.

(h) If any lever is found to be disconnected during any functional test required by paragraph (g) of this AD, do the actions specified in paragraphs (h)(1) and (h)(2) of this AD in accordance with the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–27–144, Revision A, dated February 14, 2006, including Appendix A, dated September 15, 2005, except as required by paragraph (j) of this AD.

(1) Before further flight, replace the defective PFS with a serviceable PFS in accordance with the Accomplishment Instructions of the alert service bulletin; and

(2) Within 30 days after removing the defective PFS, submit a test report to the manufacturer in accordance with the Accomplishment Instructions of the alert service bulletin. Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

Previously Accomplished Actions

(i) Actions done before March 27, 2006, in accordance with Bombardier Alert Service Bulletin A601R–27–144, including Appendix A, dated September 15, 2005, are acceptable for compliance with the requirements of paragraph (g) of this AD.

New Requirements of This AD

New Service Bulletin for Functional Tests

(j) As of the effective date of this AD, Bombardier Alert Service Bulletin A601R–27–144, Revision B, dated December 20, 2006, including Appendix A, Revision A, dated December 20, 2006, must be used for the actions required by paragraphs (g) and (h) of this AD.

Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, New York Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Related Information

(l) Canadian airworthiness directive CF–2005–41, dated December 22, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

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

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Bombardier service information	Revision level	Date
Alert Service Bulletin A601R–27–144, including Appendix A, dated September 15, 2005	A	February 14, 2006.
Alert Service Bulletin A601R–27–144, including Appendix A, Revision A, dated December 20, 2006.	B	December 20, 2006.
Temporary Revision 2B–1784 to the CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, "Airworthiness Limitations.	Original	October 24, 2003.

(1) The Director of the Federal Register approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–27–144, Revision B, dated December 20, 2006, including Appendix A, Revision A,

dated December 20, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On March 27, 2006 (71 FR 12277, March 10, 2006), the Director of the Federal Register approved the incorporation by reference of Bombardier Alert Service Bulletin A601R–27–144, Revision A, dated February 14, 2006, including Appendix A, dated September 15, 2005.

(3) On February 13, 2004 (69 FR 4234, January 29, 2004), the Director of the Federal Register approved the incorporation by reference of Bombardier Temporary Revision 2B–1784, dated October 24, 2003, to the CL–600–2B19 Canadair Regional Jet Maintenance Requirements Manual, Part 2, Appendix B, "Airworthiness Limitations."

(4) Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on March 31, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7294 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0011; Directorate Identifier 2007–NM–203–AD; Amendment 39–15460; AD 2008–08–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 757 airplanes. This AD requires an inspection to determine the manufacturer and manufacture date of the oxygen masks in the passenger service units and the lavatory and attendant box assemblies, and corrective action if necessary. This AD results from a report that several passenger masks with broken in-line flow indicators were found following a mask deployment. We are issuing this AD to prevent the in-line flow indicators of the passenger oxygen masks from fracturing and separating, which could inhibit oxygen flow to the masks and consequently result in exposure of the passengers and cabin attendants to hypoxia following a depressurization event.

DATES: This AD is effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 19, 2008.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Robert Hettman, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6457; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 757 airplanes. That NPRM was published in the **Federal Register** on January 14, 2008 (73 FR 2195). That NPRM proposed to require an inspection to determine the manufacturer and manufacture date of the oxygen masks in the passenger service units and the lavatory and attendant box assemblies, and corrective action if necessary.

Comments

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

Conclusion

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

Costs of Compliance

There are about 1,035 airplanes of the affected design in the worldwide fleet. This AD affects about 640 airplanes of U.S. registry. The required actions take about 20 work hours per airplane, for an average of 240 oxygen masks per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $1,024,000, or $1,600 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–08 Boeing: Amendment 39–15460. Docket No. FAA–2008–0011; Directorate Identifier 2007–NM–203–AD.

Effective Date

(a) This airworthiness directive (AD) is effective May 19, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 757–200, –200CB, –200PF, and –300 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 757–35–0028, dated April 9, 2007.

Unsafe Condition

(d) This AD results from a report that several passenger masks with broken in-line flow indicators were found following a mask deployment. We are issuing this AD to prevent the in-line flow indicators of the passenger oxygen masks from fracturing and separating, which could inhibit oxygen flow to the masks and consequently result in exposure of the passengers and cabin attendants to hypoxia following a depressurization event.

Compliance

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

Inspection and Corrective/Other Specified Actions if Necessary

(f) Within 60 months after the effective date of this AD, do a general visual inspection to determine the manufacturer and manufacture date of the oxygen masks in the passenger service units and the lavatory and attendant box assemblies, and do the applicable corrective action, by accomplishing all of the applicable actions specified in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–35–0028, dated April 9, 2007; except where the service bulletin specifies repairing the oxygen mask assembly, replace it with a new or modified oxygen mask assembly having an improved flow indicator. The corrective action and other specified action must be done before further flight.

Note 1: The service bulletin refers to B/E Aerospace Service Bulletin 174080–35–01, dated February 6, 2006; and Revision 1, dated May 1, 2006; as additional sources of service information for modifying the oxygen mask assembly by replacing the flow indicator with an improved flow indicator.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(h) You must use Boeing Special Attention Service Bulletin 757–35–0028, dated April 9, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on March 31, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7297 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29331; Directorate Identifier 2007–NM–136–AD; Amendment 39–15459; AD 2008–08–07]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB–Fairchild SF340A (SAAB/SF340A) and SAAB 340B Airplanes

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

ACTION: Final rule.

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

A crack has been found in an axle adaptor during fatigue testing. It was found that the internal edges of the dowel holes did not have the correct radius and the crack had developed from the edge of one of the dowel holes.

A crack in the axle adaptor can cause the axle adaptor to fail and ultimately lead to loss of [the] wheels and total loss of brake capability.

We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 19, 2008.

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

FOR FURTHER INFORMATION CONTACT: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR

part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on September 28, 2007 (72 FR 55116). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> A crack has been found in an axle adaptor during fatigue testing. It was found that the internal edges of the dowel holes did not have the correct radius and the crack had developed from the edge of one of the dowel holes.
>
> A crack in the axle adaptor can cause the axle adaptor to fail and ultimately lead to loss of [the] wheels and total loss of brake capability.

The corrective action includes doing repetitive ultrasonic inspections to detect cracking in the axle adaptor; replacing the axle adaptor if necessary; and ultimately doing the terminating action of inspecting and modifying the main landing gear (MLG) shock strut and axle adaptors. The inspection is a crack test. The modification includes measuring the dowel hole, and corrective actions if necessary (replacing the axle adaptor, repairing the dowel hole) and, when accomplished, terminates the repetitive inspection requirements. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Clarification of Service Bulletin Revisions

We have revised paragraph (f)(5) of the final rule to clarify the applicable service bulletin revisions for the parts installation.

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect about 220 products of U.S. registry. We also estimate that it will take about 9 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts cost would be negligible. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $158,400, or $720 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–07 Saab Aircraft AB: Amendment 39–15459. Docket No. FAA–2007–29331; Directorate Identifier 2007–NM–136–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective May 19, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the airplanes listed in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category, unless equipped with main landing gear (MLG) shock struts modified in accordance with APPH Service Bulletin AIR83064–32–12 or AIR83022–32–32.

(1) Saab Model SAAB–Fairchild SF340A (SAAB/SF340A) airplanes, serial numbers (S/Ns) SF340A–004 through –159.

(2) Saab Model SAAB 340B airplanes, S/Ns 340B–160 through –459.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing Gear.

Reason

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

A crack has been found in an axle adaptor during fatigue testing. It was found that the internal edges of the dowel holes did not have the correct radius and the crack had developed from the edge of one of the dowel holes.

A crack in the axle adaptor can cause the axle adaptor to fail and ultimately lead to loss of [the] wheels and total loss of brake capability.

The corrective action includes doing repetitive ultrasonic inspections to detect cracking in the axle adaptor; replacing the axle adaptor if necessary; and ultimately doing the terminating action of inspecting and modifying the main landing gear (MLG) shock strut and axle adaptors. The inspection is a crack test. The modification includes measuring the dowel hole and corrective actions if necessary (replacing the axle adaptor, repairing the dowel hole), and, when accomplished, terminates the repetitive inspection requirements.

Actions and Compliance

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

(1) Within 8,000 flight cycles since the last MLG overhaul, or within 1,500 flight cycles, or 6 months after the effective date of this AD, whichever occurs latest: Inspect the MLG in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–32–133, Revision 01, dated May 3, 2006. If any crack is found, before further flight: Replace the axle adaptor in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–32–133, Revision 01, dated May 3, 2006.

(2) Repeat the inspection required by paragraph (f)(1) of this AD thereafter at intervals not to exceed 2,000 flight cycles until the terminating action required by paragraph (f)(3) of this AD is accomplished.

(3) Within 12,000 flight cycles after the effective date of this AD, or at the next MLG overhaul, whichever occurs earlier: Inspect and modify the MLG shock strut and axle adaptors in accordance with the Accomplishment Instructions of APPH Service Bulletin AIR83064–32–12, Revision 3, dated April 26, 2006; or AIR83022–32–32, Revision 3, dated April 26, 2006; as applicable.

(4) Actions done before the effective date of this AD in accordance with the service bulletins listed in paragraphs (f)(4)(i), (f)(4)(ii), and (f)(4)(iii) of this AD, as applicable, are acceptable for compliance with the corresponding actions in this AD.

(i) Saab Service Bulletin 340–32–133, dated April 19, 2006.

(ii) APPH Service Bulletin AIR83064–32–12, dated January 2006; Revision 1, dated January 23, 2006; and Revision 2, dated March 30, 2006.

(iii) APPH Service Bulletin AIR83022–32–32, dated January 2006; Revision 1, dated January 23, 2006; and Revision 2, dated March 30, 2006.

(5) As of the effective date of this AD, no person may install an MLG shock strut having part number (P/N) AIR83022 or AIR83064, or axle adaptor having P/N AIR127308, AIR390226, or AIR130238, unless it has been inspected and modified in accordance with APPH Service Bulletin AIR83022–32–32 or AIR83064–32–12, as specified in paragraph (f)(3), (f)(4)(ii), or (f)(4)(iii) of this AD, as applicable.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANM–116, International Branch, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

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

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2006–0263, dated August 29, 2006; Saab Service Bulletin 340–32–133, Revision 01, dated May 3, 2006; APPH Service Bulletin AIR83064–32–12, Revision 3, dated April 26, 2006; and APPH Service Bulletin AIR83022–32–32, Revision 3, dated April 26, 2006; for related information.

Material Incorporated by Reference

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

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

(2) For service information identified in this AD, contact Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden.

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

TABLE 1.—MATERIAL INCORPORATED BY REFERENCE

Service Bulletin	Revision	Date
APPH Service Bulletin AIR83022–32–32	3	April 26, 2006.
APPH Service Bulletin AIR83064–32–12	3	April 26, 2006.
Saab Service Bulletin 340–32–133	01	May 3, 2006.

Issued in Renton, Washington, on March 31, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7299 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29062; Directorate Identifier 2007–NM–020–AD; Amendment 39–15462; AD 2008–08–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. For certain airplanes, this AD requires replacing the outboard stabilizing fitting and certain adjacent components of the main landing gear (MLG) support beam. This AD also requires repetitive inspections for discrepancies of the outboard stabilizing fitting, walking beam hanger, and rear spar attachment, and corrective actions if necessary. For certain airplanes, this AD provides an alternative one-time inspection of the outboard stabilizing fitting for discrepancies, and corrective actions if necessary, which would extend the compliance time for the replacement of the outboard stabilizing fitting. For certain other airplanes, this AD also requires performing a torque check of the aft pin of the outboard stabilizing fitting, and corrective actions if necessary. This AD results from reports of findings of fatigue cracking of the outboard stabilizing fitting and stress corrosion cracking of the bolts attaching the fitting to the wing rear spar. We are issuing this AD to detect and correct that cracking, which could result in disconnection of the MLG actuator from the rear spar and support beam, consequent damage to the hydraulic system, and possible loss of the "A" and "B" hydraulic systems and damage or jamming of the flight control cables. Damage or jamming of the flight control cables could result in loss of control of the airplane.

DATES: This AD is effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 19, 2008.

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on August 31, 2007 (72 FR 50278). For certain airplanes, that NPRM proposed to require replacing the outboard stabilizing fitting and certain adjacent components of the main landing gear (MLG) support beam. That NPRM also proposed to require repetitive inspections for discrepancies of the outboard stabilizing fitting, walking beam hanger, and rear spar attachment, and corrective actions if necessary. For certain airplanes, that NPRM proposed to provide an alternative one-time inspection of the outboard stabilizing fitting for discrepancies and corrective actions if necessary, which would extend the compliance time for the replacement of the outboard stabilizing fitting. For certain other airplanes, that NPRM proposed to require performing a torque check of the aft pin of the outboard stabilizing fitting, and corrective actions if necessary.

Comments

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

Request To Change the Description of the Unsafe Condition

Boeing asks that we change the description of the unsafe condition specified in the Summary and Discussion sections and in paragraph (d) of the AD. Boeing states that, Model 737–100, –200, –300, –400, and –500 airplanes are equipped with "A" and "B" hydraulic systems, and an additional standby hydraulic system. Boeing notes that fracture or disconnect of any of the structural parts specified in Boeing Alert Service Bulletin 737–57A1266, Revision 1, dated January 3, 2007 (referenced in the NPRM as the source of service information for accomplishing the actions), could result in damage to the "A" and "B" hydraulic system tubes and damage or jamming of the flight control cables. Boeing adds that the standby hydraulic system is protected from any damage from a fracture or disconnect of any of the structural parts because it is not in the affected area. Additionally, Boeing states that if the "A" and "B" hydraulic systems fail, the standby system and manual reversion enable control of the airplane. Therefore, Boeing asks that the description of the unsafe condition be changed as follows: We are issuing this AD to detect and correct that cracking, which could result in disconnection of the MLG actuator from the rear spar and support beam, and consequent damage to the hydraulic system, and possible loss of the "A" and "B" hydraulic systems and damage or jamming of the flight control cables. Damage or jamming of the flight control cables could lead to a possible loss of control of the airplane.

We agree with Boeing and have changed the description of the unsafe condition in the referenced sections as follows: "We are issuing this AD to detect and correct that cracking, which could result in disconnection of the MLG actuator from the rear spar and support beam, consequent damage to the hydraulic system, and possible loss of the "A" and "B" hydraulic systems and damage or jamming of the flight control cables. Damage or jamming of the flight control cables could result in loss of control of the airplane." However, the Discussion section is not restated in the final rule; therefore, we have made no change to the AD in this regard.

Request To Clarify Certain Language

Boeing asks that the term "titanium pin," as specified in the Relevant Service Information section, be changed to "new pin." Boeing states that the new forward fuse pin is made from 15–5PH CRES stainless steel. Boeing also asks that the word "components," also specified in the Relevant Service Information section, be changed to "fuse pin" to avoid ambiguity or possible confusion.

We agree with Boeing that its suggested changes clarify the language; however, the Relevant Service Information section is not restated in the final rule. In addition, it is not necessary to further change the body of the AD because we already required "new components" for replacement parts. Therefore, we have made no change to the AD in this regard.

Request To Extend Compliance Time

Air Transport Association (ATA), on behalf of one of its members, United Airlines (UAL), asks that the compliance period for paragraphs (g) and (h) of the AD be changed from 36 to 48 months to align with UAL's Model 737 heavy maintenance visit. The commenters' state that the work defined in the NPRM will require jacking and defueling of the aircraft, and extensive disassembly of the landing gear. The commenters add that these activities are conducive to depot-level maintenance only; the UAL heavy maintenance visit is done on a 48-month cycle.

We do not agree with the requests to revise the compliance time from 36 to 48 months. In Boeing Alert Service Bulletin 737–57A1266, Revision 1, dated January 3, 2007, the manufacturer recommended that the actions be done within 36 months after the release of the service bulletin. In developing an appropriate compliance time for this AD, we considered the serious nature of the unsafe condition as well as the recommendations of the manufacturer, the availability of any necessary repair parts, and the practical aspect of accomplishing the required inspection within an interval of time that corresponds to the normal maintenance schedules of most affected operators. In light of these factors, we have determined that the 36-month compliance time, as proposed, is appropriate. We do not find it necessary to change the AD in this regard. However, under the provisions of paragraph (p) of the AD, we will consider approving requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Clarification of Paragraph Reference

We have changed the paragraph reference in paragraph (n) of the NPRM for clarification. Paragraph (n) specifies that accomplishment of the replacement of the tube assembly before the effective date of this AD is acceptable for compliance with the replacement specified in paragraph (l) of the NPRM; however, the correct reference is paragraph (m) of this AD.

Conclusion

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

Costs of Compliance

There are about 3,130 airplanes of the affected design in the worldwide fleet. This AD affects about 1,380 airplanes of U.S. registry.

For all airplanes: The replacement takes between 20 and 24 work hours per airplane to do, depending on the airplane's configuration, at an average labor rate of $80 per work hour. Required parts will cost between $3,658 and $4,272 per airplane, depending on the airplane's configuration. Based on these figures, the estimated cost of the replacement is estimated to be up to between $7,256,040 and $8,544,960, or between $5,258 and $6,192 per airplane, depending on the airplane's configuration.

For Groups 1 through 8 airplanes: The alternative inspection, if done, takes about 12 work hours per airplane to do, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the alternative inspection is estimated to be up to $1,324,800, or $960 per airplane.

For Group 9 airplanes: The general visual inspection takes about 2 work hours per airplane to do, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the general visual inspection is estimated to be up to $220,800, or $160 per airplane.

For Groups 1 through 5 airplanes that had steel pins replaced per the original issue of the service bulletin: The torque check takes about 7 work hours per airplane to do, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the torque check is estimated to be up to $772,800, or $560 per airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–10 Boeing: Amendment 39–15462. Docket No. FAA–2007–29062; Directorate Identifier 2007–NM–020–AD.

Effective Date

(a) This airworthiness directive (AD) is effective May 19, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of findings of fatigue cracking of the outboard stabilizing fitting and stress corrosion cracking of the bolts attaching the fitting to the wing rear spar. We are issuing this AD to detect and correct that cracking, which could result in disconnection of the MLG actuator from the rear spar and support beam, consequent damage to the hydraulic system, and possible loss of the "A" and "B" hydraulic systems and damage or jamming of the flight control cables. Damage or jamming of the flight control cables could result in loss of control of the airplane.

Compliance

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

Service Bulletin Reference

(f) The term "alert service bulletin" as used in this AD, means the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1266, Revision 1, dated January 3, 2007.

Replacement/Repetitive Inspections

(g) For airplanes identified as Groups 1 through 8, as specified in the alert service bulletin, except as provided by paragraphs (h) and (k) of this AD: Within 36 months after the effective date of this AD, replace the outboard stabilizing fitting, H–11 bolts, forward pin, and aft pin, as applicable, with new components by doing all the applicable actions in accordance with Part II of the alert service bulletin, except as provided by paragraph (j) of this AD. Within 120 months after accomplishing the replacement, do a general visual inspection for discrepancies of the outboard stabilizing fitting, walking beam hanger, and rear spar attachment fitting, and do all applicable corrective actions, by doing all the actions, except as provided by paragraph (j) of this AD, in accordance with Part V of the alert service bulletin. Do all corrective actions before further flight. Repeat the inspection at intervals not to exceed 120 months.

Alternative Inspection

(h) For airplanes identified as Groups 1 through 8, as specified in the alert service bulletin, on which the existing H–11 bolts were replaced before the effective date of this AD with Inconel 718 bolts, in lieu of doing the actions required by paragraph (g) of this AD: Within 4,500 flight cycles or 36 months after the effective date of this AD, whichever is later, do a magnetic test of the attach bolts in accordance with the alert service bulletin. If any bolt is magnetic, discontinue the alternative inspection specified in the alert service bulletin and accomplish the actions required by paragraph (g) before further flight. If none of the bolts are magnetic, do all the applicable actions in accordance with Part I of the alert service bulletin before further flight.

(1) If any crack is found: Stop the inspection and before further flight do the actions required by paragraph (g) of this AD. Repetitive inspections must be done after replacing the fitting at the interval specified in paragraph (g) of this AD.

(2) If no crack is found: Before further flight, replace the forward pin and aft pin, as applicable, in accordance with the alert service bulletin, and within 60 months after the effective date of this AD, do the remaining replacement required by paragraph (g) of this AD. Repetitive inspections must be done after replacing the fitting at the interval specified in paragraph (g) of this AD.

(3) If damage other than cracking is found, or if the fitting lug hole is beyond hole size limits, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (p) of this AD.

General Visual Inspection

(i) For airplanes identified as Group 9, as specified in the alert service bulletin: Within 36 months or 4,500 flight cycles after the effective date of this AD, whichever occurs later, do a general visual inspection of the outboard stabilizing fitting and fasteners for discrepancies, and do all applicable corrective actions in accordance with Part IV of the alert service bulletin, except as provided by paragraphs (j) and (k) of this AD. Within 120 months after the inspection specified in Part IV has been done, do a general visual inspection for discrepancies of the outboard stabilizing fitting, walking beam hanger and rear spar attachment fitting in accordance with Part V of the alert service bulletin, and do all applicable corrective actions in accordance with Part V of the alert service bulletin, except as provided by paragraphs (j) and (k). Do all applicable corrective actions before further flight. Repeat the Part V inspection at intervals not to exceed 120 months.

Exceptions To Alert Service Bulletin Specifications

(j) During any inspection required by this AD, if any corrosion damage is found that cannot be removed, or if any damage is found that is outside the limits specified in the alert service bulletin, or if any discrepancy is found and the alert service bulletin specifies contacting the manufacturer for disposition of certain repair conditions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (p) of this AD.

(k) Certain sections in Parts I, II, and V of the alert service bulletin specify "For 737–100 and –200 airplanes" and "For 737–300 and –500 airplanes." However, those sections are applicable to Model 737–100, –200, and –200C airplanes, and Model 737–300, –400, and –500 airplanes, respectively.

Torque Check

(l) For airplanes identified as Groups 1 through 5, as specified in the alert service bulletin, on which the aft pin of the aft outboard stabilizing fitting was replaced before the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–57A1266, dated May 8, 2003: Within 36 months after the effective date of this AD, do a torque check to determine whether the aft pin is correctly installed. Do all applicable corrective actions before further flight. Do the actions in accordance with Part III of the alert service bulletin.

Concurrent Requirements

(m) For airplanes identified as Groups 1 and 3, as specified in the alert service bulletin: Prior to or concurrently with accomplishment of paragraph (g) of this AD, do the replacement of the existing tube assembly of the outboard stabilizing fitting as specified in Part IV of Boeing Service Bulletin 737–57–1052, Revision 4, dated October 24, 1980.

Credit for Previously Accomplished Actions

(n) Replacement of the tube assembly before the effective date of this AD in accordance with Boeing Service Bulletin 737–57–1073, Revision 4, dated April 12, 1985, is acceptable for compliance with the replacement specified in paragraph (m) of this AD.

(o) For Groups 1 through 4, as specified in the alert service bulletin: Replacement of the H–11 bolts for the inboard stabilizing fitting before the effective date of this AD, in accordance with Boeing Service Bulletin 737–57–1231, dated December 1, 1994, is acceptable for compliance with the replacement of the H–11 bolts specified in paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

(p)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

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

certification basis of the airplane and the approval must specifically refer to this AD.

Material Incorporated by Reference

(q) You must use Boeing Alert Service Bulletin 737–57A1266, Revision 1, dated January 3, 2007; and Boeing Service Bulletin 737–57–1052, Revision 4, dated October 24, 1980; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on March 24, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7561 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0408; Directorate Identifier 2008–NM–068–AD; Amendment 39–15458; AD 2008–08–06]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A, CL–601–3R, & CL–604 (Including CL–605 Marketing Variant)) Airplanes, and Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) that applies to all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes and Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes. The existing AD currently requires revising the airplane flight manuals (AFMs) to include a new cold weather operations limitation. This AD requires revising the AFMs to modify the cold weather operations limitation and include additional limitations and procedures. This AD results from reports of uncommanded roll during take-off. We are issuing this AD to prevent possible loss of control on take-off resulting from even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces.

DATES: This AD becomes effective April 21, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 21, 2008.

On February 22, 2005 (70 FR 8025, February 17, 2005), the Director of the Federal Register approved the incorporation by reference of certain other publications.

We must receive any comments on this AD by May 14, 2008.

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

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

For service information identified in this AD, contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Bruce Valentine, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7328; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

On February 10, 2005, the FAA issued AD 2005–04–07, amendment 39–13979 (70 FR 8025, February 17, 2005). That AD applies to all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes and Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604) series airplanes. That AD requires revising the airplane flight manuals to include a new cold weather operations limitation. That AD resulted from a report that even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces can cause an adverse change in the stall speeds, stall characteristics, and the protection provided by the stall protection system. The actions specified in that AD are intended to prevent possible loss of control on take-off resulting from even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces.

Actions Since AD Was Issued

Since we issued that AD, Transport Canada Civil Aviation (TCCA) informed us that there were three incidents in which Model CL–600–2B19 and CL–600–2B16 airplanes experienced uncommanded roll during take-off. TCCA advises that it is necessary to further revise the AFM limitations and procedures for cold weather or icing conditions.

Relevant Service Information

Bombardier has issued the temporary revisions (TRs) listed in the following table. The temporary revisions describe limitations that include tactile inspections for ice during certain weather conditions. The temporary revisions also describe limitations and procedures for use of wing and cowl anti-ice during certain taxiing or take-off conditions, and revised take-off limitations to reduce high-pitch attitudes during rotation. TCCA mandated the service information and issued Canadian emergency airworthiness directives CF–2008–15, dated March 7, 2008, and CF–2008–16, dated March 10, 2008, to ensure the continued airworthiness of these airplanes in Canada.

TEMPORARY REVISIONS

For Bombardier Model—	Use—	Dated—	To the—
CL–600–1A11 (CL–600) airplanes	Canadair Temporary Revision 600/25–1.	March 20, 2008	Canadair Challenger CL–600–1A11 AFM.
CL–600–1A11 (CL–600) airplanes	Canadair Temporary Revision 600–1/20–1.	March 20, 2008	Canadair Challenger CL–600–1A11 AFM (Winglets).
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/17–1.	March 20, 2008	Canadair Challenger CL–600–2A12 AFM, PSP 601–1B–1.
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/18–1.	March 20, 2008	Canadair Challenger CL–600–2A12 AFM, PSP 601–1A–1.
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/22–1.	March 20, 2008	Canadair Challenger CL–600–2A12 AFM, PSP 601–1B.
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/30–1.	March 20, 2008	Canadair Challenger CL–600–2A12 AFM.
CL–600–2B16 (CL–601–3A, and CL–601–3R) airplanes.	Canadair Temporary Revision 601/29–1.	March 20, 2008	Canadair Challenger CL–600–2B16 AFM, PSP 601A–1.
CL–600–2B16 (CL–601–3A, and CL–601–3R) airplanes.	Canadair Temporary Revision 601/30–1.	March 20, 2008	Canadair Challenger CL–600–2B16 AFM, PSP 601A–1–1.
CL–600–2B16 (CL–604) airplanes, serial numbers 5301 through 5699.	Bombardier Temporary Revision 604/24–1.	March 20, 2008	Bombardier Challenger CL–604 AFM, PSP 604–1.
CL–600–2B16 (CL–604) airplanes, serial numbers 5701 and subsequent (might also be referred to by a marketing designation as CL–605).	Bombardier Temporary Revision 605/1–1.	March 20, 2008	Bombardier Challenger CL–605 AFM, PSP 605–1.
CL–600–2B19 (Regional Jet Series 100 & 440) airplanes.	Canadair Temporary Revision RJ/155–3.	March 25, 2008	Canadair Regional Jet AFM, CSP A–012.

FAA's Determination and Requirements of This AD

These airplanes are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are issuing this AD to supersede AD 2005–04–07. This new AD retains the requirements of the existing AD. This AD also requires revising the AFMs to include revised and additional limitations and procedures specified in the temporary revisions described previously.

Clarification of AD Compliance Time

Due to the degree of urgency associated with the subject unsafe condition, this AD specifies a compliance time of within 7 days after the effective date of this AD to more closely coincide with the time the Canadian airworthiness directives must be accomplished. Canadian airworthiness directive CF–2008–15 specifies a compliance time of within 21 days after March 10, 2008 (the effective date of Canadian airworthiness directive CF–2008–15). Canadian airworthiness directive CF–2008–16 specifies a compliance time of within 21 days after March 12, 2008 (the effective date of Canadian airworthiness directive CF–2008–16).

Differences Between This AD and the Canadian Airworthiness Directives

The Canadian airworthiness directives specify that operators should advise flight crews of the changes introduced by the TRs; and review the "Pilot's Checklist" to ensure that the instructions regarding selection of the wing anti-ice system to "ON," as specified in the AFM Limitations section, are incorporated. We do not require these actions because there is no method to determine compliance with these actions.

The Canadian airworthiness directives specify that operators should insert a copy of the Canadian airworthiness directive in the AFM, but this AD does not require the insertion. We have determined that this action is unnecessary since all relevant wording is within the required temporary revisions, which are required to be inserted in the AFM.

The Canadian airworthiness directives specify certain temporary revision documents. After the Canadian airworthiness directives were issued, Bombardier issued new TRs that include instructions on the cowl anti-ice. TCCA does not plan to revise its airworthiness directives to incorporate the new TRs. However, it is our practice to refer to the most recent and appropriate service information available in our ADs.

These differences have been coordinated with TCCA.

Interim Action

This is considered to be interim action. TCCA has advised that it currently is developing further actions, such as crew awareness and training with regard to winter operations, that will address the unsafe condition addressed by this AD. Once this information is developed, approved, and available, the FAA might consider additional rulemaking.

FAA's Justification and Determination of the Effective Date

Because of our requirement to promote safe flight of civil aircraft and thus, the critical need to assure safe operation during cold weather (ice/snow conditions) and the short compliance time involved with this action, this AD must be issued immediately.

Because an unsafe condition exists that requires the immediate adoption of this AD, we find that notice and opportunity for prior public comment hereon are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective.

However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2008–0408; Directorate Identifier 2008–NM–068–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–13979 (70 FR 8025, February 17, 2005) and adding the following new AD:

2008–08–06 Bombardier, Inc (Formerly Canadair): Docket No. FAA–2008–0408; Directorate Identifier 2008–NM–068–AD; Amendment 39–15458.

Effective Date

(a) This AD becomes effective April 21, 2008.

Affected ADs

(b) This AD supersedes AD 2005–04–07.

Applicability

(c) This AD applies to all Bombardier Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A, CL–601–3R, & CL–604) airplanes, and Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category.

Note 1: Some Model CL–600–2B16 (CL–604) airplanes might be referred to by a marketing designation as CL–605.

Unsafe Condition

(d) This AD results from reports of uncommanded roll during take-off. We are issuing this AD to prevent possible loss of control on take-off resulting from even small amounts of frost, ice, snow, or slush on the wing leading edges or forward upper wing surfaces.

Compliance

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

Restatement of AD 2005–04–07

Revision to Airplane Flight Manual (AFM)

(f) Within 5 days after February 22, 2005 (the effective date of AD 2005–04–07), revise the applicable Bombardier AFMs, Chapter 2 Limitations—Operating Limitations section, by inserting a copy of the new cold weather operations limitation specified in the Canadair (Bombardier) temporary revisions (TRs) listed in Table 1 of this AD. Thereafter, operate the airplanes per the limitation specified in the applicable TR, except as provided by paragraph (i) of this AD. Accomplishing the actions of paragraph (g) of this AD terminates the requirements of this paragraph.

TABLE 1.—TRS

Bombardier Model	TR	AFM
CL–600–1A11 (CL–600) series airplanes	600/21, February 4, 2005	PSP 600 (US).
CL–600–1A11 (CL–600) series airplanes	600–1/16, February 4, 2005	PSP 600–1 (US).
CL–600–2A12 (CL–601) series airplanes	601/13, February 4, 2005	PSP 601–1B–1.
CL–600–2A12 (CL–601) series airplanes	601/14, February 4, 2005	PSP 601–1A–1.
CL–600–2A12 (CL–601) series airplanes	601/18, February 4, 2005	PSP 601–1B.
CL–600–2A12 (CL–601) series airplanes	601/26, February 4, 2005	PSP 601–1A.
CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes	601/24, February 4, 2005	PSP 601A–1.
CL–600–2B16 (CL–601–3A and CL–601–3R) series airplanes	601/25, February 4, 2005	PSP 601A–1–1.
CL–600–2B16 (CL–604) series airplanes	604/17, February 4, 2005	PSP 604–1.
CL–600–2B19 (Regional Jet Series 100 & 440)	RJ/149–1, February 1, 2005	CSP A–012.

Note 2: When information identical to that in a TR specified in paragraph (f) of this AD has been included in the general revisions of the applicable AFM, the general revisions may be inserted into the AFM, and the TR may be removed from that AFM.

New Requirements of This AD

(g) Within 7 days after the effective date of this AD, revise the applicable sections of the applicable AFM by inserting a copy of the applicable TR listed in Table 2 of this AD. Thereafter, operate the airplanes per the limitation specified in the applicable TR, except as provided by paragraph (i) of this AD. Once the applicable temporary revision required by this paragraph is inserted in the AFM, the applicable revision required by paragraph (f) of this AD must be removed from the AFM.

(h) When information identical to that in a TR specified in paragraph (g) of this AD has been included in the general revisions of the applicable AFM, the general revisions may be inserted into the AFM, and the TR may be removed from that AFM.

TABLE 2.—TEMPORARY REVISIONS

For Bombardier Model—	Use—	Dated—	To the—
CL–600–1A11 (CL–600) airplanes	Canadair Temporary Revision 600/25–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–1A11 AFM.
CL–600–1A11 (CL–600) airplanes	Canadair Temporary Revision 600–1/20–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–1A11 AFM (Winglets).
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/17–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–2A12 AFM, PSP 601–1B–1.
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/18–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–2A12 AFM, PSP 601–1A–1.
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/22–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–2A12 AFM, PSP 601–1B.
CL–600–2A12 (CL–601) airplanes	Canadair Temporary Revision 601/30–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–2A12 AFM.
CL–600–2B16 (CL–601–3A, and CL–601–3R) airplanes.	Canadair Temporary Revision 601/29–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–2B16 AFM, PSP 601A–1.
CL–600–2B16 (CL–601–3A, and CL–601–3R) airplanes.	Canadair Temporary Revision 601/30–1.	March 20, 2008	Limitations and Normal Procedures sections of Canadair Challenger CL–600–2B16 AFM, PSP 601A–1–1.
CL–600–2B16 (CL–604) airplanes, serial numbers 5301 through 5699.	Bombardier Temporary Revision 604/24–1.	March 20, 2008	Limitations and Normal Procedures sections of Bombardier Challenger CL–604 AFM, PSP 604–1.
CL–600–2B16 (CL–604) airplanes, serial numbers 5701 and subsequent.	Bombardier Temporary Revision 605/1–1.	March 20, 2008	Limitations and Normal Procedures sections of Bombardier Challenger CL–605 AFM, PSP 605–1.
CL–600–2B19 (Regional Jet Series 100 & 440) airplane.	Canadair Temporary Revision RJ/155–3.	March 25, 2008	Limitations and Abnormal Procedures sections and Supplement 15 of Canadair Regional Jet AFM, CSP A–012.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, New York Aircraft Certification Office (ACO) FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19. Send information to ATTN: Bruce Valentine, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7328; fax (516) 794–5531.

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

Related Information

(j) Canadian emergency airworthiness directives CF–2008–15, dated March 7, 2008, and CF–2008–16, dated March 10, 2008, also address the subject of this AD.

Material Incorporated by Reference

(k) You must use the applicable temporary revision to the applicable airplane flight manual specified in Tables 3 and 4 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of the documents listed in Table 3 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On February 22, 2005 (70 FR 8025, February 17, 2005), the Director of the Federal Register approved the incorporation by reference of the documents listed in Table 4 of this AD.

(3) Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for a copy of this service information. You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

TABLE 3.—NEW MATERIAL INCORPORATED BY REFERENCE

Temporary revisions	Date	Airplane flight manual
Canadair Temporary Revision 600/25–1	March 20, 2008	Canadair Challenger CL–600–1A11 Airplane Flight Manual.
Canadair Temporary Revision 600–1/20–1.	March 20, 2008	Canadair Challenger CL–600–1A11 Airplane Flight Manual (Winglets).
Canadair Temporary Revision 601/17–1	March 20, 2008	Canadair Challenger CL–600–2A12 Airplane Flight Manual, PSP 601–1B–1.
Canadair Temporary Revision 601/18–1	March 20, 2008	Canadair Challenger CL–600–2A12 Airplane Flight Manual, PSP 601–1A–1.
Canadair Temporary Revision 601/22–1	March 20, 2008	Canadair Challenger CL–600–2A12 Airplane Flight Manual, PSP 601–1B
Canadair Temporary Revision 601/30–1	March 20, 2008	Canadair Challenger CL–600–2A12 Airplane Flight Manual.
Canadair Temporary Revision 601/29–1	March 20, 2008	Canadair Challenger CL–600–2B16 Airplane Flight Manual, PSP 601A–1.
Canadair Temporary Revision 601/30–1	March 20, 2008	Canadair Challenger CL–600–2B16 Airplane Flight Manual, PSP 601A–1–1.
Bombardier Temporary Revision 604/24–1.	March 20, 2008	Bombardier Challenger CL–604 Airplane Flight Manual, PSP 604–1.
Bombardier Temporary Revision 605/1–1.	March 20, 2008	Bombardier Challenger CL–605 Airplane Flight Manual, PSP 605–1
Canadair Temporary Revision RJ/155–3	March 25, 2008	Canadair Regional Jet Airplane Flight Manual, CSP A–012.

TABLE 4.—PREVIOUS MATERIAL INCORPORATED BY REFERENCE

Canadair (Bombardier) temporary revision	Bombardier airplane flight manual
RJ/149–1, February 1, 2005	CL–600–2B19 (Regional Jet Series 100 & 440), CSP A–012.
600/21, February 4, 2005	CL–600–1A11 (CL–600), PSP 600 (US).
600–1/16, February 4, 2005	CL–600–1A11 (CL–600), PSP 600–1 (US).
601/13, February 4, 2005	CL–600–2A12 (CL–601), PSP 601–1B–1.
601/14, February 4, 2005	CL–600–2A12 (CL–601), PSP 601–1A–1.
601/18, February 4, 2005	CL–600–2A12 (CL–601), PSP 601–1B
601/24, February 4, 2005	CL–600–2B16 (CL–601–3A and CL–601–3R), PSP 601A–1.
601/25, February 4, 2005	CL–600–2B16 (CL–601–3A and CL–601–3R), PSP 601A–1–1.
601/26, February 4, 2005	CL–600–2A12 (CL–601), PSP 601–1A.
604/17, February 4, 2005	CL–600–2B16 (CL–604), PSP 604–1.

Issued in Renton, Washington, on April 2, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7592 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0339; Directorate Identifier 2007–NM–182–AD; Amendment 39–15464; AD 2008–08–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Boeing Model 757 airplanes. This AD requires repetitive inspections of the anchor tab of the bulkhead seal assemblies of the wing thermal anti-ice (TAI) system for cracks at certain outboard stations of the left and right wings, and corrective action if necessary. This AD also provides optional terminating action for the repetitive inspections. This AD results from reports of cracks found at the anchor tab of the bulkhead seal assemblies of the wing TAI system. In one incident, the anchor tab and bulkhead seal assembly had separated because of the cracks. We are issuing this AD to prevent failure of the anchor tab of the bulkhead seal assembly, which in icing conditions could result in insufficient airflow to the wing TAI system, subsequent ice on the wings, and consequent reduced controllability of the airplane.

DATES: This AD is effective May 19, 2008.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 19, 2008.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Barbara Mudrovich, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6477; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to all Boeing Model 757 airplanes. That NPRM was published in the **Federal Register** on December 17, 2007 (72 FR 71275). That NPRM proposed to require repetitive inspections of the anchor tab of the bulkhead seal assemblies of the wing thermal anti-ice (TAI) system for cracks at certain outboard stations of the left and right wings, and corrective action if necessary. That NPRM also proposed to provide for optional

terminating action for the repetitive inspections.

Comments

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

Support for the NPRM

Boeing concurs with the contents of the NPRM.

Request To Extend Compliance Time

Northwest Airlines (NWA) asks that the repetitive inspection intervals specified in the NPRM be changed from 6,000 flight hours to 24 months. NWA states that because the NPRM already allows up to 36 months after the airplane has accumulated 20,000 total flight hours to accomplish the initial check, an acceptable level of safety would be maintained if repetitive intervals coincide with operator-scheduled heavy check intervals not to exceed 24 months. NWA adds that if repetitive inspections are at the proposed 6,000-flight-hour intervals, the inspections would need to be accomplished in a line environment. NWA asks that we allow the repetitive inspections to be done during heavy maintenance checks where specialized personnel are available in a controlled environment more conducive to performing the work.

We do not agree to extend the compliance time for the repetitive inspections. Based on data from the manufacturer, we find that a 6,000-flight-hour interval is appropriate. We do not currently have data or analysis, nor did NWA provide any, that can support such an extension of the compliance time. We have determined that the 6,000-flight-hour compliance time is appropriate given the probability of crack initiation, crack growth characteristics, and the ability of operators to integrate the required actions into established maintenance practices. However, according to the provisions of paragraph (i) of this AD, we may approve requests to adjust the compliance time if the request includes data that prove that the new compliance time would provide an acceptable level of safety. We have made no change to the AD in this regard.

Request To Increase Work Hour Estimate

NWA also states that the work-hour estimate specified in the Costs of Compliance section of the NPRM is underestimated. NWA states that the 2-hour estimate for the inspections is well below the estimate provided by Boeing Special Attention Service Bulletins 757–30–0021 and 757–30–0022, both Revision 1, both dated June 13, 2007, as referenced in the NPRM. NWA adds that an accurate estimate for accomplishing the inspections is 8 work hours (2 work hours per support) when access is provided at a heavy maintenance check.

From this comment, we infer that NWA would like us to increase the work-hour estimate given in the NPRM. We do not agree. The cost information below describes only the direct costs of the specific actions required by this AD. Based on the best data available, the manufacturer provided the number of work hours (2) necessary to do the required inspections, as specified in the service bulletins. This number represents the time necessary to perform only the actions actually required by this AD. We recognize that, in doing the actions required by an AD, operators might incur incidental costs in addition to the direct costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs such as the time required to gain access and close up, time necessary for planning, or time necessitated by other administrative actions. Those incidental costs, which might vary significantly among operators, are almost impossible to calculate. We have made no change to the AD in this regard.

Conclusion

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

Costs of Compliance

There are about 929 airplanes of the affected design in the worldwide fleet. This AD affects about 530 airplanes of U.S. registry. The inspection takes about 2 work hours per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the AD for U.S. operators is $84,800, or $160 per airplane, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2008–08–12 Boeing: Amendment 39–15464. Docket No. FAA–2007–0339; Directorate Identifier 2007–NM–182–AD.

Effective Date

(a) This airworthiness directive (AD) is effective May 19, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Boeing Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from reports of cracks found at the anchor tab of the bulkhead seal assemblies of the wing thermal anti-ice (TAI) system. In one incident, the anchor tab and bulkhead seal assembly had separated because of the cracks. We are issuing this AD to prevent failure of the anchor tab of the bulkhead seal assembly, which in icing conditions could result in insufficient airflow to the wing TAI system, subsequent ice on the wings, and consequent reduced controllability of the airplane.

Compliance

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

Repetitive Inspections/Corrective Action

(f) At the applicable times specified in paragraph 1.E., "Compliance," of Boeing Special Attention Service Bulletin 757–30–0021 or 757–30–0022, both Revision 1, both dated June 13, 2007, as applicable; except where the service bulletins specify starting the compliance time " * * * from the date on this service bulletin," this AD requires starting the compliance time from the effective date of this AD: Perform detailed inspections for cracks of the anchor tab of the bulkhead seal assemblies of the wing TAI system at certain outboard stations of the left and right wings by doing all the actions, including all applicable corrective actions, in accordance with the Accomplishment Instructions of the applicable service bulletin. Do all applicable corrective actions before further flight.

Optional Terminating Action

(g) Installing a new duct anchor support bracket adjacent to the bulkhead seal assemblies in accordance with Part 2 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–30–0021 or 757–30–0022, both Revision 1, both dated June 13, 2007, as applicable, ends the repetitive inspections required by paragraph (f) of this AD.

Credit for Actions Done According to Previous Issue of Service Information

(h) Actions accomplished before the effective date of this AD in accordance with Boeing Special Attention Service Bulletins 757–30–0021 and 757–30–0022, both dated August 15, 2006, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(j) You must use Boeing Special Attention Service Bulletin 757–30–0021, Revision 1, dated June 13, 2007; or Boeing Special Attention Service Bulletin 757–30–0022, Revision 1, dated June 13, 2007; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

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

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

Issued in Renton, Washington, on April 3, 2008.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–7662 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0203; Airspace Docket No. 08–ANE–99]

Modification of Class D Airspace; Brunswick, ME

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action modifies Class D Airspace at Brunswick, ME. The Brunswick NAS Air Traffic Control Tower has become a part-time facility; therefore, the Class D Airspace associated with the tower operations must be modified to reflect part-time status. This action enhances the National Airspace System by replacing a more restricted airspace area with a less restrictive one at Brunswick, ME.

DATES: Effective 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments. Comments for inclusion in the Rules Docket must be received on or before May 29, 2008.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2008 0203; Airspace Docket No. 08–ANE–99, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

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

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. The FAA has determined that this rule only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date. If the FAA receives, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. The direct final rule is used in this case to facilitate the timing of the charting schedule and enhance the operation at the airport, while still allowing and requesting public comment on this rulemaking action. An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption **ADDRESSES** above or through the website. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the **Federal Register's** Web page at *http://www.gpoaccess.gov/fr/index.html*.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Those wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0203; Airspace Docket No. 08–ANE–99." The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class D airspace at Brunswick, ME, providing the controlled airspace required to support the hours of operation of the Air Traffic Control Tower at Brunswick NAS Airport. Controlled airspace extending upward from the surface of the Earth is required to encompass all SIAPs to the extent practical and for general Instrument Flight Rule (IFA) operations. The current Class D airspace in the area is sufficient for these approaches, so no additional controlled airspace must be developed. Class D airspace times will be published first by Notice to Airman, then thereafter published continuously in the Airport/Facility Directory. The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 by modifying the Class D airspace description at Brunswick NAS to reflect its part time Air Traffic Control Tower's operation. Designations for Class D airspace areas extending upward from the surface of the Earth are published in FAA Order 7400.9R, signed August 15, 2007 effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class D designations listed in this document will be published subsequently in the Order.

Agency Findings

The regulations adopted herein 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 various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies controlled airspace at Brunswick, ME.

Lists 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 part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ANE ME D Brunswick, ME [Revised]

Brunswick NAS Airport,
(Lat. 43°53′32″ N., long 69°56′19″ W.)

That airspace extending upward from the surface of the Earth to and including 2,600 feet MSL within a 4.3-mile radius of Brunswick NAS. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on March 21, 2008.

Mark D. Ward,

Manager, System Support Group, Eastern Service Center.

[FR Doc. E8–7694 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2008–0339; Airspace Docket No. 08–ASW–5]

Amendment of Class D and Class E Airspace; Altus Air Force Base (AFB), OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class D and Class E airspace at Altus AFB, Altus, Oklahoma. Additional controlled airspace is necessary to accommodate aircraft using Standard Instrument Approach Procedures. This action is necessary for the safety and management of Instrument Flight Rules (IFR) operations at Altus AFB, Oklahoma.

DATES: *Effective Dates:* 0901 UTC June 5, 2008. Comments for inclusion in the rules Docket must be received May 29, 2008. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this action to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC, 20590–0001. You must identify the docket number FAA 2008–0339/Airspace Docket No. 08–ASW–5, at the beginning of your comments. You may 08–ASW–5 also submit comments through the Internet at *http://regulations.gov*. You may review the public docket containing this document, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office, telephone number 1–800–647–5527, is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Gary Mallett, AMTI CTR, CentralService Center, System Support Group, Federal Aviation Administration, SouthwestRegion, 2601 Meacham Blvd, Fort Worth, Texas, 76 193–0530; at telephone number (817) 222–4949.

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comments, and, therefore, issues it as a direct final rule. Unless a written adverse or negative comment or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the effective date of the rule. If the FAA receives, within the comment period, an adverse or negative comment, or written comment notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the direct final rule. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the direct final rule. Commenters wishing the FAA to acknowledge receipt of their comments on this rule must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2008–0339, Airspace Docket No. 08–ASW–5." The postcard will be date/time stamped and returned to the commenter. Communications should identify both docket numbers and be submitted in triplicate to the address specified under the caption Addresses above or through the Web site. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received.

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by providing additional Class D controlled airspace extending upward from the surface and Class E airspace extending upward from 700 feet above the surface at Altus AFB. Additional controlled Class D and Class E airspace is necessary for the safety of IFR operations at Altus AFB. The area will be depicted on appropriate aeronautical charts. The Class D and E airspace areas are published in paragraphs 5000 and 6005, respectively, of FAA Order 7400.9R, dated August 15, 2007 and effective September 15, 2007, which is incorporated by reference in 14 CFR Part 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49, of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in subtitle VII, Part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it provides additional controlled airspace at Altus AFB, Oklahoma.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 5000 Class D Airspace.

ASW OK D Altus, OK [Amended]

Altus AFB, OK
(Lat. 34°39′30″ N., long. 99°16′00″ W.)
Altus AFB ILS Localizer
(Lat. 34°38′32″ W., long. 99°16′26″ W.)
That airspace extending upward from the surface to and including 3,900 feet MSL within a 6-mile radius of Altus AFB and within 2 miles each side of the Altus AFB ILS 17R Localizer north course extending from the 6-mile radius to 7.6 miles north of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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

ASW OK E5 Altus, OK [Amended]

Altus AFB, OK
(Lat. 34°39′30″ N., long. 99°16′00″ W.)
Altus VORTAC
(Lat. 34°39′46″ N., long. 99°16′16″ W.)
Altus Quartz Mountain Regional Airport, OK
(Lat. 34°41′56″ N., long. 99°20′17″ W.)
Tipton Municipal Airport, OK
(Lat. 34°27′31″ N., long. 99°10′17″ W.)
Frederick Municipal Airport, OK
(Lat. 34°21′08″ N., long. 98°59′05″ W.)
Altus AFB ILS Localizer
(Lat. 34°38′32″ N., long. 99°16′26″ W.)
Frederick NDB
(Lat. 34°21′14″ N., long. 98°59′11″ W.)
That airspace extending upward from 700 feet above the surface within a 9.1-mile radius of Altus AFB and within 1.6 miles each side of the 185° radial of the Altus VORTAC extending from the 9.1-mile radius 11.9 miles south of the airport and within 3 miles west and 2 miles east of the Altus AFB Localizer north course extending from the 9.1-mile radius to 15 miles north of the airport and within a 6.5-mile radius of Altus Quartz Mountain Regional Airport, and within a 5.4-mile radius of Tipton Municipal Airport, and within a 7.2-mile radius of Frederick Municipal Airport, and within 2.5 miles each side of the 180° bearing from the Frederick NDB extending from the 7.2-mile radius to 7.7 miles south of the airport and within a 12-mile radius of Altus AFB beginning at a point 3 miles west of the Altus VORTAC 019° radial, thence clockwise along the 12-mile radius ending at a point 3 miles west of the Altus VORTAC 185° radial.

* * * * *

Issued in Fort Worth, TX, on March 26, 2008.

Donald R. Smith,

Manager, System Support Group, ATO Central Service Center.

[FR Doc. E8–7078 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–0274; Airspace Docket No. 07–AEA–14]

Establishment of Class E Airspace; Lewistown, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; confirmation of effective date.

SUMMARY: This action confirms the effective date of a direct final rule that establishes a Class E airspace area to support Area Navigation (RNAV) Global Positioning System (GPS) Special Instrument Approach Procedures (IAPs) that serve the Lewistown Hospital, Lewistown, PA.

DATES: Effective 0901 UTC, April 10, 2008. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Daryl Daniels, Airspace Specialist, System Support, AJO2–E2B.12, FAA Eastern Service Center, 1701 Columbia Ave., College Park, GA 30337; telephone (404) 305–5581; fax (404) 305–5572.

SUPPLEMENTARY INFORMATION:

Confirmation of Effective Date

The FAA published this direct final rule with a request for comments in the **Federal Register** on January 30, 2008 (73 FR 5429). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on April 10, 2008. No adverse comments were received, and thus this notice confirms that effective date.

Issued in College Park, GA on March 28, 2008.

Barry A. Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. E8–7670 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30600; Amdt. No. 3262]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective April 14, 2008. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 14, 2008.

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800

Independence Avenue, SW., Washington, DC 20591;

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

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

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

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

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

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

The Rule

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

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

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule " under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on March 21, 2008.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

** * * Effective 8 MAY 2008*

Sioux City, IA, Sioux Gateway/Col Bud Day Field, ILS OR LOC RWY 13, Amdt 1F

Sioux City, IA, Sioux Gateway/Col Bud Day Field, ILS OR LOC RWY 31, Amdt 24E

Warsaw, IN, Warsaw Muni, ILS OR LOC/DME RWY 27, Orig-C

Duluth, MN, Duluth Intl, ILS OR LOC RWY 27, Amdt 8C

Fremont, NE, Fremont Muni, RNAV (GPS) RWY 14, Amdt 1

Akron, OH, Akron-Canton Regional, ILS OR LOC RWY 23, Amdt 10B

Harlingen, TX, Valley Intl, ILS OR LOC RWY 17R, Orig-A

Midland, TX, Midland Intl, ILS OR LOC RWY 10, Amdt 14B

** * * Effective 5 JUN 2008*

Auburn, AL, Auburn-Opelika Robert G. Pitts, ILS OR LOC RWY 36, Amdt 1

Durango, CO, Durango-La Plata County, Takeoff Minimums and Obstacle DP, Amdt 6

Cross City, FL, Cross City, RNAV (GPS) RWY 31, Orig

Cross City, FL, Cross City, VOR RWY 31, Amdt 18

Cross City, FL, Cross City, Takeoff Minimums and Obstacle DP, Orig

Albany, GA, Southwest Georgia Regional, ILS OR LOC RWY 4, Amdt 10C

Atlanta, GA, Dekalb-Peachtree, Takeoff Minimums and Obstacle DP, Amdt 1

Seymour, IN, Freeman Muni, RNAV (GPS) RWY 5, Orig–A.

South Bend, IN, South Bend Regional, ILS OR LOC RWY 9R, Amdt 9
South Bend, IN, South Bend Regional, RADAR–1, Amdt 10
Charlotte, NC, Charlotte/Douglas Intl, ILS OR LOC RWY 23, Amdt 2
Charlotte, NC, Charlotte/Douglas Intl, RNAV (GPS) RWY 23, Orig
Charlotte, NC, Charlotte/Douglas Intl, RNAV (GPS) Y RWY 23, Orig, CANCELLED
Charlotte, NC, Charlotte/Douglas Intl, RNAV (GPS) Z RWY 23, Orig, CANCELLED
Lebanon, NH, Lebanon Muni, ILS OR LOC RWY 18, Amdt 5A
Monticello, NY, Monticello, VOR/DME OR GPS RWY 1, Amdt 3, CANCELLED
Monticello, NY, Monticello, Takeoff Minimums and Obstacle DP, Amdt 2, CANCELLED
Dayton, OH, Green County-Lewis A. Jackson Regional, NDB RWY 25, Amdt 1, CANCELLED
Savannah, TN, Savannah-Hardin County, SDF RWY 19, Amdt 4, CANCELLED
Ogden, UT, Ogden-Hinckley, GPS RWY 7, Orig–B, CANCELLED
Pullman/Moscow, ID, WA, Pullman/Moscow Regional, VOR/DME–A, Amdt 1A, CANCELLED
Eau Claire, WI, Chippewa Valley Regional, RNAV (GPS) RWY 22, Orig
Eau Claire, WI, Chippewa Valley Regional, NDB RWY 22, Amdt 7
Eau Claire, WI, Chippewa Valley Regional, Takeoff Minimums and Obstacle DP, Amdt 2

On March 10, 2008 (73 FR 12631) the FAA published Amendments in Docket No. 30595, Amdt No. 3258 to Part 97 of the Federal Aviation Regulations under section 97.25 effective April 10, 2008 which are corrected to read as follows:

Rutland, VT, Rutland-Southern Vermont Rgnl, LOC Y RWY 19, Amdt 2
Rutland, VT, Rutland-Southern Vermont Rgnl, LOC Z RWY 19, Orig

On March 10, 2008 (73 FR 12631) the FAA published Amendments in Docket No. 30595, Amdt No. 3258 to Part 97 of the Federal Aviation Regulations under sections 97.27, 97.29, and 97.33 effective April 10, 2008 which are hereby rescinded:

Anniston, AL, Anniston Metropolitan, ILS OR LOC RWY 5, Amdt 2
Anniston, AL, Anniston Metropolitan, RNAV (GPS) RWY 5, Orig
Anniston, AL, Anniston Metropolitan, RNAV (GPS) RWY 23, Orig
Anniston, AL, Anniston Metropolitan, NDB RWY 5, Amdt 3

[FR Doc. E8–7701 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

49 CFR Part 1

[Docket No. DOT–OST–1999–6189]

RIN 9991–AA52

Organization and Delegation of Powers and Duties; National Highway Traffic Safety Administrator

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Final rule.

SUMMARY: This amendment delegates various authorities vested in the Secretary of Transportation (Secretary) by the Energy Independence and Security Act of 2007 (Act) (Pub. L. 110–140; December 19, 2007) to the National Highway Traffic Safety Administrator.

DATES: *Effective Date:* This final rule is effective on April 14, 2008.

FOR FURTHER INFORMATION CONTACT: Stan Feldman, Associate Chief Counsel, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, W41–308, Washington, DC 20590, Telephone: (202) 366–1834.

SUPPLEMENTARY INFORMATION: On December 19, 2007, the Act was signed into law. Title 49 of the Code of Federal Regulations (CFR) 1.50 delegates to the Administrator of the National Highway Traffic Safety Administration (NHTSA) the authority to carry out various functions and activities related to the mission of the agency vested in or delegated to the Secretary. The Secretary has determined that certain authority vested in the Secretary under the Act concerning automobile fuel economy and other matters should be delegated to the National Highway Traffic Safety Administrator. This rulemaking adds paragraph (q) to § 1.50 to reflect these delegations.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 553(b). Further, since the amendment expedites the Department's ability to meet the statutory intent of the applicable laws and regulations covered by this delegation, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register**.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

The final rule is not considered a significant regulatory action under Executive Order 12866 and DOT Regulatory Policies and Procedures (44 FR 11034). There are no costs associated with this rule.

B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

C. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

D. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We also do not believe this rule would impose any costs on small entities because it simply delegates authority from one official to another. Therefore, I certify this final rule will not have a significant economic impact on a substantial number of small businesses.

E. Paperwork Reduction Act

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

F. Unfunded Mandates Reform Act

The Department of Transportation has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this rulemaking.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

■ For the reasons set forth in the preamble, the Office of the Secretary of Transportation amends 49 CFR part 1 as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Public Law 101–552, 104 Stat. 2736; Public Law 106–159, 113 Stat. 1748; Public Law 107–71, 115 Stat. 597; Public Law 107–295, 116 Stat. 2064; Public Law 107–295, 116 Stat. 2065; Public Law 107–296, 116 Stat. 2135; 41 U.S.C. 414; Public Law 108–426, 118 Stat. 2423; Public Law 109–59, 119 Stat. 1144; Public Law 110–140, 121 Stat. 1492.

■ 2. In § 1.50, add paragraph (q) to read as follows:

§ 1.50 Delegations to National Highway Traffic Safety Administrator.

* * * * *

(q) Carry out the functions and exercise the authority vested in the Secretary under the "Energy Independence and Security Act of 2007" (Public Law 110–140; December 19, 2007), as it relates to:

(1) Section 106, Continued Applicability of Existing Standards;

(2) Section 107, National Academy of Sciences Studies;

(3) Section 108, National Academy of Sciences Study of Medium-Duty and Heavy-Duty Truck Fuel Economy;

(4) Section 110, Periodic Review of Accuracy of Fuel Economy Labeling;

(5) Section 113, Exemption from Separate Calculation Requirement;

(6) Section 131(b)(2) and (c)(1), Plug-in Electric Drive Vehicle Program;

(7) Section 225(a), Study of Optimization of Flexible Fueled Vehicles to Use E–85 Fuel;

(8) Section 227(a), Study of Optimization of Biogas Used in Natural Gas Vehicles;

(9) Section 242(a), Renewable Fuel Dispenser Requirements; and

(10) Section 248(a), Biofuels Distribution and Advanced Biofuels Infrastructure.

Issued on April 7, 2008.

Mary E. Peters,

Secretary of Transportation.

[FR Doc. E8–7885 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

RIN 0648–XG90

Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; Correction

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

ACTION: Temporary rule; closure; correction notice.

SUMMARY: This document corrects information regarding a fishery closure.

DATES: Effective April 16, 2008.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Pacific Islands Region, 808-944-2273.

SUPPLEMENTARY INFORMATION: On April 7, 2008, NMFS published a notice that announced that NMFS is closing the commercial and non-commercial fisheries in the Main Hawaiian Islands fishery for seven deepwater bottomfish species ("Deep 7" bottomfish) as a result of reaching the total allowable catch (TAC) for the 2007-08 fishing year (73 FR 18718), effective on April 16, 2008.

The effective date of the temporary rule was correctly established as April 16, 2008. The **SUPPLEMENTARY INFORMATION** section of that document, however, contained an inadvertent error, stating that the TAC for the 2007-08 fishing year will be reached on April 17, 2008, and that the Main Hawaiian Islands Deep 7 bottomfish fishery will be closed from April 17, 2008, through the remainder of the fishing year.

The document should have read that the TAC would be reached on or before April 17, 2008, and that the Main Hawaiian Islands Deep 7 bottomfish fishery will be closed from April 16, 2008, through the remainder of the fishing year (opening again on September 1, 2008).

This action is required by § 665.72(c) and is exempt from review under Executive Order 12866.

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

Dated: April 9, 2008.

Emily H. Menashes,

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

[FR Doc. E8–7908 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 72
Monday, April 14, 2008

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. AMS–FV–08–0014; FV08–920–1]

Kiwifruit Grown in California; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Referendum order.

SUMMARY: This document directs that a continuance referendum be conducted among eligible California kiwifruit growers to determine whether they favor continuance of the marketing order regulating the handling of kiwifruit grown in California.

DATES: The referendum will be conducted from May 15 through May 30, 2008. To vote in this referendum, growers must have been engaged in producing kiwifruit within the production area during the period August 1, 2007, through April 30, 2008.

ADDRESSES: Copies of the marketing order may be obtained from the California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, #102-B, Fresno, California 93721, or the Office of the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237.

FOR FURTHER INFORMATION CONTACT: Kurt J. Kimmel, Regional Manager, or Maureen T. Pello, Assistant Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or e-mail: *Kurt.Kimmel@usda.gov,* or *Maureen.Pello@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Order No. 920 (7 CFR part 920), hereinafter referred to as the "order," and the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act," it is hereby directed that a referendum be conducted to ascertain whether continuance of the order is favored by growers. The referendum shall be conducted during the period May 15 through May 30, 2008, among eligible kiwifruit growers in the production area. Only growers that were engaged in the production of kiwifruit in California during the period of August 1, 2007, through April 30, 2008, may participate in the continuance referendum.

USDA has determined that continuance referenda are an effective means for determining whether growers favor the continuation of marketing order programs. USDA would consider termination of the order if less than 50 percent of the growers who vote in the referendum and growers of less than 50 percent of the volume of kiwifruit represented in the referendum favor continuance of their program.

In evaluating the merits of continuance versus termination, USDA will not only consider the results of the continuance referendum. USDA will also consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to growers, processors, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the ballot materials used in the referendum herein ordered have been previously approved by the Office of Management and Budget (OMB) under OMB No. 0581–0189, OMB Generic Fruit Crops. It has been estimated that it will take an average of 20 minutes for each of the approximately 250 producers of kiwifruit in the production area to cast a ballot. Participation is voluntary. Ballots postmarked after May 30, 2008, will not be included in the vote tabulation.

Kurt J. Kimmel and Maureen T. Pello of the California Marketing Field Office, Fruit and Vegetable Programs, Agricultural Marketing Service, USDA, are hereby designated as the referendum agents of USDA to conduct such referendum. The procedure applicable to the referendum shall be the "Procedure for the Conduct of Referenda in Connection With Marketing Orders for Fruits, Vegetables, and Nuts Pursuant to the Agricultural Marketing Agreement Act of 1937, as Amended" (7 CFR 900.400 et seq.).

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

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 601–674.

Dated: April 8, 2008.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E8–7864 Filed 4–11–08; 8:45 am]

BILLING CODE 3410–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2008–0097; FRL–8554–5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Section 110(a)(1) 8-Hour Ozone Maintenance Plan and 2002 Base-Year Inventory for the Wayne County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision consisting of a maintenance plan that provides for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) for at least 10 years after the April 30, 2004 designations, as well as, a 2002 base-year inventory for the Wayne County Area. EPA is proposing approval of the maintenance plan and the 2002 base-year inventory

in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 14, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR–2008–0097 by one of the following methods:

A. *http://www.regulations.gov.* Follow the online instructions for submitting comments.

B. E-mail: fernandez.cristina@epa.gov.

C. *Mail:* EPA–R03–OAR–2008–0097, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2008–0097. 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* website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by e-mail at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 17, 2007, PADEP formally submitted for approval, under section 110(a)(1) of the CAA, a SIP revision for the 8-hour ozone maintenance plan and the 2002 base-year inventory for the Wayne County Area.

I. Background

Section 110(a)(1) of the CAA requires that states submit to EPA plans to maintain the NAAQS promulgated by EPA. EPA interprets this provision to require that areas that were maintenance areas for the 1-hour ozone NAAQS, but attainment for the 8-hour ozone NAAQS, submit a plan to demonstrate the continued maintenance of the 8-hour ozone NAAQS.

On May 20, 2005, EPA issued guidance that applies to areas that are designated unclassifiable/attainment for the 8-hour ozone standard. The purpose of this guidance is to address the maintenance requirements in section 110(a)(1) of the CAA, and to assist the states in the development of a SIP. The components from EPA's guidance include: (1) An attainment emissions inventory, which is based on actual "typical summer day" emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) for a 10-year maintenance period, from a base-year chosen by the state; (2) a maintenance demonstration, which demonstrates how the area will remain in compliance with the 8-hour ozone standard for a period of 10 years following the effective date of designation unclassifiable/attainment (June 15, 2004); (3) an ambient air monitoring network, which will be in continuous operation in accordance with 40 CFR Part 58 to verify maintenance of the 8-hour ozone standard; (4) a contingency plan, that will ensure that in the event of a violation of the 8-hour ozone NAAQS, measures will be implemented as promptly as possible; (5) a verification of continued attainment, indicating how the state intends on tracking the progress of the maintenance plan.

II. Summary of SIP Revision

The Commonwealth of Pennsylvania has requested approval of its 8-hour ozone maintenance plan and 2002 base-year inventory for the Wayne County Area. The PADEP 8-hour ozone maintenance plan addresses the five components of EPA's May 20, 2005 guidance, which pertains to the maintenance requirements in section 110(a)(1) of the CAA.

Attainment Emission Inventory: An attainment emissions inventory includes emissions during the time period associated with the monitoring data showing attainment. PADEP has provided an emissions inventory for VOCs and NO_X, using 2002 as the base-year from which to project emissions. The 2002 inventory is consistent with EPA guidance, is based on actual "typical summer day" emissions of VOCs and NO_X, and consists of a list of sources and their associated emissions. PADEP prepared comprehensive VOCs and NO_X emissions inventories for the Wayne County Area. In the maintenance plan, PADEP included information on the man-made sources of ozone precursors, VOCs and NO_X (e.g., "stationary sources," "stationary area sources," "highway vehicles," and "nonroad sources").

Pennsylvania projected emissions for beyond 10 years from the effective date of the April 30, 2004 designations for the 8-hour ozone standard. PADEP has developed an emissions inventory for ozone precursors for the year 2002, 2009, and 2018. Tables 1 and 2 show the VOCs and NO_X emissions reduction summary for 2002, 2009, and 2018.

TABLE 1.—VOC EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources *	0.00	0.00	0.00
Stationary Area Sources	3.12	2.80	2.92
Highway Vehicles	2.54	1.66	0.96
Nonroad Sources	7.61	8.66	6.10
Total	13.27	13.12	9.98

* Values are greater than zero. Values appear as zero due to rounding.

TABLE 2.—NO_X EMISSIONS SUMMARY: 2002, 2009 AND 2018

[Tons per summer day]

Major source category	2002	2009	2018
Stationary Point Sources	0.10	0.10	0.10
Stationary Area Sources	0.32	0.34	0.36
Highway Vehicles	4.20	2.60	1.12
Nonroad Sources	1.46	1.35	0.99
Total	6.08	4.39	2.57

EPA believes Pennsylvania has demonstrated that the VOCs and NO_X emissions in the Wayne County Area will improve due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state-adopted measures.

Maintenance demonstration: As Table 1 and 2 indicate, the Wayne County Attainment Area plan shows maintenance of the 8-hour ozone NAAQS by demonstrating that future emissions of VOCs and NO_X remain at or below the 2002 base-year emissions levels through the year 2018.

Based upon the comparison of the projected emissions and the 2002 base-year inventory emissions, along federal and state measures, EPA concludes that PADEP successfully demonstrates that the 8-hour ozone standard will be maintained in the Wayne County Area. Further details of Wayne County Attainment Area's 8-hour ozone maintenance demonstration can be found in a Technical Support Document (TSD) prepared for this rulemaking.

Ambient Air Quality Monitoring: With regard to the ambient air monitoring component of the maintenance plan, Pennsylvania commits to continue operating its current air quality monitoring stations in accordance with 40 CFR Part 58, to verify the attainment status of the area, with no reductions in the number of sites from those in the existing network unless pre-approved by EPA.

Contingency Plan: Section 110(a)(1) of the CAA requires that the state develop a contingency plan which will ensure that any violation of a NAAQS is promptly corrected. The purpose of the contingency plan is to adopt measures, outlined in the maintenance plan, in order to assure continued attainment in the event of a violation of the 8-hour ozone NAAQS. The maintenance plan should identify the events that would "trigger" the adoption and implementation of a contingency measure(s), the contingency measure(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt and implement the measure(s).

Since the Wayne County Area does not have a monitor, contingency measures will be considered if for two consecutive years the fourth highest 8-hour ozone concentrations at the design monitor for the Scranton-Wilkes-Barre Area are above 84 parts per billion (ppb). If this trigger point occurs, PADEP will evaluate whether additional local emission control measures should be implemented in Wayne County in order to prevent a violation of the air quality standard. PADEP will analyze the conditions leading to the excessive ozone levels and evaluate what measures might be most effective in correcting the excessive ozone levels. PADEP will also analyze the potential emissions effect of federal, state, and local measures that have been adopted but not yet implemented at the time the excessive ozone levels occurred. PADEP will then begin the process of implementing the contingency measures outlined in their maintenance plan.

Verification of continued attainment: PADEP will track the attainment status of the 8-hour ozone NAAQS for Wayne County by reviewing air quality at the design monitor for the Scranton-Wilkes-Barre Area and emissions data during the maintenance period. An annual evaluation of vehicle miles traveled and emissions reported from stationary sources will be performed and compared to the assumptions about the factors used in the maintenance plan. PADEP will also evaluate the periodic (every three years) emission inventories prepared under EPA's Consolidated Emission Reporting Regulation (40 CFR 51, Subpart A) for any unanticipated increases. Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented.

III. Proposed Action

EPA is proposing to approve the maintenance plan and the 2002 base-year inventory for the Wayne County Area, submitted on December 17, 2007, as revisions to the Pennsylvania SIP. EPA is proposing to approve the maintenance plan and 2002 base-year inventory for the Wayne County Area because it meets the requirements of section 110(a)(1) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions,

EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

In addition, this proposed rule to approve the maintenance plan and the 2002 base-year inventory for the Wayne County Area in the Commonwealth of Pennsylvania 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: April 3, 2008.

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E8–7875 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 08–737; MB Docket No. 08–43; RM–11420]

Radio Broadcasting Services; Basin, Wyoming

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking filed by White Park Broadcasting, Inc., requesting the allotment of Channel 300C3 at Basin, Wyoming, as the community's second local aural transmission service. Channel 300C3 can be allotted at Basin, Wyoming, without a site restriction at coordinates 44–22–48 NL, and 108–02–18 WL.

DATES: Comments must be filed on or before May 19, 2008, and reply comments on or before June 3, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Barry A. Friedman, Esq., Thompson Hine, LLP, Suite 800, 1920 N Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Victoria McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MB Docket No. 08–43, adopted March 26, 2008, and released March 28, 2008. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming is amended by adding Basin, Channel 300C3.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E8–7883 Filed 4–11–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 171, 173, 174 and 179

[Docket No. FRA–2006–25169]

RIN 2130–AB69

Hazardous Materials: Improving the Safety of Railroad Tank Car Transportation of Hazardous Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meetings.

SUMMARY: On April 1, 2008, PHMSA, in consultation with the Federal Railroad Administration (FRA), published a notice of proposed rulemaking (NPRM) proposing revisions to the Federal Hazardous Materials Regulations to improve the crashworthiness of railroad tank cars designed to transport poison inhalation hazard (PIH) materials. Specifically, the NPRM proposes enhanced tank car performance standards for head and shell impacts; operational restrictions for trains hauling tank cars containing PIH materials; interim operational restrictions for trains hauling tank cars containing PIH materials, but not meeting the enhanced performance standards; and an allowance to increase the gross weight of tank cars that meet the enhanced tank-head and shell puncture-resistance requirements. This notice announces that PHMSA and FRA will hold a series of public meetings (May 14, 15, 28, and 29, 2008 in Washington, DC) related to the NPRM. Information on the scope, topics, dates, and locations of these public meetings is provided in this notice.

DATES: *Public meetings:* May 14, 15, 28, and 29, 2008, starting at 9 a.m., in Washington, DC. Further information on the agenda and topics to be discussed at each meeting is provided in the **SUPPLEMENTARY INFORMATION** section below.

Written Comments: In accordance with the timeframe established by the NPRM, comments to this docket must be received no later than May 29, 2008.

ADDRESSES: *Public meetings:* The meetings will be held at the Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Oral Presentations: Any person wishing to present an oral statement at any of the public meetings should notify Lucinda Henriksen, by e-mail or telephone, at least four business days before the date of the public meeting at which the person wishes to speak. For information on facilities or services for persons with disabilities or to request special assistance at the meetings, contact Ms. Henriksen as soon as possible.

Written Comments: We invite interested parties who are unable to attend the meetings, or who otherwise desire to submit written comments or data to submit any relevant information, data, or comments to the docket of this proceeding (FRA–2006–25169) by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lucinda Henriksen, Office of Chief Counsel, Federal Railroad Administration (*Lucinda.Henriksen@dot.gov* or (202) 493–1345), or Bill Schoonover, Office of Safety Assurance and Compliance, Federal Railroad Administration (*William.Schoonover@dot.gov* or (202) 493–6229).

SUPPLEMENTARY INFORMATION: On April 1, 2008, PHMSA, in consultation with FRA, published an NPRM proposing revisions to the Federal Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to improve the crashworthiness of railroad tank cars designed to transport PIH materials. As explained in more detail in the NPRM, DOT's tank car research has shown that the rupture of tank cars and loss of lading are principally associated with the car-to-car impacts that occur as a result of derailments and train-to-train collisions. Conditions during an accident can be of such force that a coupler of one car impacts the head or the shell of a tank car. With sufficient speed, such impacts can lead to rupture and loss of lading. When a tank car is transporting PIH materials, the consequences of that loss of lading can be catastrophic. Based on the information currently available, DOT believes that a significant opportunity exists to enhance the safety of hazardous materials transportation, and in direct response to the Congressional directive of 49 U.S.C. 20155, in the NPRM we propose revisions to the HMR that would improve the accident survivability of railroad tank cars used to transport PIH materials. Specifically, in the NPRM we propose to require:

- A maximum speed limit of 50 mph for all railroad tank cars used to transport PIH materials;
- A maximum speed limit of 30 mph in non-signaled (i.e., dark) territory for all railroad tank cars transporting PIH materials, unless the material is transported in a tank car meeting the enhanced tank-head and shell puncture-resistance systems performance standards proposed;
- As an alternative to the maximum speed limit of 30 mph in dark territory, submission for FRA approval of a complete risk assessment and risk mitigation strategy establishing that operating conditions over the subject track provide at least an equivalent level of safety as that provided by signaled track;
- Railroad tank cars used to transport PIH materials have a shell puncture-resistance system capable of withstanding impact at 25 mph and a tank-head puncture-resistance system capable of withstanding impact at 30 mph;
- The expedited replacement of tank cars used for the transportation of PIH materials manufactured before 1989 with non-normalized steel head or shell construction; and
- An allowance to increase the gross weight on rail for tank cars designed to meet the proposed enhanced tank-head and shell puncture-resistance systems performance standards.

The public meetings will be held on the dates specified in the **DATES** section of this document and at the location specified in the **ADDRESSES** section. Although all interested parties are invited to participate in any of the public meetings, to ensure adequate time is allotted to the diverse issues involved in the proposal, DOT plans to limit the scope of each proceeding as outlined below.

May 14 and 15, 2008 Public Meetings: The May 14 and 15, 2008 meetings will focus on the NPRM as it relates to the transportation by rail tank car of chlorine and anhydrous ammonia, the two PIH materials that constitute almost 80% of the total rail tank car PIH shipments each year. Specifically, we will focus on issues related to the transportation of chlorine on May 14th and issues related to the transportation of anhydrous ammonia on May 15th.

May 28, 2008 Public Meeting: The May 28, 2008 meeting will include two distinct segments. The morning session will focus on the NPRM as it relates to the transportation by railroad tank car of PIH materials other than chlorine and

anhydrous ammonia (e.g., ethylene oxide, anhydrous hydrogen fluoride, sulfur dioxide, hydrogen chloride, etc.). The afternoon session of the May 28th meeting will address railroad-specific issues related to the NPRM (e.g., the operational restrictions proposed, role of the Tank Car Committee, impact of heavier tank cars on railroad infrastructure, etc.). Accordingly, anyone wishing to comment on the proposed rule as it relates to railroad operations, infrastructure, and any other railroad-specific issues, should attend the afternoon session on May 28, 2008.

May 29, 2008 Public Meeting: The May 29, 2008 meeting is intended to provide an opportunity for all interested parties to present general comments related to the NPRM and/or any relevant concluding remarks.

Although we welcome any comments, information or data relevant to the NPRM as it relates to the transportation of PIH materials by railroad tank car, as noted in the NPRM and accompanying documents, we specifically request comment on the following issues and questions:

- Regarding the proposed performance standards for enhanced tank-head and shell protection, are there alternative strategies for enhancing the accident survivability of tank cars that may be as effective as, or more effective than, the proposed standards? Please include appropriate data and information demonstrating the effectiveness of such alternatives.
- Regarding the proposed eight-year implementation period for tank cars to be brought into compliance with the enhanced performance standards proposed, we request comment as to the feasibility and costs of this implementation schedule, as well as suggestions for any alternatives. We are particularly interested in data and information concerning current tank car manufacturing capacity and whether capacity limitations will affect the proposed implementation period.
- If the proposed rule is adopted, will it be necessary to maintain the requirement of 49 CFR 173.31(c)(2) that tank cars used to transport PIH materials be equipped with metal jackets?
- Regarding the proposed speed restriction of 50 mph for all tank cars transporting PIH materials:
  - To what extent are tank cars containing PIH materials currently transported in accordance with the speed restrictions in AAR's Circular OT–55–I for "key trains"?
  - To the extent that tank cars containing PIH materials are not currently transported in "key trains," but would be as a result of the proposed speed restriction (assuming carriers would marshal PIH cars into key trains to avoid the speed restriction on other trains), to what extent, if any, would this "marshalling" cause a delay in the delivery of PIH materials (or other hazardous or non-hazardous materials) in the train? What would be the cost of the delay?
  - Are there alternative approaches to the speed restrictions proposed that would reduce the consequences of a train derailment or accident involving PIH materials? If so, please provide supporting data demonstrating the effectiveness of the alternative approaches.
- Regarding the proposed speed restriction of 30 mph for tank cars not meeting the enhanced performance standards, but used to transport PIH materials through unsignaled territory, are there additional approaches to limit any burdens associated with this speed limitation (e.g., should exceptions be made to the speed restriction based on population densities and/or land use patterns of the area abutting the track)?
- Regarding the proposal to allow an increase to 286,000 pounds in the gross weight of tank cars:
  - To what extent has track infrastructure already been modified to accommodate these heavier cars and what was the cost associated with such upgrades?
  - What additional infrastructure modifications would be required to accommodate the heavier cars?
  - Would the number of PIH shipments along certain rail lines be expected to increase because existing infrastructure could not accommodate heavier cars?

As noted in the Initial Regulatory Flexibility Assessment (IRFA) published in the NPRM (73 FR 17818, 17852 (Apr. 1, 2008)) we recognize that the proposals in the NPRM may impact certain small entities. However, at this time, we do not have enough information to determine whether the proposed rule would have a significant economic impact on a substantial number of small entities. Accordingly, we encourage small entities potentially impacted by this proposal, particularly small agricultural operations which utilize anhydrous ammonia, to review the NPRM and accompanying Regulatory Impact Analysis (RIA) and provide any relevant comments, data, or information related to the potential economic impact to small entities that would result from adoption of the proposals in the NPRM. As noted in the IRFA, we specifically request comment on the following issues and questions:

- How many small shippers would be impacted by implementation of the proposed rule and what is the extent of such impact?
- How many governmental jurisdictions that meet the Small Business Administration's (SBA) definition of small entity own water treatment systems that utilize chlorine in their processing? What would be the expected impact of this proposed rule on such entities? Of small government jurisdictions currently utilizing chlorine in their water treatment systems, how many entities could feasibly substitute a non-dangerous or less lethal material (e.g., bleach) for chlorine?
- How many agricultural operations that meet the SBA definition of small entity utilize anhydrous ammonia in their operations? What would be the expected impact of this proposed rule on such entities? Of small agricultural operations currently utilizing anhydrous ammonia in their operations, how many entities could feasibly substitute less dangerous materials (e.g., urea, urea ammonium nitrate, or ammonium nitrate) for anhydrous ammonia?
- How many entities meeting the SBA definition of small entity own tank cars that would be subject to this rule? What would be the expected impact of this proposed rule on such entities?

We also specifically request comment on the estimates of costs and benefits of implementing the proposed rule as detailed in the RIA, as well as the underlying assumptions noted in the RIA.

PHMSA and FRA encourage all interested persons to participate in these proceedings. We encourage participants wishing to make oral statements to plan on attending the entire meeting for which they are scheduled, since DOT may not be able to accommodate competing demands to appear at specific times. We also encourage participants to focus their testimony at each meeting on the particular topics for that proceeding as outlined above.

Documents

A copy of the April 1, 2008 NPRM, the Regulatory Impact Analysis prepared in support of the NPRM, and any comments addressed to this docket are available through the DOT's docket system Web site at *http://www.regulations.gov* and/or Room W12–140 on the Plaza Level of the U.S. Department of Transportation Headquarters Building, 1200 New Jersey Ave., SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on April 8, 2008, under authority delegated in 49 CFR part 106.

Edward T. Mazzullo,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. E8–7829 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 080310411–7566–01]

RIN 0648–AU14

Pacific Halibut Fisheries; Subsistence Fishing

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to amend the subsistence fishery rules for Pacific halibut in waters in and off Alaska. These regulations are necessary to address subsistence halibut management concerns in densely populated areas. This action is intended to support the conservation and management provisions of the Northern Pacific Halibut Act of 1982.

DATES: Comments must be received no later than May 14, 2008.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648–AU14" by any one of the following methods:

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

All comments received are a part of the public record and will be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments must be in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats to be accepted.

Copies of the Categorical Exclusion (CE), Regulatory Impact Review (RIR), and Initial Regulatory Flexibility Analysis (IRFA) prepared for this action, as well as the environmental assessment (EA) prepared for the original subsistence halibut action (68 FR 18145; April 15, 2003) may be obtained from the North Pacific Fishery Management Council (Council) at 605 West 4th, Suite 306, Anchorage, Alaska 99501–2252, 907–271–2809; by mail from NMFS, Alaska Region, P. O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; or via the Internet at the NMFS Alaska Region website at *http://www.fakr.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907–586–7228 or *becky.carls@noaa.gov*, or Peggy Murphy, 907–586–7228 or *peggy.murphy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background and Need for Action

Management of the Pacific halibut (hereafter halibut) fishery in and off Alaska is based on an international agreement between Canada and the United States. This agreement, entitled the "Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea" (Convention), was signed at Ottawa, Canada, on March 2, 1953, and amended by the "Protocol Amending the Convention," signed at Washington, D.C., March 29, 1979. The Convention, administered by the International Pacific Halibut Commission (IPHC), is given effect in the United States by the Northern Pacific Halibut Act of 1982 (Halibut Act).

The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary). After approval by the Secretary of State and the Secretary, the IPHC regulations are published in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. NMFS published the IPHC's current annual management measures on March 7, 2008 (73 FR 12280).

The Halibut Act also authorizes the North Pacific Fishery Management Council (Council) to develop halibut fishery regulations, including limited access regulations, in its geographic area of concern that would apply to nationals or vessels of the United States (Halibut Act, section 773(c)). Such an action by the Council is limited to only those regulations that are in addition to, and not in conflict with, IPHC regulations. Council-developed regulations must be approved and implemented by the Secretary. Any allocation of halibut fishing privileges must be fair and equitable and consistent with other applicable Federal law. The Council used its authority under the Halibut Act to recommend a subsistence halibut program in October 2000 to recognize and manage the subsistence fishery for halibut.

The Secretary approved the Council's recommended subsistence halibut program and published implementing regulations on April 15, 2003 (68 FR 18145), and codified the program in 50 CFR part 300–subpart E, authorizing a subsistence fishery for halibut in Convention waters off Alaska. In April 2002, the Council proposed a suite of amendments to its original subsistence halibut program while postponing several proposed amendments to be included in a separate action. Regulations implementing the initial suite of amendments to the original subsistence halibut program were published on April 1, 2005 (70 FR 16742). These regulations (1) changed the boundaries of the Anchorage/Matsu/Kenai non-subsistence area; (2) eliminated gear restrictions in Areas 4C, 4D, and 4E; (3) increased gear and harvest restrictions in Area 2C; (4) allowed retention of legal-sized subsistence halibut with Community Development Quota halibut in Areas 4C, 4D, and 4E; (5) created a Community Harvest Permit (CHP) system to mitigate increased gear and harvest restrictions in affected areas; (6) created a Ceremonial and Educational Permit system to recognize customary and traditional tribal practices; and (7) included the subsistence halibut program in the federal appeals process at 50 CFR 679.43.

The Council revisited the postponed amendments in October 2004, and took final action on them in December 2004. This action proposes implementing regulations for the postponed amendments. Specifically, this action

proposes six changes to the subsistence halibut regulations that would: (1) revise the subsistence gear restrictions in Kodiak and add seasonal gear and vessel limits in Sitka Sound; (2) add the village of Naukati to the list of eligible subsistence halibut communities; (3) implement a possession limit to enhance enforcement; (4) revise the definition of charter vessel; (5) revise regulations regarding customary trade; and (6) allow the use of special permits within non-subsistence use areas by tribes eligible for the permits. Additional administrative revisions to regulations include converting the gear and harvest restrictions from text to table format and revising language to consistently refer to Sitka Sound, rather than Sitka LAMP, and its defined area. None of the proposed actions are intended to change the amount of halibut harvested for subsistence. Information on alternatives considered and rejected may be found in the RIR and IRFA prepared for this action (see **ADDRESSES**).

Subsistence Halibut Gear Restrictions

The Council recommended increasing gear restrictions in two subareas of IPHC Regulatory Areas 2C and 3A. In Area 3A, the Council recommended lowering the maximum hook limit per vessel in the Kodiak Road Zone and Chiniak Bay (together referred to hereafter as Chiniak Bay) from 90 to 60 hooks. In Area 2C, the Council proposed additional seasonal gear and harvest restrictions in Sitka Sound. The Council recommended each of these provisions to address localized depletion concerns in those subareas.

This proposed action would reduce the allowable hook limit in Chiniak Bay to no more than two times the per person limit of 30, except when fishing under a Ceremonial, Educational, or Community Harvest Permit. If one registered fisher is onboard the vessel, the maximum number of hooks on the gear set or retrieved in the course of fishing would be 30. If two registered fishers are onboard, the maximum number of hooks on gear set or retrieved in the course of fishing would be 60. However, unlike other parts of Area 3A that would be allowed up to 90 hooks if three registered fishers are onboard, at no time may the maximum number of hooks on gear set or retrieved in the course of fishing exceed 60 hooks per vessel in Chiniak Bay, except that under a Ceremonial, Educational, or Community Harvest Permit the limit would be 90 hooks per vessel.

Under this action, NMFS would define Chiniak Bay based on the State of Alaska's definition of the Kodiak Road Zone found at 05 AAC 64.005. NMFS would define Chiniak Bay as all waters bounded by the shoreline and straight lines extending from Cape Chiniak (57°37.22′ N. lat., 152°9.36′ W. long.), to Buoy #1 at Williams Reef (57°50.36′ N. lat., 152°8.82′ W. long.), to East Cape on Spruce Island (57°54.89′ N. lat., 152°19.45′ W. long.), to Termination Point on Kodiak Island (57°51.31′ N. lat., 152°24.01′ W. long.), and connecting to a line running counterclockwise along the shoreline of Kodiak Island to Cape Chiniak (57°37.22′ N. lat., 152°9.36′ W. long.). NMFS proposes this definition because latitude and longitude reference points do not vary and can be easily drawn on paper and electronic charting systems. The proposed area also includes the vast majority of local small-vessel sport and subsistence grounds historically fished for halibut, while maintaining consistency with the area targeted by the Council's proposed Kodiak Road Zone recommendation.

Consistent with previous applications of the Community Harvest Permit (CHP) Program, the Council recommended allowing the use of a CHP in Area 3A, including Chiniak Bay, to mitigate the proposed increased restrictions. The CHP Program allows a community or Alaska Native tribe to select individual harvesters who may possess particular expertise in halibut fishing to harvest halibut on behalf of the community or Alaska Native tribe. Possession of a CHP in Area 3A would allow an eligible tribe or community to use 30 hooks per person up to a maximum of 90 hooks per vessel.

The Council also recommended additional gear restrictions and seasonal periods for gear restrictions in Sitka Sound to further address localized depletion concerns. This proposed action would reduce the allowable gear from 30 hooks to 15 hooks per vessel and prohibit power hauling during the summer months from June 1 through August 31. From September 1 through May 31 gear restrictions would remain at 30 hooks per vessel and power hauling would be allowed.

The gear restrictions in this proposed rule would apply only to gear in use by eligible subsistence fishermen. By applying the gear restrictions to gear "set or retrieved" from a vessel, the gear restrictions apply only to gear actively engaged in subsistence fishing for halibut. A subsistence fisherman may possess any amount of gear onboard the vessel as long as that amount of gear actively being used does not exceed the prescribed limits. For instance, a box of extra hooks stored onboard a vessel or a fully rigged set of spare gear in a vessel would not count toward the subsistence gear restriction because the gear is not in use. This proposed rule also intends to further clarify any ambiguity in the gear restrictions by converting the original text of the gear restrictions to a table format. Because of this conversion to a table format, information in the regulatory text at § 300.65(h)(1)(i)(D) concerning the use of setline gear in Sitka Sound would be moved to § 300.65(e)(5).

Eligible Subsistence Halibut Communities

Persons eligible to conduct subsistence halibut fishing include (1) residents of rural places with customary and traditional uses of halibut and (2) all identified members of federally recognized Alaska Native tribes with a finding of customary and traditional uses of halibut. A list of rural communities and Alaska Native tribes eligible to fish for subsistence halibut may be found at § 300.65(g).

The list of rural places recommended by the Council and approved by the Secretary was derived from customary and traditional findings for halibut and bottomfish made by the Alaska State Board of Fisheries (Board) prior to the Alaska Supreme Court decision, McDowell v. State, 785 P.2d 1 (Alaska 1989). Following McDowell, State regulations directed the Board to determine whether each fish stock in subsistence use areas of the State is subject to customary and traditional uses. Therefore, the customary and traditional use determination process does not focus on communities or areas that conduct the use, but on the pattern of use of a fish stock. Although the Council engages in a community-based approach, nothing prevents the Board from nominating areas, such as remote homesteads, for eligibility for subsistence halibut.

The Council and Secretary retain exclusive authority to recommend changes to the list of rural places in § 300.65(g)(1). The Council initially recognized that some rural communities not explicitly named in the list may seek a finding of customary and traditional use of halibut, and established a policy to include those communities if customary and traditional findings were made. Residents who believed that their rural place was incorrectly omitted from the eligibility listing for rural places, or who were seeking eligibility for the first time, were encouraged to seek a customary and traditional finding from the Board before petitioning the Council.

In October 2003, the Board received seven appeals from communities and

individuals requesting positive customary and traditional use findings for halibut. The Board forwarded only two proposals to the Council: Port Tongass Village and Naukati. The remaining petitions failed because the petitioners were located within non-subsistence use areas and did not fit the stated criteria.

In December 2004, the Council recommended a provision to include Naukati as an eligible rural community for subsistence halibut purposes based on the Board's recommendation. The Council declined including Port Tongass Village following testimony and evidence that indicated the proposed rural community consists of only one individual. The Council determined that this was an insufficient number of residents to qualify as a community. However, the Council affirmed the Board's determination that Naukati is a rural community with customary and traditional use of halibut and recommended adding Naukati as a rural community for subsistence halibut purposes consistent with the Council's policy to include communities for which customary and traditional findings are made by the Board. Therefore, under this proposed rule, NMFS would add only Naukati to the list of eligible communities found at § 300.65(g)(1).

Subsistence Halibut Harvest Restrictions

In general, eligible subsistence fishermen may retain up to 20 halibut per day as a daily bag limit, except in Area 2C where only 20 halibut per vessel per day may be retained, and Areas 4C, 4D, and 4E where no limits on retention apply. In October 2003, the IPHC staff suggested that subsistence regulations allowed a substantial increase in harvest that necessitated more effective monitoring. The IPHC specifically expressed concern with overall enforcement of the subsistence program and the allowable possession of halibut. The IPHC identified that enforcement officers currently possess no means to verify time on the water for subsistence halibut fishermen who possess more than one daily bag limit, thereby hampering accurate accounting of halibut removals. The Council subsequently recommended implementing a possession limit to restrict potential abuses of the daily bag limit and enhance enforcement of daily harvest limits.

Based on the recommendation of the IPHC, the Council recommended that the proposed possession limit apply to Areas 2C, 3A, and 3B, which have experienced increased fishing effort due to higher population density. The Council determined that no possession limit was necessary for Areas 4A and 4B because those areas were not experiencing corresponding increases in fishing effort and population density.

This proposed action would implement a possession limit of one daily bag limit for Areas 2C, 3A, and 3B. For instance, current regulations restrict a fisherman in Area 2C to 20 halibut per vessel per day, thus that fisherman's possession limit would be equal to his or her daily bag limit. Likewise, current regulations restrict a fisherman in Areas 3A and 3B to 20 halibut per person per day, so that fisherman's possession limit would be equal to his or her daily bag limit. Bag limits within Sitka Sound in Area 2C also would be subject to this action. Therefore, the possession limit within Sitka Sound would be 10 halibut per vessel from September 1 to May 31 and 5 halibut per vessel from June 1 through August 31. This proposed action would not apply in Areas 4A and 4B. This proposed action would have no effect in Areas 4C, 4D, or 4E because no daily bag limit exists in those areas. This proposed action also would have no effect on the retention limits allowed for CHPs, Ceremonial Permits, or Educational Permits.

Charter Vessel Prohibition

Current regulations prohibit the retention of subsistence halibut harvested using a charter vessel, which is defined at § 300.61 as "a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator." NOAA Enforcement expressed difficulty enforcing the prohibition under the current definition because of problems associated with determining whether a vessel operator is "for hire." The Council subsequently clarified that the prohibition was meant only to prohibit subsistence fishers from hiring someone to take them subsistence fishing, but not to prohibit the use of vessels registered as charter vessels from being used for subsistence fishing. NOAA Enforcement recommended revising the definition of charter vessel to improve enforcement of the prohibition consistent with the Council's intent.

The Council adopted NOAA Enforcement's recommendation and provided additional guidance to ensure the prohibition continued to restrict subsistence fishing on charter vessels. In December 2004, the Council recommended revising the definition of charter vessel to "a vessel registered as such with the Alaska Department of Fish and Game." NOAA Enforcement believed this definition would improve the identification of vessels used illegally as charter vessels for subsistence halibut and the enforcement of other charter vessel restrictions. NOAA Enforcement has since recommended using the term "sport fishing guide vessel" in the regulatory definition for a charter vessel because this is the term used in State of Alaska regulations at 05 AAC 75.077.

The Council further recommended, and NMFS proposes, a provision that would allow a charter vessel to be used for subsistence halibut fishing, but use for that purpose must be restricted to the owner of record as indicated on the State of Alaska vessel registration, provided the owner is eligible to fish for subsistence halibut, and the owner's immediate family. This provision would allow qualified subsistence halibut fishers who also engage in charter fishing to use their vessels to conduct subsistence fishing, but limit such fishing to the vessel owner and his or her immediate family. The Council recommended not defining "immediate family" in regulation.

The Council recommended, and NMFS proposes, the prohibition of the use of a charter vessel for subsistence halibut fishing while charter clients are onboard the vessel and prohibiting the transfer of subsistence halibut to charter clients to prevent abuses of the proposed charter vessel allowance. The prohibition against subsistence fishing while charter clients are onboard would prevent the vessel owner or any other person onboard the vessel from engaging in subsistence fishing at any time while a charter client is onboard the vessel. This would preclude the use of any gear not classified as sport fishing gear or retaining any halibut in excess of the sport limits while charter clients are onboard any vessel. Additionally, a prohibition of the transfer of subsistence halibut to charter clients would apply at all times, meaning that at no time may subsistence halibut be provided by a charter operator to any person who has chartered a sportfishing trip with that charter operator.

Customary and Traditional Trade Restrictions

Current regulations at § 300.66(j) specify that it is unlawful for any person to retain or possess subsistence halibut for commercial purposes; cause subsistence halibut to be sold, bartered, or otherwise entered into commerce; or solicit exchange of subsistence halibut for commercial purposes, except that a qualified subsistence fisherman may engage in the customary trade of subsistence halibut through monetary exchange of no more than $400 per year.

The Council originally intended that the $400 annual limit would allow a person who receives subsistence halibut from an eligible subsistence halibut fisherman, to help defer the donating fisherman's costs of harvesting subsistence halibut.

The Council was concerned that continuing the $400 customary trade limit would confound Council intent by allowing de facto "sale" of subsistence halibut outside customary and traditional trade. In June 2003, the Council's Enforcement Committee reviewed issues related to customary trade and determined that (1) despite the Council's intent to not create a new commercial fishery, current regulations essentially allow the sale of subsistence halibut up to the $400 annual limit; (2) the $400 annual limit lacks enforceability because enforcement officers cannot easily distinguish between sale and customary and traditional exchange for cash; and (3) current regulations do not clearly prohibit advertising and solicitation for commercial sale. The Enforcement Committee recommended the Council revise the customary trade restrictions to meet the original intent of allowing customary and traditional trade.

On the suggestion of the Enforcement Committee, the Council recommended revising the regulations to eliminate customary trade for cash. The Council additionally determined that the identification of a dollar amount for the allowance of customary trade in the regulations resulted in some subsistence users "selling" halibut to other subsistence users outside of customary and traditional practices, and that the dollar amount effectively served as a target rather than a limit. NOAA Enforcement also reported subsistence halibut illegally entering the commercial market, due in part to the difficulty of enforcing the $400 annual limit.

This proposed action would eliminate the $400 customary trade limit and restrict any monetary exchange for subsistence halibut specifically to reimbursement of actual trip expenses directly related to the harvest of subsistence halibut. Actual trip expenses would be limited to ice, bait, food, or fuel only. Additional restrictions would be applied separately to rural community residents and Alaska Native tribal members.

Under this proposed action, persons who qualify as rural residents under § 300.65(g)(1) and hold a subsistence halibut registration certificate (SHARC) in their name under § 300.65(i) may be reimbursed only by residents of the same rural community listed on his or her subsistence halibut registration certificate. For example, a rural community resident in Hoonah may be reimbursed for actual trip expenses directly related to subsistence halibut fishing by another resident of Hoonah but may not be reimbursed by a resident of Sitka. The Council proposed this restriction as an additional measure to discourage the entry of subsistence halibut into commerce.

Additionally, under this proposed action, persons who qualify as Alaska Native tribal members under § 300.65(g)(2) and hold a SHARC in their name under § 300.65(i) would be eligible for reimbursement only from an Alaska Native tribe or its members. For example, a tribal SHARC holder from the Kenaitze Indian Tribe may be reimbursed by a member of the Gwichin Athabascan Indian Tribe. However, persons possessing a SHARC designated as tribal would be ineligible to receive reimbursement from anyone other than another Alaska Native tribe or its members.

Special Permits in Non-subsistence Areas

Generally, eligible persons may harvest subsistence halibut in all Convention waters in and off Alaska except for the four designated non-subsistence marine areas: the Ketchikan non-subsistence marine waters area, the Juneau non-subsistence marine waters area, the Anchorage-Matsu-Kenai non-subsistence marine waters area, and the Valdez non-subsistence marine waters area (§ 300.65(h)(3) and Figures 2–5 to subpart E).

In December 2004, the Council recommended allowing the use of Ceremonial Permits and Educational Permits in non-subsistence marine areas by tribes whose traditional fishing grounds are located within Areas 2C and 3A. This proposed action would allow twelve Alaska Native tribes whose traditional fishing grounds fall within Areas 2C and 3A to conduct subsistence halibut fishing in areas currently designated as non-subsistence marine areas. Therefore, if persons on a vessel possess a Ceremonial Permit or an Educational Permit, they would be allowed to conduct subsistence fishing in the non-subsistence marine areas subject to other existing regulations.

Use of Ceremonial Permits and Educational Permits within non-subsistence marine areas would remain subject to gear and harvest restrictions for those permits consistent with the IPHC regulatory area in which they are used. Ceremonial Permits and Educational Permits allow Alaska Native tribes in Areas 2C and 3A as listed in § 300.65(g)(2) to harvest up to 25 halibut per permit. Ceremonial Permits and Educational Permits in non-subsistence marine areas maintain the same gear limitations as those required when fishing under a SHARC in Areas 2C and 3A (i.e., 30 hooks per vessel in Area 2C and 30 hooks per person or up to 90 hooks per vessel in Area 3A). Ceremonial Permits and Educational Permits also have unique application and reporting requirements (§ 300.65(j) and (k)).

Classification

The NMFS Assistant Administrator has determined that this proposed rule is necessary for the conservation and management of the halibut fishery and that it is consistent with the Halibut Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866. This proposed rule also complies with the Secretary's authority under the Halibut Act to implement management measures for the halibut fishery.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows. Copies of this analysis are available from the Council or NMFS (see **ADDRESSES**).

This proposed rule would implement six actions to amend the subsistence halibut regulations: (1) revise the subsistence gear restrictions in Kodiak and add seasonal gear and vessel limits in the Sitka Sound area; (2) add the village of Naukati to the list of eligible subsistence halibut communities; (3) implement a possession limit equal to one daily bag limit to enhance enforcement; (4) revise the definition of charter vessel; (5) revise regulations regarding customary trade; and (6) allow the use of special permits within non-subsistence use areas by tribes eligible for the permits. Only actions 1 and 6 would directly regulate "small entities," as defined by the RFA. The remaining four actions are not addressed because they affect individuals, rather than "entities," as defined by RFA. All attributable impacts on directly regulated small entities, accruing from either action, appear to be beneficial.

Action 1 would directly regulate Alaska Native tribes, or governmental entities in the absence of a tribe, that are eligible to participate in the subsistence halibut program off Kodiak and Chiniak Bay. Action 1 would govern nine Alaska Native tribes. Action 6 would affect thirteen Alaska Native tribes, but no governmental entities.

It is NMFS policy to consider only adverse impacts when preparing an IRFA, consistent with the intent of Congress to minimize effects on small entities. No such adverse impacts appear to be associated with Actions 1 and 6. However, detailed information and empirical data about the operational structures, strategies, and fiscal conditions of the various Alaska Native tribes, which are likely to be directly regulated by the proposed actions, are not presently available to the analysts to support preparation of a factual basis upon which to certify, under RFA provisions. Therefore, the Council prepared an IRFA to fulfill the requirements of the RFA, despite the high probability that the actions will not have a substantial adverse effect on a substantial number of small entities, as these terms are defined under the RFA.

Proposed actions 1 and 6 aim to enhance management of the subsistence halibut fishery as it pertains to use by Alaska Native tribes for the purpose of recognizing and appropriately accommodating subsistence practices. These actions are taken under the authority of the Northern Pacific Halibut Act of 1982.

The principal decisions in the preferred alternatives for actions 1 and 6 address changes to (1) gear limits and the use of Community Harvest Permits (CHPs) by Alaska Native tribes in Kodiak and Chiniak Bay, and seasonal gear and vessel limits in Sitka Sound; and (2) fishing in non-subsistence use areas. The preferred alternatives to implement CHPs for Alaska Native tribes in Kodiak and Chiniak Bay (CHPs are not allowed in Sitka Sound) under action 1, and to allow ceremonial and educational permits to be used by Alaska Native tribes in non-subsistence use areas under action 6, directly regulate small entities.

The Council addressed multiple alternatives for each action under the RFA. Under action 1, the Council analyzed three alternatives: (1) no action; (2) change gear restrictions and annual limits in Kodiak, Prince William Sound, Cook Inlet, and the Sitka LAMP; and (3) change gear restrictions and annual limits only in Kodiak and the Sitka LAMP. The Council selected alternative 3 as the preferred alternative for action 1. For action 6, the Council analyzed three alternatives: (1) no action; (2) allow the use of CHPs, educational permits, and ceremonial permits in non-subsistence use areas by tribes whose traditional fishing grounds are located within IPHC Areas 2C and 3A, with the associated daily bag limit; and (3) allow the use of educational permits and ceremonial permits, but not CHPs, in non-subsistence use areas by tribes whose traditional fishing grounds are located within IPHC Areas 2C and 3A, with the associated daily bag limit. The Council selected alternative 3 as the preferred alternative for action 6.

Based on the best available scientific data and information, the IRFA (including the RIR) reveals that none of the significant alternatives to the proposed action, other than the preferred alternatives, have the potential to accomplish the objectives of the Council consistent with the Halibut Act, the RFA, and other applicable statutes, and minimize the adverse economic impacts of the proposed rule on directly regulated small entities.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB. These collections are listed by control number.

OMB Control Number 0648–0460

Public reporting burden is estimated to average ten minutes for Subsistence halibut registration certificate (SHARC) for rural or individual use and ten minutes for SHARC for tribal use.

OMB Control Number 0648–0512

Public reporting burden for a Subsistence Halibut Special Permit Application for ceremonial harvest, education harvest, or community harvest is estimated to average ten minutes per response.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

NMFS is not aware of any other Federal rules that would duplicate, overlap, or conflict with these actions.

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of the National Marine Fisheries Service in matters affecting tribal interests. Section 161 of Public Law 108–199 (188 Stat 452), as amended by section 518 of Public Law 108–447 (118 Stat 3267), extends the consultation requirements of Executive Order 13175 to Alaska Native corporations.

Consultations with the Alaska Native Subsistence Halibut Working Group, under Executive Order 13175, resulted in recommendations to allow the use of special permits in non-subsistence use areas. NMFS will contact tribal governments and Alaska Native corporations which may be affected by the proposed action, provide them with a copy of this proposed rule, and offer them an opportunity to consult.

List of Subjects for 50 CFR Part 300

Pacific halibut fisheries, Alaska, Alaska Natives, Fisheries, Recordkeeping and reporting requirements.

Dated: April 8 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300, subpart E as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

1. The authority citation for part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k.

2. In § 300.61 add definitions of "Chiniak Bay" and "Power hauling" in alphabetical order and revise the definition of "Charter vessel" to read as follows:

§ 300.61 Definitions.

* * * * *

Charter vessel means a vessel registered as a sport fishing guide vessel with the Alaska Department of Fish and Game.

Chiniak Bay means all waters bounded by the shoreline and straight lines connecting the coordinates in the order listed:

north from Cape Chiniak (57°37.22′ N. lat., 152°9.36′ W. long.);

to Buoy #1 at Williams Reef (57°50.36′ N. lat., 152°8.82′ W. long.);

to East Cape on Spruce Island (57°54.89′ N. lat., 152°19.45′ W. long.);

to Termination Point on Kodiak Island (57°51.31′ N. lat., 152°24.01′ W. long.); and connecting to a line running counterclockwise along the shoreline of Kodiak Island to Cape Chiniak (57°37.22′ N. lat., 152°9.36′ W. long.).

* * * * *

Power hauling means using electrically, hydraulically, or mechanically powered devices or attachments or other assisting devises or attachments to deploy and retrieve fishing gear. Power hauling does not include the use of hand power, a hand powered crank, a fishing rod, a downrigger, or a hand troll gurdy.

* * * * *

3. In § 300.65:

A. Revise paragraphs (e)(1)(ii) introductory text, (h)(1)(i), (h)(2), (j) introductory text, (j)(1)(ii), (j)(1)(iii), (j)(3)(i) introductory text, (j)(3)(i)(A), (k)(3)(i), and (k)(3)(ii).

B. Add paragraph (e)(5).

C. In paragraph (g)(1) in the table entitled "Halibut Regulatory Area 2C" an entry for "Naukati" is added in alphabetical order.

The additions and revisions read as follows:

§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.

* * * * *

(e) * * *

(1) * * *

(ii) With respect to paragraphs (e)(3), (e)(4), and (e)(5) of this section, that part of the Commission regulatory area 2C that is enclosed on the north and east:

* * * * *

(5) Setline gear may not be used in a 4 nm radius extending south from Low Island at 57°00.70′ N. lat., 135°36.57′ W. long. within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

* * * * *

(g) * * *

(1) * * *

Halibut Regulatory Area 2C	
Rural Community	Organized Entity
* * * * * * *	
Naukati	Municipality
* * * * * * *	

* * * * *

(h) * * *

(1) * * *

(i) Subsistence fishing gear set or retrieved from a vessel while engaged in subsistence fishing for halibut must not have more than the allowable hooks per vessel, or per personregistered in accordance with paragraph (i) of this section and aboard the vessel, whichever is less, according to the regulatory area and permit type indicated in the following table:

Regulatory Area	Permit Type	Gear Restrictions
2C (Except Sitka Sound)	SHARC	30 hooks per vessel
	Ceremonial Permit	30 hooks per vessel
	Educational Permit	30 hooks per vessel
	Community Harvest Permit	30 hooks per person onboard up to 90 hooks
Sitka Sound	SHARC	September 1 through May 31: 30 hooks per vessel
		June 1 through August 31: 15 hooks per vessel; no power hauling
	Ceremonial Permit	September 1 through May 31: 30 hooks per vessel
		June 1 through August 31: fishing under Ceremonial Permit not allowed
	Educational Permit	30 hooks per vessel
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
3A (Except Chiniak Bay)	SHARC	30 hooks per person onboard up to 90 hooks per vessel
	Ceremonial Permit	30 hooks per person onboard
	Educational Permit	30 hooks per person onboard up to 90 hooks per vessel
	Community Harvest Permit	30 hooks per person onboard up to 90 hooks per vessel
Chiniak Bay	SHARC	30 hooks per person onboard up to 90 hooks per vessel
	Ceremonial Permit	30 hooks per person onboard up to 90 hooks per vessel
	Educational Permit	30 hooks per person onboard up to 90 hooks per vessel
	Community Harvest Permit	30 hooks per person onboard up to 90 hooks per vessel
3B	SHARC	30 hooks per person onboard up to 90 hooks per vessel
4A and 4B	SHARC	30 hooks per person onboard up to 90 hooks per vessel
4C, 4D, and 4E	SHARC	no hook limit

* * * * *

(2) The retention of subsistence halibut is limited per person eligible to conduct subsistence fishing for halibut and onboard the vessel according to the following table:

Regulatory Area	Permit Type	Retention Limits
2C (Except Sitka Sound)	SHARC	20 halibut per day per vessel and in possession
	Ceremonial Permit	25 halibut per permit
	Educational Permit	25 halibut per permit
	Community Harvest Permit	no daily or possession limit
Sitka Sound	SHARC	September 1 through May 31: 10 halibut per day per vessel and in possession
		June 1 through August 31: 5 halibut per day per vessel and in possession
	Ceremonial Permit	September 1 through May 31: 25 halibut per permit
		June 1 through August 31: fishing under Ceremonial Permit not allowed
	Educational Permit	25 halibut per permit
	Community Harvest Permit	fishing under Community Harvest Permit not allowed
3A, including Chiniak Bay	SHARC	20 halibut per person per day and in possession
	Ceremonial Permit	25 halibut per permit
	Educational Permit	25 halibut per permit
	Community Harvest Permit	no daily or possession limit
3B	SHARC	20 halibut per person per day and in possession
4A and 4B	SHARC	20 halibut per person per day; no possession limit
4C, 4D, and 4E	SHARC	no daily or possession limit

* * * * *

(j) *Community Harvest Permit (CHP).* An Area 2C or Area 3A community or Alaska Native tribe listed in paragraphs (g)(1) or (g)(2) of this section may apply for a CHP, which allows a community or Alaska Native tribe to appoint one or more individuals from its respective community or Alaska Native tribe to harvest subsistence halibut from a single vessel under reduced gear and harvest restrictions. The CHP consists of a harvest log and up to five laminated permit cards. A CHP is a permit subject to regulation under § 679.4(a) of this title.

(1) * * *

(ii) NMFS will issue a CHP to a community in Area 2C or Area 3A only if:

(A) The applying community is listed as eligible in Area 2C or Area 3A according to paragraph (g)(1) of this section; and

(B) No Alaska Native tribe listed in paragraph (g)(2) of this section exists in that community.

(iii) NMFS will issue a CHP to an Alaska Native tribe in Area 2C or Area 3A only if the applying tribe is listed as eligible in Area 2C or Area 3A according to paragraph (g)(2) of this section.

* * * * *

(3) * * *

(i) In Area 2C or Area 3A, except that a CHP may not be used:

(A) Within Sitka Sound as defined in paragraph (e)(1)(ii) of this section (see Figure 1 to this subpart E); or

* * * * *

(k) * * *

(3) * * *

(i) In Area 3A;

(ii) In Area 2C, except a Ceremonial Permit may not be used within Sitka Sound from June 1 through August 31;

* * * * *

4. In § 300.66:

A. Redesignate paragraphs (j) through (m) as paragraphs (k) through (n), respectively.

B. Revise paragraph (i) and newly redesignated paragraph (k).

C. Add new paragraph (j).

The revisions and additions read as follows:

§ 300.66 Prohibitions.

* * * * *

(i) Fish for subsistence halibut from a charter vessel or retain subsistence halibut onboard a charter vessel if anyone other than the owner of record, as indicated on the State of Alaska vessel registration, or the owner's immediate family is aboard the charter vessel and unless each person engaging in subsistence fishing onboard the charter vessel holds a subsistence halibut registration certificate in the person's name pursuant to § 300.65(i) and abides by the gear and harvest restrictions found at § 300.65(h).

(j) Transfer subsistence halibut to charter vessel anglers.

(k) Retain or possess subsistence halibut for commercial purposes; cause subsistence halibut to be sold, bartered, or otherwise entered into commerce; or solicit exchange of subsistence halibut for commercial purposes, except that a person who qualified to conduct subsistence fishing for halibut under § 300.65(g), and who holds a subsistence halibut registration certificate in the person's name under § 300.65(i), may be

reimbursed for the expense of fishing for subsistence halibut under the following conditions:

(1) Persons who qualify as rural residents under § 300.65(g)(1) and hold a subsistence halibut registration certificate in the persons's name under § 300.65(i) may be reimbursed for actual expenses directly related to subsistence fishing for halibut, including only ice, bait, food, or fuel, by residents of the same rural community listed on the person's subsistence halibut registration certificate; or

(2) Persons who qualify as Alaska Native tribal members under § 300.65(g)(2) and hold a subsistence halibut registration certificate in the person's name under § 300.65(i) may be reimbursed for actual expenses directly related to subsistence fishing for halibut, including only ice, bait, food, or fuel, by any Alaska Native tribe or its members.

* * * * *

[FR Doc. E8–7902 Filed 4–11–08; 8:45 am]
BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No.080326475–8477–01]

RIN 0648–XG22

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes a regulation to implement the annual harvest guideline (HG) for Pacific sardine in the U.S. exclusive economic zone (EEZ) off the Pacific coast for the fishing season of January 1, 2008, through December 31, 2008. This HG has been determined according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

DATES: Comments must be received by May 14, 2008.

ADDRESSES: You may submit comments on this proposed rule identified by 0648–XG22 by any of the following methods:• Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov*

• Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

• Fax: (562)980–4047

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the report "Assessment of Pacific Sardine Stock for U.S. Management in 2008" may be obtained from the Southwest Regional Office (see the Mailing address above).

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: The CPS FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

During public meetings each year, the biomass for each actively managed species within the CPS FMP is presented to the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (Team) and the Council's Coastal Pelagic Species Advisory Subpanel (Subpanel). At that time, the biomass, the acceptable biological catch (ABC) and the status of the fisheries are reviewed and discussed. This information is then presented to the Council along with HG recommendations and comments from the Team and Subpanel. Following review by the Council and after hearing public comment, the Council makes its HG recommendation to NMFS. The annual HG is published in the **Federal Register** as close as practicable to the start of the fishing season.

For actively managed CPS stocks, full assessments and the accompanying Stock Assessment Review (STAR) process typically occur every third year and were last completed in 2004. Therefore, for this 2007 cycle, a full assessment for Pacific sardine was conducted and reviewed by a STAR Panel in La Jolla, California, September 18–21, 2007. This assessment produced an estimated biomass of 832,706 mt. Applying this biomass number to the harvest control rule in the FMP produces an acceptable biological catch (ABC) for the 2008 fishery of 89,093 metric tons (mt).

In November, the Council held a public meeting in San Diego, California (72 FR 59256) during which time the Team, Subpanel, CPS Subcommitee of the Scientific and Statistical Committee (SSC) and the Council reviewed the current stock assessment, biomass numbers and ABC. Following their review of the assessment, associated biomass and ABC and after hearing reports by the SSC, Team and Subpanel the Council adopted an ABC or HG of 89,093 mt for the 2008 fishing year. This ABC is 42 percent less than the ABC/HG adopted by the Council for the 2007 fishing season.

The Pacific sardine HG is apportioned based on the following allocation scheme established by Amendment 11 (71 FR 36999, June 29, 2006) to the CPS FMP: 35 percent is allocated coastwide on January 1; 40 percent, plus any portion not harvested from the initial allocation is reallocated coastwide on July 1; and on September 15 the remaining 25 percent, plus any portion not harvested from earlier allocations is released. If the total HG or these apportionment levels for Pacific sardine are reached at any time, the Pacific sardine fishery will be closed via appropriate rulemaking until it re-opens either per the allocation scheme or the beginning of the next fishing season. The Regional Administrator shall publish a notice in the **Federal Register** the date of the closure of the directed fishery for Pacific sardine.

Based on recommendations by the Team, and the potential that seasonal allocation totals may be attained during the 2008 fishing year due to the decrease in the HG, the Council also adopted a set aside of 8,909 mt (10 percent of the ABC). Implementation of the set aside would establish a directed harvest fishery of 80,184 mt and an incidental fishery of 8,909 mt. This incidental fishery would allow for incidental landings of Pacific sardine in other fisheries and prevent the closure of such fisheries, particularly other CPS fisheries, if a seasonal directed fishery

total is reached and directed fishing is closed. In turn the set aside would also help to ensure the fishery does not exceed the ABC.

The proposed set aside is based on recent annual incidental sardine landing rates in other fisheries during each of the seasonal allocation periods. The set-aside would initially be allocated across these periods in the following way: January 1–June 30, 26,550 mt is to be allocated for directed harvest with an incidental set aside of 4,633 mt; July 1–September 14, 34,568 mt is allocated for directed harvest with an incidental set aside of 1,069 mt; September 15–December 31, 19,066 mt is allocated for directed harvest with an incidental set aside of 3,207 mt.

If during any of the seasonal allocation periods the applicable adjusted directed harvest allocation is projected to be taken, only incidental harvest will be allowed and, for the remainder of the period, any incidental Pacific sardine landings will be counted against that period's incidental set aside. The proposed incidental fishery will also be constrained to a 20 percent by weight incidental catch rate when Pacific sardine are landed with other CPS to minimize targeting of Pacific sardine and to maximize landings of harvestable stocks. In the event that an incidental set aside is projected to be attained, all fisheries will be closed to the retention of Pacific sardine for the remainder of the period via appropriate rulemaking. If the set aside is not fully attained or is exceeded in a given seasonal period, the directed harvest allocation in the following seasonal period will be automatically adjusted to account for the discrepancy.

The size of the sardine population was estimated using the Stock Synthesis 2 (SS2) model platform. Use of the SS2 model was recommended by the CPS STAR Panel held in September 2007, in La Jolla, California. The SS2 model platform replaces the Age-structured Assessment Program (ASAP) that has been used the previous three years. The STAR Panel concluded that the ASAP model had a number of difficulties that SS2 was able overcome, including: 1) allowance for some sardine to spawn at age–0, 2) differences in timing of the fisheries throughout the range, 3) estimation of initial conditions, 4) variability in weight-at-age among fisheries and between the fishery and population, and 5) log-normal bias correction for the stock-recruitment relationship. Detailed information on the fishery and the stock assessment are found in the report "Assessment of Pacific Sardine Stock for U.S. Management in 2008" (see ADDRESSES).

The formula in the CPS FMP uses the following factors to
determine the HG:

1. *Biomass*. The estimated stock biomass of Pacific sardine age one and above for the 2008 management season is 832,706 mt.

2. *Cutoff*. This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.

3. *Distribution*. The portion of the Pacific sardine biomass estimated in the EEZ off the Pacific coast is 87 percent and is based on the average historical larval distribution obtained from scientific cruises and the distribution of the resource according to the logbooks of aerial fish-spotters.

4. *Fraction*. The harvest fraction is the percentage of the biomass above 150,000 mt that may be harvested. The fraction used varies (5–15 percent) with current ocean temperatures; a higher fraction for warmer ocean temperatures and a lower fraction for cooler temperatures. Warmer ocean temperatures favor the production of Pacific sardine. For 2008, the fraction used was 15 percent, based on three seasons of sea surface temperature at Scripps Pier, California.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The purpose of this proposed rule is to implement the 2008 HG for Pacific sardine in the U.S. EEZ off the Pacific coast. The CPS FMP and its implementing regulations require NMFS to set an annual HG for the Pacific sardine fishery based on the harvest formula in the FMP. The harvest formula is applied to the current stock biomass estimate to determine the ABC, from which the HG is then derived. The HG is determined using an environmentally-based formula accounting for the effect of ocean conditions on stock productivity.

The HG is apportioned based on the following allocation scheme: 35 percent of the HG is allocated coastwide on January 1; 40 percent of the HG, plus any portion not harvested from the initial allocation is then reallocated coastwide on July 1; and on September 15 the remaining 25 percent, plus any portion not harvested from earlier allocations will be released. If the total HG or these apportionment levels for Pacific sardine are reached at any time, the Pacific sardine fishery is closed until either it re-opens per the allocation scheme or the beginning of the next fishing season. There is no limit on the amount of catch that any single vessel can take during an allocation period or the year; the HG and seasonal allocations are available until fully utilized by the entire CPS fleet.

The small entities that would be affected by the proposed action are the vessels that compose the West Coast CPS finish fleet. Approximately 107 vessels are permitted to operate in the sardine fishery component of the CPS fishery off the U.S. West Coast; 63 permits in the Federal CPS limited entry fishery off California (south of 39 N. lat.), and a combined 44 permits in Oregon and Washington's state Pacific sardine fisheries. This proposed rule has an equal effect on all of these small entities and therefore will impact a substantial number of these small entities in the same manner. These vessels are considered small business entities by the U.S. Small Business Administration since the vessels do not have annual receipts in excess of $4.0 million. Therefore, there would be no economic impacts resulting from disproportionality between small and large business entities under the proposed action.

The profitability of these vessels as a result of this proposed rule is based on the average Pacific sardine ex-vessel price per mt. NMFS used average Pacific sardine ex-vessel price per mt to conduct a profitability analysis because cost data for the harvesting operations of CPS finfish vessels was unavailable.

For the 2007 fishing year, the HG was set at 152,564 mt with an estimated ex-vessel value of $18 million. Around 136,000 mt (89,000 in California and 47,000 in Oregon and Washington) of this HG was actually harvested during the 2007 fishing season valued at an estimated $14 million. The proposed HG for the 2008 Pacific sardine fishing season (January 1, 2008 through December 31, 2008) is 89,093 metric tons (mt). If the fleet were to take the entire 2008 HG, and assuming a coastwide average ex-vessel price per mt of $110, the potential revenue to the fleet would be approximately $10 million.

Although the HG for 2008 is 42 percent lower than the HG for 2007, a drop in profitability is not expected because the 2008 HG approximates the average catch from 2001–2006 of 85,000 mt. The sardine harvest depends greatly on market forces within the fishery, as well as the other CPS fisheries, and on the regional availability of the resource to the fleets and the fleets' ability to find pure schools of Pacific sardine. A change in the market and/or the potential lack of availability of the resource to the fleets could cause a reduction in the amount of Pacific sardine that is harvested, in turn, reducing the total revenue to the fleet from Pacific sardine. The 2007 harvest was

anomalously large, approximately 50,000 mt more than the 2001–2006 average. From 2001 through 2006, the average landings coastwide were approximately 85,000 mt with annual revenues during that time at approximately $10 million. Therefore at current ex-vessel price per mt, the harvest guideline for 2008 should provide revenue similar to revenues earned from 2001 through 2006.

In addition, the revenue derived from harvesting Pacific sardine is only one factor determining the overall revenue of the CPS fleet and therefore the economic impact to the fleet from the proposed action cannot be viewed in isolation. CPS finfish vessels typically harvest a number of other species, including anchovy, mackerel, squid, and tuna, making Pacific sardine only one component of a multi-species CPS fishery. Any lower revenue from the harvest of Pacific sardine may be offset, in part, by harvest of these other species.

Based on the disproportionality and profitability analysis above, this rule if adopted, will not have a significant economic impact on a substantial number of these small entities.

As a result, an Initial Regulatory Flexibility Analysis is not required and none has been prepared.

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

Dated: April 9, 2008.

Samuel D. Rauch III,

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

[FR Doc. E8–7899 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 73, No. 72
Monday, April 14, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AFRICAN DEVELOPMENT FOUNDATION

Notice; Board of Directors Meeting

TIME: Monday, May 5, 2008, 2:30 p.m. to 4:30 p.m.

PLACE: African Development Foundation, Conference Room, 1400 I Street, NW., Suite 1000, Washington, DC 20005.

DATE: Monday, May 5, 2008.

STATUS:

1. Closed session, Monday, May 5, 2008, 2:30 p.m. to 3:30 p.m.; and
2. Open session, Monday, May 5, 2008, 3:30 p.m. to 4:30 p.m.

Due to security requirements and limited seating, all individuals wishing to attend the open session of the meeting must notify Doris Martin, General Counsel, at (202) 673–3916 or Michele M. Rivard at *mrivard@usadf.gov* of your request to attend by 5 p.m. on Wednesday, April 30, 2008.

Lloyd O. Pierson,
President.

[FR Doc. E8–7819 Filed 4–11–08; 8:45 am]
BILLING CODE 6117–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committees

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a joint meeting, followed by separate and concurrently held meetings of the Census Advisory Committees (CACs) on the African American Population, the American Indian and Alaska Native Populations, the Asian Population, the Hispanic Population, and the Native Hawaiian and Other Pacific Islander Populations. The Committees will address issues related to the 2010 Decennial Census Program. The five Census Advisory Committees on Race and Ethnicity will meet in plenary and concurrent sessions on April 30–May 2. Last-minute changes to the schedule are possible, which could prevent advance notification.

DATES: April 30–May 2, 2008. On April 30, the meeting will begin at approximately 1:30 p.m. and end at approximately 5 p.m. On May 1, the meeting will begin at approximately 8:30 a.m. and end at approximately 5:30 p.m. On May 2, the meeting will begin at approximately 8:30 a.m. and end at approximately 12:30 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, U.S. Department of Commerce, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Suitland, Maryland 20746, telephone (301) 763–2070, TTY (301) 457–2540.

SUPPLEMENTARY INFORMATION: The CACs on the African American Population, the American Indian and Alaska Native Populations, the Asian Population, the Hispanic Population, and the Native Hawaiian and Other Pacific Islander Populations are comprised of nine members each. The Committees provide an organized and continuing channel of communication between the race and ethnic populations they represent and the Census Bureau. The Committees provide an outside-user perspective and advice on research and design plans for the 2010 Decennial Census, the American Community Survey, and other related programs particularly as they pertain to an accurate count of these communities. The Committees also assist the Census Bureau on ways that census data can best be disseminated to diverse race and ethnic populations and other users. The Committees are established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, section 10(a)(b)).

All meetings are open to the public. A brief period will be set aside at the meeting for public comment. However, individuals with extensive questions or statements must submit them in writing to Ms. Jeri Green at least three days before the meeting. Seating is available to the public on a first-come, first-served basis.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Committee Liaison Officer as soon as possible, preferably two weeks prior to the meeting.

Due to increased security and for access to the meeting, please call 301–763–2605 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: April 8, 2008.

Steve H. Murdock,
Director, Bureau of the Census.

[FR Doc. E8–7818 Filed 4–11–08; 8:45 am]
BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A-570-918)

Steel Wire Garment Hangers from the People's Republic of China: Amended Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

EFFECTIVE DATE: April 14, 2008.

SUMMARY: On March 25, 2008, the Department of Commerce ("Department") published the preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of steel wire garment hangers from the People's Republic of China ("PRC"). *See Preliminary Determination of Sales at Less Than Fair Value: Steel Wire Garment Hangers from the People's Republic of China*, 73 FR 15726 (March 25, 2008) ("*Preliminary Determination*"). We are amending our *Preliminary Determination* to correct certain ministerial errors with respect to the antidumping duty margin calculation for the Shaoxing Metal Companies.[1] The corrections to the

[1] The Shaoxing Metal Companies are: Shaoxing Gangyuan Metal Manufactured Co., Ltd.

Shaoxing Metal Companies' margin also affect the margin assigned to the PRC-Wide entity and the margin applied to companies receiving a separate rate.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC, 20230; telephone: (202) 482-6905.

SUPPLEMENTAL INFORMATION: On March 25, 2008, the Department published in the **Federal Register** the preliminary determination that steel wire garment hangers from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in section 733 of the Tariff Act of 1930, as amended ("Act"). *See Preliminary Determination.*

On March 25, 2008, the Shaoxing Metal Companies and certain separate-rate recipients[2] filed timely allegations of ministerial errors contained in the Department's *Preliminary Determination.* Additionally, on March 26, 2008, and March 27, 2008, Shaoxing Metal Companies and an interested party filed additional comments with respect to the ministerial error allegations, which the Department removed from the record pursuant to sections 351.224(c)(3) and 351.302(d) of the Department's regulations.[3] On March 27, 2008, M&B Metal Products Company, Inc. ("Petitioner7rdquo;) filed comments with respect to information missing from the public record that was referenced in Shaoxing Metal Companies' ministerial errors allegations.

After reviewing the allegations, we have determined that the *Preliminary Determination* included significant ministerial errors. Therefore, in accordance with section 351.224(e) of the Department's regulations, we have made changes, as described below, to the *Preliminary Determination.*

Period Of Investigation

The period of investigation ("POI") is January 1, 2007, through June 30, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, July 31, 2007. *See* section 351.204(b)(1) of the Department's regulations.

Scope Of Investigation

The merchandise that is subject to this investigation is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of this investigation are wooden, plastic, and other garment hangers that are classified under separate subheadings of the Harmonized Tariff Schedule of the United States ("HTSUS"). The products subject to this investigation are currently classified under HTSUS subheading 7326.20.0020.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Significant Ministerial Error

Ministerial errors are defined in section 735(e) of the Act as "errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial." Section 351.224(e) of the Department's regulations provides that the Department "will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination." A significant ministerial error is defined as a ministerial error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination, or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. *See* section 351.224(g) of the Department's regulations.

Ministerial Error Allegations

Brokerage and Handling and Freight

The Shaoxing Metal Companies argue that the Department incorrectly applied the surrogate value for brokerage and handling and freight on a per-kilogram basis, rather than on a per-piece basis. The Shaoxing Metal Companies contend that the resulting weighted-average dumping margin was significantly inflated. *See* Memorandum to the File from Julia Hancock, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9: Analysis Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Steel Wire Garment Hangers from the People's Republic of China: Shaoxing Entity, dated March 18, 2008. The Shaoxing Metal Companies state that a correction to the units of measure applied to the brokerage and handling and freight would significantly reduce the calculated dumping margin, and would constitute a significant error as set forth in the statute. Therefore, the Shaoxing Metal Companies urge that the unit of measure applied to the brokerage and handling and freight surrogate values be corrected in the margin calculation program and in the company analysis memorandum.

We agree that the Department did not apply the correct unit of measure to the brokerage and handling and freight surrogate values. This error qualifies as a ministerial error in accordance with section 735(e) of the Act. Moreover, when considered in combination with the other corrections discussed below, this error constitutes a significant ministerial error in accordance with section 351.224(g) of the Department's regulations.

Adjustment to QTYUKG for Tongzhou's Sales

The Shaoxing Metal Companies allege an additional clerical error with respect to the adjustment to the quantity expressed in kilograms ("QTYUKG") field in Tongzhou's sales listing. The Shaoxing Metal Companies argue that a particular adjustment to the QTYUKG field in Tongzhou's sales listing, which is combined with the respective sales listings of Gangyuan and Andrew, was not made in the *Preliminary Determination.* The Shaoxing Metal Companies state that the failure to adjust this field in Tongzhou's sales

("Gangyuan"), Shaoxing Andrew Metal Manufactured Co., Ltd., and Shaoxing Tongzhou Metal Manufactured Co., Ltd. ("Tongzhou7rdquo;) and Company X.

[2] The separate-rate recipients that submitted a ministerial error allegation are: Zhejiang Lucky Cloud Hanger Co., Ltd, Shangyu Baoxiang Metal Product Co., Ltd., Shaoxing Liangbao Metal Products Co., Ltd., Shaoxing Meideli Metal Products Co., Ltd., Shaoxing Shunji Metal Clotheshorse Co., Ltd., and Shaoxing Zhongbao Metal Manufactured Co., Ltd., (collectively, "SR Recipients").

[3] *See* Memorandum to the File from Irene Gorelik, Senior Analyst, Office 9; Antidumping Duty Investigation of Steel Wire Garment Hangers from China: Removal from the Official and Public Record of Untimely Ministerial Error Comments following the Preliminary Determination, dated March 31, 2008, and Memorandum to the File from Irene Gorelik, Senior Analyst, Office 9; Antidumping Duty Investigation of Steel Wire Garment Hangers from China: Additional Removal from the Official and Public Record of Untimely Ministerial Error Comments following the Preliminary Determination, dated March 31, 2008.

listing also affects the margin calculation with respect to the units of measure applied to the brokerage and handling surrogate value.

The sales database submitted by the Shaoxing Metal Companies contained the error within the QTYUKG field, which counsel for Tongzhou addressed through electronic mail communications to the Department. These communications included a method to adjust the QTYUKG field within the margin calculation program, which would correct the sales database. *See* Memorandum to the File from Julia Hancock, Senior Case Analyst: Program Analysis for the Amended Preliminary Determination of Antidumping Duty Investigation of Steel Wire Garment Hangers from the People's Republic of China: Shaoxing Metal Companies, dated concurrent with this **Federal Register** notice ("Shaoxing Metal Companies' Amended Prelim Analysis Memorandum"). Although counsel for Tongzhou provided this adjustment, we did not adjust for the QTYUKG field from Tongzhou's sales listing in the *Preliminary Determination*. This error qualifies as a ministerial error in accordance with section 735(e) of the Act. Moreover, when considered in combination with the other correction discussed above, this error constitutes a significant ministerial error in accordance with section 351.224(g) of the Department's regulations.

Amended Preliminary Determination

We determine that these allegations qualify as ministerial errors as defined in section 351.224(g) of the Department's regulations because they result in a change of more than five absolute percentage points to the Shaoxing Metal Companies' dumping margin. Accordingly, we have corrected the errors alleged by the Shaoxing Metal Companies and the SR Recipients. *See* Shaoxing Metal Companies' Amended Prelim Analysis Memorandum.

As a result of correcting the above errors in the Shaoxing Metal Companies' margin, the margin for the companies granted separate-rate status must also be revised because the margin for those companies was partially derived from the Shaoxing Metal Companies' margin. *See* Memorandum to the File from Irene Gorelik, Analyst; Investigation of Steel Wire Garment Hangers from the People's Republic of China: Amended Preliminary Weight-Averaged Margin for Separate Rate Companies, dated concurrent with this **Federal Register** notice.

PRC-Wide Entity

As a result of the Department's correction of the ministerial errors, we note that the PRC-Wide entity rate must also be revised. In the *Preliminary Determination*, the Department stated that "as the single PRC-Wide rate, we have taken the simple average of: (A) the weighted-average of the calculated rates of Shaoxing Metal Companies and Shanghai Wells and (B) the simple average of the petition rates that fell within the range of Shaoxing Metal Companies' and Shanghai Wells' individual transaction margins, resulting in a single rate applicable to the PRC-Wide entity of 221.05 %." *See Preliminary Determination*. However, due to the correction of the ministerial errors, the resulting single rate applicable to the PRC-Wide entity is 182.44 %, which is the simple average of: A) the weighted-average of the calculated rates for Shaoxing Metal Companies and Shanghai Wells and B) a simple average of petition rates based on U.S. prices and normal values within the range of the U.S. prices and normal values calculated for Shaoxing Metal Companies and Shanghai Wells. This rate applies to all entries of the merchandise under investigation with the exception of those entries from Shanghai Wells, the Shaoxing Metal Companies, and the separate-rate recipients. *See* Memorandum to the File from Irene Gorelik, Senior Analyst; Investigation of Steel Wire Garment Hangers from the People's Republic of China: Corroboration Memorandum for the Amended Preliminary Determination, dated concurrent with this **Federal Register** notice.

As a result of corrections of ministerial errors, the weighted-average dumping margins are as follows:

STEEL WIRE GARMENT HANGERS FROM THE PRC – AMENDED DUMPING MARGINS

Exporter & Producer	Weighted-Average Deposit Rate
Shanghai Wells Hanger Co., Ltd.	33.85 %
Shaoxing Metal Companies: Shaoxing Gangyuan Metal Manufactured Co., Ltd., Shaoxing Andrew Metal Manufactured Co., Ltd., Shaoxing Tongzhou Metal Manufactured Co., Ltd., Company "X"	56.98 %
Jiangyin Hongji Metal Products Co., Ltd	45.69 %
Shaoxing Meideli Metal Hanger Co., Ltd.	45.69 %
Shaoxing Dingli Metal Clotheshorse Co., Ltd.	45.69 %
Shaoxing Liangbao Metal Manufactured Co. Ltd.	45.69 %
Shaoxing Zhongbao Metal Manufactured Co. Ltd.	45.69 %
Shangyu Baoxiang Metal Manufactured Co. Ltd.	45.69 %
Zhejiang Lucky Cloud Hanger Co., Ltd.	45.69 %
Pu Jiang County Command Metal Products Co., Ltd.	45.69 %
Shaoxing Shunji Metal Clotheshorse Co., Ltd.	45.69 %
Ningbo Dasheng Hanger Ind. Co., Ltd.	45.69 %
Jiaxing Boyi Medical Device Co., Ltd.	45.69 %
Yiwu Ao-Si Metal Products Co., Ltd.	45.69 %
Shaoxing Guochao Metallic Products Co., Ltd.	45.69 %
PRC-Wide Rate[4]	182.44 %

[4] The PRC-Wide entity includes Tianjin Hongtong Metal Manufacture Co. Ltd.

The collection of bonds or cash deposits and suspension of liquidation will be revised accordingly and parties will be notified of this determination, in accordance with section 733(d) and (f) of the Act.

Postponement Of The Final Determination

In the *Preliminary Determination*, the Department stated that it would make its final determination for this antidumping duty investigation no later than 75 days after the preliminary determination.

Section 735(a)(2) of the Tariff Act of 1930 ("the Act") provides that a final determination may be postponed until not later than 135 days after the date of

the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioner. In addition, section 351.210(e)(2) of the Department's regulations require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four month period to not more than six months.

On March 25, 2008, Shanghai Wells Hanger Co., Ltd., one of the two mandatory respondents, requested a 60-day extension of the final determination and extension of the provisional measures. Thus, because our amended preliminary determination is affirmative, and the respondent requesting a postponement of the final determination and an extension of the provisional measures, accounts for a significant proportion of exports of hangers, and no compelling reasons for denial exist, we are postponing the deadline for the final determination by 60 days until August 7, 2008, based on the publication date of the *Preliminary Determination*.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission ("ITC") of our amended preliminary determination. If our final determination is affirmative, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of steel wire garment hangers, or sales (or the likelihood of sales) for importation, of the merchandise under investigation, within 45 days of our final determination.

This determination is issued and published in accordance with sections 733(f), 735(a)(2), and 777(i) of the Act and sections 351.210(g) and 351.224(e) of the Department's regulations.

Dated: April 7, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–7895 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–274–804)

Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: April 14, 2008.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Stephanie Moore, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5973 and (202) 482–3692, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 2007, the U.S. Department of Commerce ("the Department") published a notice of initiation of the administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Trinidad and Tobago, covering the period October 1, 2006, to September 30, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 65938 (November 26, 2007). The preliminary results of this review are currently due no later than July 2, 2008.

Extension of Time Limit of Preliminary Results

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

We determine that completion of the preliminary results of this review within the 245-day period is not practicable. Specifically, Gerdau Ameristeel US Inc., Nucor Steel Connecticut Inc., Keystone Consolidated Industries, Inc., and Rocky Mountain Steel Mills (collectively, petitioners) have raised a number of issues which require the collection of additional data and analysis. In addition, we need additional time to thoroughly consider the responses to the supplemental questionnaires the Department has sent to the respondent.

Therefore, we are extending the time period for issuing the preliminary results of review by 120 days to October 30, 2008, in accordance with section 751(a)(3)(A) of the Act and 19 CFR § 351.213(h)(2) of the Department's regulations. Therefore, the preliminary results are now due no later than October 30, 2008. The final results continue to be due 120 days after publication of the preliminary results.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: April 8, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–7891 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–865

Preliminary Rescission of Antidumping Duty Administrative Review: Certain Hot–Rolled Carbon Steel Flat Products From The People's Republic of China

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

EFFECTIVE DATE: April 14, 2008.

FOR FURTHER INFORMATION CONTACT: Michael Quigley or Blaine Wiltse, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4047 and (202) 482–6345, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2007, the Department of Commerce ("Department") published a notice of opportunity to request an administrative review of the antidumping duty order on certain hot–rolled carbon steel flat products from the People's Republic of China ("PRC") for the period of review ("POR") November 1, 2006, through October 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 61859 (November 1, 2007). On November 30, 2007, Nucor Corporation ("Petitioner"), a domestic producer of

certain hot–rolled carbon steel flat products, requested that the Department conduct an administrative review of Baosteel Group Corporation, Shanghai Baosteel International Economic & Trading Co., Ltd., and Baoshan Iron and Steel Co., Ltd. (collectively "Baosteel"). On December 27, 2007, the Department published a notice of initiation of an antidumping duty administrative review on certain hot–rolled carbon steel flat products from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, ("Notice of Initiation"). 72 FR 73315 (December 27, 2007).

On January 7, 2008, Baosteel submitted a letter stating that it had no sales of subject merchandise to the United States during the POR. On January 28, 2008, the Department sent an inquiry to U.S. Customs and Border Protection ("CBP") requesting notification as to whether it had information indicating that there were shipments of subject merchandise into the United States during the POR by Baosteel. The Department has not to date received any notification from CBP indicating that there were shipments of subject merchandise by Baosteel during the POR. The Department has also reviewed CBP entry data for the POR, and found no evidence that there were entries of subject merchandise exported by Baosteel.

Scope of the Review

For purposes of this review, the products covered are certain hot–rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4.0 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this review.Specifically included within the scope of this review are vacuum degassed, fully stabilized (commonly referred to as interstitial–free ("IF")) steels, high strength low alloy ("HSLA") steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro–alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this review, regardless of definitions in the Harmonized Tariff Schedule of the United States ("HTSUS"), are products in which: i) iron predominates, by weight, over each of the other contained elements; ii) the carbon content is 2 percent or less, by weight; and, iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:
1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this review unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this review:
• Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.*, American Society for Testing and Materials ("ASTM") specifications A543, A387, A514, A517, A506).
• Society of Automotive Engineers ("SAE")/American Iron & Steel Institute ("AISI") grades of series 2300 and higher.
• Ball bearing steels, as defined in the HTSUS.
• Tool steels, as defined in the HTSUS.
• Silico–manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
• ASTM specifications A710 and A736.
• USS abrasion–resistant steels (USS AR 400, USS AR 500).
• All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
• Non–rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this review is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot–rolled carbon steel flat products covered by this review, including: vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under review is dispositive.

Period of Review

The POR is November 1, 2006, through October 31, 2007.

Preliminary Rescission of Review

Because there is no information on the record which indicates that Baosteel made sales to the United States of subject merchandise during the POR, and because Baosteel is the only company subject to this administrative review, in accordance with 19 CFR 351.213(d)(3) and consistent with our practice, we are preliminarily rescinding this review of the antidumping duty order on certain hot–rolled carbon steel flat products from the PRC for the period of November 1, 2006, to October 31, 2007. If the rescission is confirmed in our final results, the cash deposit rate for Baosteel will continue to be the rate established in the most recently completed segment of this proceeding.

Interested parties may submit comments for consideration in the Department's final results not later than 30 days after publication of this notice. See 19 CFR 351.309(c). Responses to those comments may be submitted not later than five days following submission of the comments. See 19 CFR 351.309(d). All written comments must be submitted in accordance with 19 CFR 351.303, and must be served on interested parties on the Department's service list in accordance with 19 CFR 351.303(f)(3). The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of the preliminary results, and will publish these results in the **Federal Register**.

This notice is in accordance with sections 751 and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 7, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–7892 Filed 4–11–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–533–847, A–570–934)

1–Hydroxyethylidene–1, 1–Diphosphonic Acid from the Republic of India and the People's Republic of China: Initiation of Antidumping Duty Investigations

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

EFFECTIVE DATE: April 14, 2008.

FOR FURTHER INFORMATION CONTACT: Brian Smith (India) or Maisha Cryor (People's Republic of China), AD/CVD Operations, Offices 2 and 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–5831, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 19, 2008, the Department of Commerce (the Department) received petitions concerning imports of 1–hydroxyethylidene–1, 1–diphosphonic acid (HEDP) from the Republic of India (India) (India petition) and the People's Republic of China (PRC) (PRC petition) filed in proper form by Compass Chemical International LLC (petitioner). *See* the Petitions on HEDP from India and the PRC submitted on March 19, 2008. On March 24 and 25, and April 1, 2008, the Department issued requests for additional information and clarification of certain areas of the petitions. Based on the Department's requests, the petitioner filed additional information on March 27, April 1 and 3, 2008 (two distinct submissions on general material and one distinct submission on PRC–only material). On March 28, 2008, Rhodia Inc., a producer of non–HEDP phosphonates and an importer of HEDP, submitted information indicating that the petitioner is the only U.S. producer of HEDP.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of HEDP from India and the PRC are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the antidumping duty investigations that the petitioner is requesting that the Department initiate (*see* "Determination of Industry Support for the Petitions" section below).

Period of Investigations

The period of investigation (POI) for India is January 1, 2007, through December 31, 2007. The POI for the PRC is July 1, 2007, through December 31, 2007. See 19 CFR 351.204(b)(1).

Scope of Investigations

The merchandise covered by each of these investigations includes all grades of aqueous, acidic (non–neutralized) concentrations of 1–hydroxyethylidene–1, 1–diphosphonic acid[1], also referred to as hydroxethlylidenendiphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The CAS (Chemical Abstract Service) registry number for HEDP is 2809–21–4. The merchandise subject to these investigations is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2931.00.9043. It may also enter under HTSUS subheading 2811.19.6090. While HTSUS subheadings are provided for convenience and customs purposes only, the written description of the scope of these investigations is dispositive.

[1] $C_2H_8O_7P_2$ or $C(CH_3)(OH)(PO_3H_2)_2$

Comments on Scope of Investigations

During our review of the petitions, we discussed the scope with the petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by April 28, 2008, which is 20 calendar days from the date of signature of this notice. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of HEDP to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as 1) general product characteristics and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by

manufacturers to describe HEDP, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in product matching. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above–referenced address by April 28, 2008. Additionally, rebuttal comments must be received by May 5, 2008.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that HEDP constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic like product analysis in this case, *see Antidumping Duty Investigation Initiation Checklist: HEDP from India*, Industry Support at Attachment II (*India Initiation Checklist*), and *Antidumping Duty Investigation Initiation Checklist: HEDP from the People's Republic of China (PRC)*, Industry Support at Attachment II (*PRC Initiation Checklist*) on file in the Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

Our review of the data provided in the petitions, supplemental submissions, and other information readily available to the Department indicates that the petitioner has established industry support. To establish industry support, the petitioner demonstrated that it was the sole producer of the domestic like product in 2007. Therefore, the petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action to evaluate industry support (*e.g.*, polling). *See* Section 732(c)(4)(D) of the Act. In addition, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(i) because the domestic producers (or workers) who support the petition account for at least 25 percent of the total production of the domestic like product. Finally, the domestic producers have met the statutory criteria for industry support under 732(c)(4)(A)(ii) because the domestic producers (or workers) who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See India Initiation Checklist* and *PRC Initiation Checklist* at Attachment II (Industry Support).

The Department finds that the petitioner filed the petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigations that it is requesting the Department initiate. *See India Initiation Checklist* and *PRC Initiation Checklist* at Attachment II (Industry Support).

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). The petitioner contends that the industry's injured condition is illustrated by reduced market share, reduced production and capacity utilization, reduced shipments, underselling and price depressing and suppressing effects, lost sales, a decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See India Initiation Checklist* and *PRC Initiation Checklist* at Attachment lll.

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of HEDP from India and the PRC. The sources of data for the deductions and adjustments relating to the U.S. price, constructed value (CV) (for India), and the factors of production

(for the PRC) are also discussed in the country–specific initiation checklists. *See India Initiation Checklist* and *PRC Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

India

Export Price (EP)

The petitioner calculated one EP based on a price quote for Indian–produced HEDP during the POI obtained from one of its U.S. customers. The petitioner made adjustments to the starting price for U.S. inland freight, ocean freight, and marine insurance charges. The petitioner calculated U.S. inland freight, ocean freight, and marine insurance charges based on price quotes obtained from a freight service provider. *See India Initiation Checklist* for further discussion.

NV Based on CV

With respect to NV, the petitioner states that neither home–market prices nor third–country prices of Indian–produced HEDP were reasonably available. According to the petitioner, it was unsuccessful in obtaining such pricing information, despite its best efforts. *See* India petition at pages 17–18. Therefore, the petitioner based NV on CV.

Pursuant to section 773(e) of the Act, CV consists of the cost of manufacture (COM); selling, general and administrative (SG&A) expenses; packing expenses; and profit. In calculating COM (exclusive of factory overhead) and packing, the petitioner based the quantity of each of the inputs used to manufacture and pack HEDP in India on its own production experience during the POI. The petitioner then multiplied the usage quantities by the value of the inputs used to manufacture and pack HEDP in India based on publicly available data. In calculating factory overhead expenses, SG&A expenses and profit, the petitioner used the financial statements of Excel Industries Limited (Excel), an Indian manufacturer of HEDP. The petitioner used a calculation methodology for purposes of deriving CV in the India petition that is consistent with the calculation methodology used in the PRC petition. We made minor modifications to the petitioner's CV calculation to adjust the values of certain inputs included in COM ((*i.e.*, water, hydrochloric acid and phosphorus trichloride), consistent with Department practice. *See* the India petition at pages 12–18, *India Initiation Checklist*, and "NV" section below for further discussion.

PRC

EP

The petitioner calculated one EP based on a sale for PRC–produced HEDP during the POI. The petitioner made adjustments to the starting price for ocean freight and marine insurance charges. The petitioner calculated ocean freight and marine insurance charges based on an actual price paid for these expenses. The petitioner also made a deduction to the starting price for commission expenses. The petitioner calculated commission expenses based on its own industry knowledge and experience. *See PRC Initiation Checklist* and "Fair Value Comparisons" section below for further discussion.

NV

The petitioner notes that the PRC is a non–market economy country (NME) and that no determination to the contrary has yet been made by the Department. *See* PRC petition, at page 12. The Department has previously examined the PRC's market status and determined that NME status should continue for the PRC. *See* Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, regarding The People's Republic of China Status as a Non–Market Economy, dated May 15, 2006 (available online at http://ia.ita.doc.gov/download /prc–nme-status/prc–nme-status–memo.pdf). In addition, in recent investigations, the Department has continued to determine that the PRC is an NME country. *See Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007); *Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007).

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country, in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The petitioner argues that India is the appropriate surrogate country for the PRC because it is at a comparable level of economic development and it is a significant producer of HEDP. *See* PRC Petition at page 12. The petitioner asserts that other potential surrogate countries are not known manufacturers of HEDP. *See* petition at page 12; *PRC Initiation Checklist*. Based on the information provided by the petitioner, the Department believes that the use of India as a surrogate country is appropriate for purposes of initiation. However, after initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

The petitioner calculated NV and a dumping margin for the U.S. price, discussed above, using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The petitioner calculated NV based on its own consumption rates for producing HEDP in 2007. *See PRC Initiation Checklist* and *India Initiation Checklist*. The petitioner states that its production experience is representative of the production process used in the PRC and India because all of the material inputs and processing are unlikely to be materially different for a Chinese or Indian producer of HEDP. *See* petitions at Exhibit AD–1, Affidavit 3.

The petitioner valued the factors of production based on reasonably available, public surrogate country data, including India statistics from the Export Import Data Bank, Key World Energy Statistics 2003, published by the International Energy Agency, the Gas Authority of India, and the Maharastra Industrial Development Corporation. *See PRC Initiation Checklist* and *India Initiation Checklist*. Where the petitioner was unable to find input prices contemporaneous with the POI, the petitioner adjusted for inflation using the wholesale price index for India, as published by the Office of the Economic Advisor to India. *See* petitions at page 16 and Exhibit AD–11. In addition, the petitioner made currency conversions, where necessary,

based on the POI–average rupee/U.S. dollar exchange rate, as reported on the Department's website. *See* petitions at page 12. The petitioner did not calculate a labor cost for the PRC because it states that the cost is "negligible." *Id.* at page 13.[2] For purposes of initiation, the Department determines that the surrogate values used by the petitioner are reasonably available and, thus, acceptable for purposes of initiation. However, the Department has made minor modifications, as appropriate, to the surrogate values as calculated by the petitioner (*i.e.*, water, hydrochloric acid and phosphorus trichloride). *See PRC Initiation Checklist.*

The petitioner based factory overhead expenses, SG&A expenses, and profit, on data from Excel for the fiscal year ending March 31, 2007. *See* petitions at pages 15–16 and Exhibit AD–10. For purposes of initiation, the Department finds the petitioner's use of Excel's financial ratios appropriate.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of HEDP from India and the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EP and CV, calculated in accordance with section 773(a)(4) of the Act, the revised estimated dumping margin for HEDP from India is 42.74 percent. *See India Initiation Checklist* at Attachment VIII. Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the revised estimated dumping margin for HEDP from the PRC is 72.42 percent. *See PRC Initiation Checklist* at Attachment V.

Initiation of Antidumping Investigations

Based upon the examination of the petitions on HEDP from India and the PRC, the Department finds that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of HEDP from India and the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

[2] The petitioner did calculate a labor cost for India based on rates obtained from the Department's website.

Respondent Selection for India

For the India investigation, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of this **Federal Register** notice, and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's website at *http://ia.ita.doc.gov/apo.*

Respondent Selection for the PRC

In the PRC investigation, the Department will request quantity and value information from all known exporters and producers identified in the petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents. The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); and *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005). Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters/producers no later than April 29, 2008. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration website, at http://ia.ita.doc.gov/ia–highlights-and–news.html. The Department will send the quantity and value questionnaire to those PRC companies identified in the PRC petition at page 9 and Exhibit AD–3.

Separate Rates

In order to obtain separate–rate status in NME investigations, exporters and producers must submit a separate–rate status application. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries (April 5, 2005) (Separate Rates/Combination Rates Bulletin), available on the Department's website at http://ia.ita.doc.gov/policy/bull05–1.pdf. The specific requirements for submitting the separate–rate application in this investigation are outlined in detail in the application itself, available on the Department's website at http://ia.ita.doc.gov/ia–highlights-and–news.html on the date of publication of this initiation notice in the **Federal Register.** The separate–rate application will be due by June 9, 2008.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates/Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates/Combination Rates Bulletin, at 6.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the petitions have been provided to the representatives of the Governments of India and the PRC. We will attempt

to provide a copy of the public version of the petitions to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the International Trade Commission

The ITC will preliminarily determine, no later than May 5, 2008, whether there is a reasonable indication that imports of HEDP from India and the PRC are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to either of the investigations will result in that investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 8, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period July 1, 2007, through December 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States			
1. Export Price Sales			
2.			
a. Exporter name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured Sales			
Total Sales			

Please provide the following information for your company. If you believe that you should be treated as a single entity along with other named exporters, please provide the information requested below both in the aggregate for all named entities in your group and separately for each named entity. Please label each chart accordingly.

(1) Production

Market:	Total Quantity: (In MT)
Your total production of all merchandise meeting the description of HEDP identified in the "Scope of Investigations" section of this notice, produced during the period of investigation ("POI") (regardless of the ultimate market destination).	

(2)U.S. Sales

Merchandise	Total Quantity: (In MT)	Total Value ($U.S.[1])
Merchandise under investigation your company produced and shipped/exported to the United States during the POI.		
Merchandise under investigation exported/shipped to the United States by your company during the POI which was sourced from an unaffiliated supplier or suppliers (*i.e.*, not produced by your company).		
Merchandise under investigation produced by your company but exported/shipped through another PRC company to the United States during the POI.		

[1] Values should be expressed in U.S. dollars. Indicate any exchange rates used and their respective dates and sources.

Total Quantity:

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sales:

- Please report all sales on the same terms, such as "free on board" at port of export.

Total Value:

- All sales values should be reported in U.S. dollars. Please provide any exchange rates used and their respective dates and sources.

Export Price Sales:

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated customer occurs before importation into the United States.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be

resold to the United States.

- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please do **not** include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated customer occurs after importation. However, if the first sale to the unaffiliated customer is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.
- Please include any sales exported by your company directly to the United States.
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please **do not** include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured Sales:

- Further manufacture or assembly (including re–packing) sales ("further manufactured sales") refers to merchandise that undergoes further manufacture or assembly in the United States before being sold to the first unaffiliated customer.
- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E8–7894 Filed 4–11–08; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C.

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of closure—administrative appeal decision record.

SUMMARY: This announcement provides notice that the decision record has been closed for an administrative appeal filed with the Department of Commerce by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C. (collectively, AES).

DATES: The decision record for AES' administrative appeal was closed on April 14, 2008.

ADDRESSES: Materials from the appeal record are available at the Internet site *http://www.ogc.doc.gov/czma.htm* and at the Office of the General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1305 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Odin Smith, Attorney-Advisor, Office of the Assistant General Counsel for Legislation and Regulation, Department of Commerce, via e-mail at *osmith@doc.gov*, or at (202) 482–4144.

SUPPLEMENTARY INFORMATION: On August 8, 2007, AES filed a notice of appeal with the Secretary of Commerce (Secretary) pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (CZMA), as amended, 16 U.S.C. 1451 et seq., and the Department of Commerce's implementing regulations, 15 CFR part 930, subpart H. The appeal was taken from an objection by the Maryland Department of the Environment (State) to AES' consistency certification for U.S. Army Corps of Engineers and Federal Energy Regulatory Commission permits to construct and operate a liquefied natural gas (LNG) terminal and associated 88-mile natural gas pipeline. The certification indicates that the project is consistent with Maryland's coastal management program. The project would affect the natural resources or land and water uses of Maryland's coastal zone.

AES requested the Secretary to override the State's consistency objection on grounds the proposed project allegedly is consistent with the objectives of the CZMA, and necessary in the interest of national security. Decisions for CZMA administrative appeals are based on information contained in a decision record. Under the CZMA, the decision record must close no later than 220 days after notice of the appeal was first published in the **Federal Register**. 16 U.S.C. 1465. Consistent with this deadline, the AES appeal decision record was closed on April 14, 2008. No further information, briefs or comments will be considered in deciding this appeal.

The CZMA requires that a notice be published in the **Federal Register** indicating the date on which the decision record has been closed. 16 U.S.C. 1465(b)(2). A final decision of the AES appeal must be issued no later than 60 days after the date of the publication of this notice. 16 U.S.C. 1465(c)(1). The deadline may be extended by publishing (within the 60-day period) a subsequent notice explaining why a decision cannot be issued within that time frame. 16 U.S.C. 1465(c)(1). In this event, a final decision must be issued no later than 15 days after the date of publication of the subsequent notice. 16 U.S.C. 1465(c)(2).

Additional information about the AES appeal and the CZMA appeals process is available from the Department of Commerce CZMA appeals Web site *http://www.ogc.doc.gov/czma.htm*.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.)

Dated: April 9, 2008.

Joel La Bissonniere,

Assistant General Counsel for Ocean Services.

[FR Doc. E8–7904 Filed 4–11–08; 8:45 am]
BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG98

International Whaling Commission; 60th Annual Meeting; Announcement of Public Meeting

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

ACTION: Notice of meeting.

SUMMARY: This notice announces the date, time, and location of the public meeting being held prior to the 60th annual International Whaling Commission (IWC) meeting.

DATES: The public meeting will be held May 7, 2008, at 1 p.m.

ADDRESSES: The meeting will be held in the NOAA Science Center Room, 1301 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Cheri McCarty, 301–713–9090, Extension 183.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the domestic obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. Commissioner has responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and by other agencies.

Once the draft agenda for the annual IWC meeting is completed, it will be posted on the IWC Secretariat's website at *http://www.iwcoffice.org*.

Each year NOAA holds a meeting prior to the annual IWC meeting to discuss the tentative U.S. positions for the upcoming IWC meeting. Because the meeting discusses U.S. positions, the substance of the meeting must be kept confidential. Any U.S. citizen with an identifiable interest in U.S. whale conservation policy may participate, but NOAA reserves the authority to inquire about the interests of any person who appears at a meeting and to determine the appropriateness of that person's participation.

Persons who represent foreign interests may not attend. These stringent measures are necessary to protect the confidentiality of U.S. negotiating positions and are a necessary basis for the relatively open process of preparing for IWC meetings.

The meeting will be held at 1 p.m. at the NOAA Science Center Room, 1301 East-West Highway, Silver Spring, MD 20910. Photo identification is required to enter the building.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Cheri McCarty, 301–713–9090 by April 25, 2008.

Dated: April 8, 2008.

Rebecca J. Lent,

Director, Office of International Affairs, National Marine Fisheries Service.

[FR Doc. E8–7901 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XH18

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a meeting of its Ecosystem Scientific and Statistical Committee (SSC) and Ad Hoc Marine Reserve Scientific and Statistical Committee (ADMRSSC) in Tampa, FL on May 6 & 7, 2008.

DATES: The Ecosystem SSC and Ad Hoc Marine Reserve SSC meeting will begin at 9 a.m. on Tuesday, May 6, 2008 and conclude by 5 p.m. on Wednesday, May 7, 2008.

ADDRESSES: The meeting will be held at the Quorum Hotel, 700 N. Westshore Blvd., Tampa, FL 33609.

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

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Ecosystem SSC and Ad Hoc Marine Reserves SSC will hold an ecosystem modeling workshop to continue work on development and evaluation of ecosystem models as fishery management tools in the Gulf of Mexico. This will be the third such workshop held by the Ecosystem SSC. One focus of this upcoming workshop will be to examine the utility of ecosystem modeling to evaluate marine protected area (MPA) alternatives. The charge of the Ad Hoc Marine Reserves SSC includes making recommendations based on scientifically developed criteria for establishing reserves and testing their effectiveness as to whether they were working. Therefore, the Ad Hoc Marine Reserves SSC's purpose in this workshop is to provide their input as to the efficacy of this approach to evaluate reserves.

The objectives of this workshop are to:

1. Continue the process of developing and evaluating the Gulf of Mexico Ecosim with Ecopath model as well as other models that may provide alternative or supplemental type of analyses.

2. Examine the utility of ecosystem models as a tool to evaluate potential MPA alternatives.

3. Begin the development of a framework for incorporating ecosystem evaluations into the management decision-making process.

Copies of the agendas and other related materials can be obtained by calling (813) 348–1630.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina Trezza at the Council (see **ADDRESSES**) at least 5 working days prior to the meeting.

Dated: April 8, 2008.

Tracey L. Thompson,

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

[FR Doc. E8–7789 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH08

Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Naval Surface Warfare Center Panama City Division Mission Activities

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

ACTION: Notice; receipt of applications for letters of authorization; request for comments and information.

SUMMARY: NMFS has received requests from the U.S. Navy (Navy) for authorizations for the take of marine

mammals incidental to Naval Surface Warfare Center Panama City Division (NSWC PCD) mission activities for the period beginning July 10, 2009 and ending July 9, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's requests for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's applications and requests.

DATES: Comments and information must be received no later than May 14, 2008.

ADDRESSES: Comments on the applications should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–XH08@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. Copies of the Navy's application may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*. A draft *Environmental Impact Statement/Overseas Environmental Impact Statement - NSWC PCD Mission Activities* (EIS/OEIS) prepared by the Navy can be viewed at: *http://nswcpc.navsea.navy.mil/Environment-Documents.htm*.

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

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

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

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

With respect to military readiness activities, the MMPA defines "harassment" as:

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On April 3, 2008, NMFS received an application from the Navy requesting an authorization for the take of 15 species/stocks of cetacean incidental to the proposed mission activities in the NSWC PCD study area over the course of 5 years. These mission activities are classified as military readiness activities. The purpose of the proposed mission activities is to enhance NSWC PCD's capability and capacity to meet littoral and expeditionary warfare requirements by providing Research, Development, Test, and Evaluation (RDT&E) and in service engineering for expeditionary maneuver warfare, operations in extreme environments, mine warfare, maritime operations, and coastal operations. The Navy states that these training activities may cause various impacts to marine mammal species in the NSWC PCD study area. The Navy requests an authorization to take individuals of these cetacean species by Level B Harassment. Further, the Navy requests an authorization to take 1 individual each of bottlenose, Atlantic spotted, and pantropical spotted dolphins per year by injury, as a result of the proposed mission activities. Please refer to Tables 6–3, 6–4, 6–6, 6–7, 6–8, and 6–9 of the LOA application for detailed information of the potential exposures from sonar exercises, detonations, and line charges (per year) for marine mammals in the NSWC PCD study area.

Specified Activities

In the application submitted to NMFS, the Navy requests an authorization for take of marine mammals incidental to conducting mission activities within the NSWC PCD study area, which includes St. Andrew Bay (SAB) and military warning areas (areas within the Gulf of Mexico (GOM) subject to military operations) W–151 (includes Panama City Operating Area), W–155 (includes Pensacola Operating Area), and W–470. NSWC PCD provides RDT&E and in-service support for expeditionary maneuver warfare, operations in extreme environments, mine warfare, maritime (ocean-related) operations, and coastal operations. A variety of naval assets, including ships, aircraft, and underwater systems support the mission activities for eight primary test operations that occur within or over the water environment up to the high water mark. These operations include air, surface, and subsurface operations, sonar, electromagnetic energy, laser, ordnance, and projectile firing. Among the aforementioned operations, those activities that have been identified in the past to have the potential to affect marine mammals include surface, sonar, ordnance, and projectile firing operations. The following paragraphs provide some descriptions of these activities. For detailed description of these proposed activities, please refer to the LOA application and the NSWC PCD EIS/OEIS.

Surface Operations

A significant portion of NSWC PCD RDT&E relies on surface operations to successfully complete missions. Four subcategories make up the surface operations category. They include support activities, tows, deployment and recovery of equipment and systems development.

The first subcategory is support activities, which are required by nearly all of the testing missions within the NSWC PCD study area. The size of these vessels varies in accordance with the test requirements and vessel availability. Often multiple surface crafts are required to support a single test event. Acting as a support platform for testing, these vessels are utilized to carry test equipment and personnel to and from the test sites and are also used to secure and monitor the designated test area. Normally, these vessels remain on site and return to port following the completion of the test; occasionally, however, they remain on-station throughout the duration of the test cycle for guarding sensitive equipment in the

water. Testing associated with these operational capabilities may include a single test event or a series of test events spread out over consecutive days or as one long test operation that requires multiple days to complete.

The remaining subcategories of additional support include tows, deployment and recovery of equipment, and systems development. Tows are also conducted from ships at the NSWC PCD to test system functionality. Tow tests of this nature involve either transporting the system to the designated test area where it is deployed and towed over a pre-positioned inert minefield or towing the system from NSWC PCD to the designated test area. Surface vessels are also utilized as a tow platform for systems that are designed to be deployed by helicopters. Surface vessels that are used in this manner normally return to port the same day. However, this is test dependent, and under certain circumstance (e.g., endurance testing), the vessel may be required to remain on site for an extended period of time. Finally, RDT&E activities also encompass testing of new, alternative, or upgraded hydrodynamics, and propulsion, navigational, and communication software and hardware systems.

Sonar Operations

NSWC PCD sonar operations involve the testing of various sonar systems in the ocean and laboratory environment as a means of demonstrating the systems' software capability to detect, locate, and characterize mine-like objects under various environmental conditions. The data collected are used to validate the sonar systems' effectiveness and capability to meet the mission.

The various sonar systems proposed to be tested within the NSWC PCD Study Area range in frequencies from 1 kilohertz (kHz) to 5 megahertz (MHz) (5,000 kHz). The source levels associated with some of the NSWC PCD sonar systems range from between 200 dB re 1 microPa-m to 250 dB re 1 microPa-m. The sonar systems tested are typically part of a towed array or hull mounted to a vessel. Additionally, subsystems associated with an underwater unmanned vehicle (UUV) or surf zone crawler operation are included. Operating parameters of the sonar systems used at NSWC PCD can be found in *Appendix A* of the LOA application.

Table 1–1 of the LOA application provides an overall summary of the total tempos associated with sonar operations for the proposed mission activities. The table includes number of hours of operation for mid-frequency and high-frequency sonar testing activities for territorial and non-territorial waters, respectively.

Ordnance Operations

Ordnance operations include live testing of ordnance of various net explosive weights and line charges.

(1) Ordnance

Live testing would only be conducted after a system has successfully completed inert testing and an adequate amount of data has been collected to support the decision for live testing. Testing with live targets or ordnance would be closely monitored and uses the minimum number of live munitions necessary to meet the testing requirement. Depending on the test scenario, live testing may occur from the surf zone out to the outer perimeter of the NSWC PCD study area. The Navy requires the capability to conduct ordnance operations in shallow water to clear surf zone areas for sea-based expeditionary operations. The size and weight of the explosives used varies from 0.91 to 272 kg (2 to 600 lb) trinitrotoluene (TNT) net explosive weight (NEW) depending on the test requirements. Detonation of ordnance with a NEW less than 34.5 kg (76 lb) would be conducted in territorial waters and detonations of ordnance with a NEW greater than 34.5 kg (76 lb) would be conducted in non-territorial waters.

(2) Line Charges

Line charges consist of a 107 m (350 ft) detonation cord with explosives lined from one end to the other end in 2 kg (5 lb) increments and total 794 kg (1,750 lb) of NEW. The charge is considered one explosive source that has multiple increments that detonate at one time. The Navy proposes to conduct up to three line charge events in the surf zone. Line charge testing would only be conducted in the surf zone along the portion of Santa Rosa Island that is part of Eglin Air Force Base (AFB). The Navy must develop a capability to safely clear surf zone areas for sea-based expeditionary operations. To that end, NSWC PCD occasionally performs testing on various surf zone clearing systems that use line charges to neutralize mine threats. These tests would be typically conducted from a surface vessel (e.g., Landing Craft Air Cushion) and would be deployed using either a single or dual rocket launch scenario. This would be a systems development test and only assesses the in-water components of testing.

Table 1–1 of the LOA application provides an overview of ordnance testing at NSWC PCD.

Projectile Firing Operations

Current projectile firing includes 50 rounds of 30–mm ammunition each year within the NSWC PCD study area. The capability of utilizing gunfire during test operations was identified as a future requirement. Rounds (individual shots) identified include 5 inch, 20 mm, 25 mm, 30 mm, 40 mm, 76 mm, and various small arms ammunition (i.e., standard target ammo). Projectiles associated with these rounds are mainly armor-piercing projectiles. The 5–in round is a high explosive projectile containing approximately 3.63 kg (8 lbs) of explosive material. All projectile firing would occur over non-territorial waters.

Proposed Monitoring and Mitigation Measures

The NSWC PCD proposed a list of monitoring and mitigation measures to reduce any potential to marine mammals.

The Navy would provide training to marine observers and would establish quickly and effectively communication within the command structure to facilitate implementation of protective measures if marine mammals are spotted during the operations. Marine observers would have at least one set of binoculars available for each person to aid in the detection of marine mammals. Marine observers would scan the water from the ship to the horizon and be responsible for all observations in their sector. Observers would be responsible for informing the Test Director of any marine mammal that is sighted. Test Directors would, as appropriate to the event, make use of marine species detection cues and information to limit interaction with marine species to the maximum extent possible, consistent with the safety of the ship. A summary of specific monitoring and mitigation measures is provided below:

Mitigation Measures for Surface Operations

For surface activities, visual surveys would be conducted for all test operations to reduce the potential for vessel collisions with a protected species. If necessary, the ship's course and speed would be adjusted. Other mitigation measures include maintaining alert vessel lookouts when traveling at high speeds to reduce the potential for collision to occur with a marine mammal.

Mitigation Measures for Sonar Operations

For sonar operations, in general, the Navy will operate sonar at the lowest practicable level, not to exceed source level of 235 dB re 1 microPa, except as required to meet RDT&E objectives.

Prior to start up or restart of active sonar, operators will check that the safety zone radii around the sound system are clear of marine mammals. Helicopters will observe/survey the vicinity of an NSWC PCD RDT&E activity for 10 minutes before the first deployment of active (dipping) sonar in the water.

During operations involving mid-frequency active (MFA) sonar, personnel would use all available sensor and optical systems (such as night vision goggles to aid in the detection of marine mammals). Navy aircraft participating would conduct and maintain, when operationally feasible, required, and safe, surveillance for marine mammal species as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.

Marine mammal detections by aircraft will be immediately reported to the Test Director. This action will occur when it is reasonable to conclude that the course of the ship will likely approach marine mammals within the safety radii.

When marine mammals are detected by any means (aircraft, shipboard lookout, or acoustically) within 914 m (1,000 yd) of the sonar system, the platform will limit active transmission levels to at least 6 decibels (dB) below normal operating levels. Vessels will continue to limit maximum transmission levels by this 6–dB factor until the animal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 914 m (1,000 yd) beyond the location of the last detection.

Should a marine mammal be detected within or closing to inside 457 m (500 yd) of the sonar dome, active sonar transmissions will be limited to at least 10 dB below the equipment's normal operating level. Platforms will continue to limit maximum ping levels by this 10–dB factor until the animal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 914 m (1,000 yd) beyond the location of the last detection.

Should the marine mammal be detected within or closing to inside 183 m (200 yd) of the sonar dome, active sonar transmissions will cease. Sonar will not resume until the animal has been seen to leave the area, has not been detected for 30 minutes, or the vessel has transited more than 914 m (1,000 yd) beyond the location of the last detection.

If the need for power-down should arise, Navy staff will follow the requirements as though they were operating at 235 dB, the normal operating level (i.e., the first power-down will be to 229 dB, regardless of the level above 235 dB the sonar was being operated).

Mitigation Measures for Detonations and Projectiles

No detonations over 34 kg (75 lb) of NEW would be conducted in territorial waters. However, this does not apply to the line charge detonation, which is a 107 m (350 ft) detonation cord with explosives lined from one end to the other end in 2 kg (5 lb) increments and total 794 kg (1,750 lb) of NEW. This charge is considered one explosive source that has multiple increments that detonate at one time.

The number of live mine detonations would be minimized and the smallest amount of explosive material possible to achieve test objectives will be used.

Visual surveys and aerial surveys will be conducted for all test operations that involve detonation events with large NEW. Any protected species sighted would be avoided.

Line charge tests would not be conducted during the nighttime.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Naval Surface Warfare Center Panama City Division's request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's mission activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorization.

Dated: April 8, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–7897 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG77

Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Navy Training Operations Conducted within the Virginia Capes and Jacksonville Range Complexes

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

ACTION: Notice; receipt of applications for letters of authorization; request for comments and information.

SUMMARY: NMFS has received requests from the U.S. Navy (Navy) for authorizations for the take of marine mammals incidental to training operations conducted within the Virginia Capes (VACAPES) Range Complex and the Jacksonville (JAX) Range Complex for the period beginning April 28, 2009 and ending April 27, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is announcing our receipt of the Navy's requests for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the Navy's applications and requests.

DATES: Comments and information must be received no later than May 14, 2008.

ADDRESSES: Comments on the applications should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *PR1.0648–XG77@noaa.gov*. NMFS is not responsible for e-mail comments sent to addresses other than the one provided here. Comments sent via e-mail, including all attachments, must not exceed a 10–megabyte file size. Copies of the Navy's applications may be obtained by writing to the address specified above (See **ADDRESSES**), telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm*.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected

Resources, NMFS, (301) 713–2289, ext. 137.

SUPPLEMENTARY INFORMATION:

Background

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

Authorization for incidental takings may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

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

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

With respect to military readiness activities, the MMPA defines "harassment" as:

> (i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].

Summary of Request

On March 17, 2008, NMFS received applications from the Navy requesting authorization for the take of 13 species of cetacean incidental to the proposed training activities in VACAPES and 6 species in JAX Range Complexes, respectively, over the course of 5 years. These training activities are classified as military readiness activities. The Navy states that these training activities may cause various impacts to marine mammal species in the proposed VACAPES and JAX Range Complex areas. The Navy requests authorizations to take individuals of these cetacean species by Level B Harassment. Further, the Navy requests authorization to take 1 individual Atlantic spotted, 25 common, 1 pantropical spotted, and 9 striped dolphins per year by injury, and 1 individual common dolphin per year by mortality, as a result of the proposed training activities at VACAPES Range Complex. Please refer to Table 30 of the VACAPES Range Complex LOA application for detailed information of the potential exposures from explosive ordnance (per year) for marine mammals in the VACAPES Range Complex. Furthermore, the Navy requests authorization to take 2 individual Atlantic spotted dolphins per year by injury as a result of the proposed training activities at JAX Range Complex. Please refer to Table 27 of the JAX Range Complex LOA application for detailed information of the potential exposures from explosive ordnance (per year) for marine mammals in the JAX Range Complex.

Specified Activities

In the applications submitted to NMFS, the Navy requests authorizations for take of marine mammals incidental to conducting training operations within the VACAPES and JAX Range Complexes. These training activities consist of surface warfare, mine warfare, amphibious warfare, strike warfare, and vessel movement. The locations of these activities are described in Figures 1 of these applications. A description of each of these training activities within each of the range complexes is provided below:

Surface Warfare

Surface Warfare (SUW) supports defense of a geographical area (e.g., a zone or barrier) in cooperation with surface, subsurface, and air forces. SUW operations detect, localize, and track surface targets, primarily ships. Detected ships are monitored visually and with radar. Operations include identifying surface contacts, engaging with weapons, disengaging, evasion and avoiding attack, including implementation of radio silence and deceptive measures.

For the proposed VACAPES Range Complex training operations, SUW involving the use of explosive ordnance includes air-to-surface Missile Exercises and surface-to-surface Bombing Exercises that occur at sea. For the proposed JAX Range Complexes training operations, SUW involving the use of explosive ordnance includes air-to-surface Missile Exercises that occur at sea.

(1) Missile Exercise (Air-to-Surface) (MISSILEX (A-S)): This exercise would involve fixed winged aircraft crews and helicopter crews launch missiles at at-sea surface targets with the goal of destroying or disabling the target. MISSILEX (A-S) training in both VACAPES and JAX Range Complexes can occur during the day or at night in locations described in Figures 1 of the LOA applications.

(2) Bombing Exercise (BOMBEX) (A-S): This exercise would involve strike fighter aircraft (F/A–18s) deliver explosive bombs against at-sea surface targets with the goal of destroying the target. BOMBEX (A-S) training in the VACAPES Study Area occurs only during daylight hours in the locations described in Figure 1 of the LOA application.

Mine Warfare/Mine Exercises

Mine Warfare (MIW) includes the strategic, operational, and tactical use of mines and mine countermine measures (MCM). MIW training events are also collectively referred to as Mine Exercises (MINEX). MIW training/MINEX utilizes shapes to simulate mines. These shapes are either concrete-filled shapes or metal shapes. No actual explosive mines are used during MIW training in the VACAPES and JAX Range Complexes study areas. MIW training or MINEX is divided into the following:

(1) Mine laying: Crews practice the laying of mine shapes in simulated enemy areas;

(2) Mine countermeasures: Crews practice "countering" simulated enemy mines to permit the maneuver of friendly vessels and troops. "Countering" refers to both the detection and identification of enemy mines, the marking and maneuver of vessels and troops around identified enemy mines and mine fields, and the disabling of enemy mines. A subset of mine countermeasures is mine neutralization. Mine neutralization refers to the disabling of enemy mines by causing them to self-detonate either by setting a small explosive charge in the vicinity of the enemy mine, or by using various types of equipment that emit a sound, pressure, or a magnetic field that causes the mine to trip and self-detonate. In all cases, actual explosive (live) mines would not be used during training events. Rather, mine shapes are used to simulate real enemy mines.

In the VACAPES and JAX Range Complexes study areas, MIW training/MINEX events include the use of explosive charges for two and one types of mine countermeasures and neutralization training, respectively. In the VACAPE Range Complex, this training would use the Airborne Mine Neutralization System (AMNS) and underwater detonations of mine shapes

by Explosive Ordnance Disposal (EOD) divers. In the JAX Range Complex, this training would only use underwater detonations of mine shapes by EOD divers. In both range complexes, MIW training/MINEX would occur only during daylight hours in the locations described in Figures 1 of the LOA applications.

Amphibious Warfare

Amphibious Warfare (AMW) involves the utilization of naval firepower and logistics in combination with U.S. Marine Corps landing forces to project military power ashore. AMW encompasses a broad spectrum of operations involving maneuver from the sea to objectives ashore, ranging from shore assaults, boat raids, ship-to-shore maneuver, shore bombardment and other naval fire support, and air strike and close air support training. In both range complexes, AMW that involve the use of explosive ordnance is limited to Firing Exercises (FIREX).

During an FIREX, surface ships use their main battery guns to fire from sea at land targets in support of military forces ashore. On the east coast, the land ranges where FIREX training can take place are limited. Therefore, land masses are simulated during east coast FIREX training using the Integrated Maritime Portable Acoustic Scoring and Simulation System (IMPASS) system, a system of buoys that simulate a land mass. FIREX training using IMPASS in the VACAPES and JAX Range Complex study areas occurs only during daylight hours in the locations described in Figures 1 of the LOA applications.

Strike Warfare

Strike Warfare (STW) operations are the applications of offensive military power at any chosen time and place to help carry out national goals. The systems required to conduct STW include: weapons, launch platforms, and command and control systems, intelligence, surveillance, reconnaissance, and targeting systems, and pilots or crews to operate the systems. STW would only occur in the VACAPES Range Complex study area. STW involves the use of explosive ordnance includes air-to-surface Missile Exercises (MISSILEX (A-S)).

Strike fighter and electronic attack aircraft use sensors to detect radar signals from a simulated threat radar site and either simulate or actually launch an explosive or non-explosive high-speed anti-radiation missile (HARM) with the goal of destroying or disabling the threat radar site. HARM training events are conducted in the daytime and at night in locations described Figure 1 of the VACAPE LOA application.

Vessel Movement

Vessel movements are associated with most activities under the training operations in both VACAPES and JAX Range Complexes. Currently, the number of Navy vessels operating in the VACAPES and JAX Range Complex study areas varies based on training schedules and can range from 0 to about 10 vessels at any given time. Ship sizes range from 362 ft (110 m) for a SSN to 1,092 ft (333 m) for a CVN and speeds generally range from 10 to 14 knots. Operations involving vessel movements occur intermittently and are variable in duration, ranging from a few hours up to 2 weeks. These operations are widely dispersed throughout the operation areas, which is a vast area encompassing 27,661 nm^2 (an area approximately the size of Indiana) for the VACAPES Range Complex and 50,090 nm^2 for the JAX Range Complex. The Navy logs about 1,400 total vessel days within the VACAPES Range Complex and about 1,000 total vessel days within the JAX Range Complex during a typical year. Consequently, the density of ships within the

Study Area at any given time is extremely low (i.e., less than 0.0004 ships/nm^2 and 0.00005 ship/nm^2, for VACAPES and JAX Range Complexes, respectively).

Table 1 in both applications provide descriptions of the locations of the VACAPES and JAX Range Complexes.

Tables 2 through 5 in both applications provide summaries of the proposed training operations involving explosions and the types and frequencies of explosives that would be used.

Proposed Monitoring and Mitigation Measures

The Navy is developing an Integrated Comprehensive Monitoring Program (ICMP) for marine species to assess the effects of training activities on marine species and investigate population trends in marine species distribution and abundance in various range complexes and geographic locations where Navy training occurs. The primary tools available for monitoring include visual observations, acoustic monitoring, photo identification and tagging, and oceanographic and environmental data collection.

A list of proposed mitigation measures and standard operating procedures are described in the applications for the proposed training operations. These mitigation measures include personnel training for watchstanders and lookouts in marine mammal monitoring, operating procedures for collision avoidance, specific measures applicable to the mid-Atlantic during North Atlantic right whale migration, and a series of measures for specific at-sea training events including surface-to-surface gunnery, etc. A detailed description of the monitoring and mitigation measures are provided in the applications.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning the Navy's request (see **ADDRESSES**). All information, suggestions, and comments related to the Navy's VACAPES and JAX Range Complexes request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by the Navy's training activities will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of letters of authorizations.

Dated: April 8, 2008.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–7903 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XH06

U.S. Climate Change Science Program Synthesis and Assessment Product Draft Report 1.3 "Re-analyses of Historical Climate Data for Key Atmospheric Features. Implications for Attribution of Causes of Observed Change"

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of availability and request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration publishes this notice to announce a 45-day public comment period for the draft report titled, U.S. Climate Change Science Program Synthesis and Assessment Product 1.3 "Re-analyses of historical climate data for key atmospheric features. Implications for attribution of causes of observed change."

This draft report is being released solely for the purpose of pre-dissemination peer review under

applicable information quality guidelines. This document has not been formally disseminated by NOAA. It does not represent and should not be construed to represent any Agency policy or determination. After consideration of comments received on the draft report, a revised version along with the comments received will be published on the CCSP web site.

DATES: Comments must be received by May 29, 2008.

ADDRESSES: The draft Synthesis and Assessment Product: 1.3 is posted on the CCSP Web site at: *http://www.climatescience.gov/Library/sap/sap1-3/default.php*

Detailed instructions for making comments on this draft report are provided at the CCSP link. Comments must be prepared in accordance to these instructions and must be submitted to: *1.3-reanalysis@climatescience.gov*

FOR FURTHER INFORMATION CONTACT: Dr. Fabien Laurier, Climate Change Science Program Office, 1717 Pennsylvania Avenue NW, Suite 250, Washington, DC 20006, Telephone: (202)419-3481.

SUPPLEMENTARY INFORMATION: The CCSP was established by the President in 2002 to coordinate and integrate scientific research on global change and climate change sponsored by 13 participating departments and agencies of the U.S. Government. The CCSP is charged with preparing information resources that promote climate-related discussions and decisions, including scientific synthesis and assessment analyses that support evaluation of important policy issues.

Dated: April 8, 2008.

William J. Brennan,

Deputy Assistant Secretary of Commerce for International Affairs, and Acting Director, Climate Change Science Program.

[FR Doc. E8-7896 Filed 4-11-08; 8:45 am]

BILLING CODE 3510-12-S

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 14, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395-6974. Commenters should include the following subject line in their response "Comment: [insert OMB number], [insert abbreviated collection name, e.g., "Upward Bound Evaluation"]. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 8, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Vocational and Adult Education

Type of Review: New.

Title: Consolidated Annual Report (CAR) For the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) (as reauthorized by Pub. L. 109-270).

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't., SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 55.

Burden Hours: 11,825.

Abstract: The purpose of this information collection package—the Consolidated Annual Report (CAR)—is to gather narrative, financial, and performance data as required by the newly reauthorized Carl D. Perkins Career and Technical Education Act of 2006 (Perkins IV) (20 U.S. C. 2301 *et seq.* as amended by Pub. L. 109-270). OVAE staff will determine each State's compliance with basic provisions of Perkins IV and the Education Department General Administrative Regulations (34 CFR Part 80.40 [Annual Performance Report] and Part 80.41 [Financial Status Report]). OVAE staff will review performance data to determine whether, and to what extent, each State has met its State adjusted levels of performance for the core indicators described in section 113(b)(4) of Perkins IV. Perkins IV requires the Secretary to provide the appropriate committees of Congress copies of annual reports received by the Department from each eligible agency that receives funds under the Act.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 3576. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202-4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202-401-0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E8-7835 Filed 4-11-08; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 14, 2008.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response "Comment: [insert OMB number], [insert abbreviated collection name, *e.g.*, "Upward Bound Evaluation"]. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: April 8, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title: Fiscal Operations Report for 2007–2008 and Application to Participate for 2009–2010 (FISAP) and Reallocation Form E40–4P.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 5,798.
Burden Hours: 27,935.

Abstract: This application data will be used to compute the amount of funds needed by each school for the 2009–2010 award year. The Fiscal Operations Report data will be used to assess program effectiveness, account for funds expended during the 2007–2008 award year, and as part of the school funding process. The Reallocation form is part of the FISAP on the Web. Schools will use it in the summer to return unexpended funds for 2007–2008 and request supplemental FWS funds for 2008–2009.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 3581. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–7836 Filed 4–11–08; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0058; FRL–8553–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Marine Tank Vessel Loading Operations (Renewal), EPA ICR Number 1679.06, OMB Control Number 2060–0289

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before May 14, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0058, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 *FR* 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0058, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Marine Tank Vessel Loading Operations (Renewal).

ICR Numbers: EPA ICR Number 1679.06, OMB Control Number 2060–0289.

ICR Status: This ICR is scheduled to expire on July 31, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Marine Tank Vessel Loading Operations, (40 CFR part 63, subpart Y), were proposed on May 13, 1994, and promulgated on September 19, 1995.

These regulations apply maximum achievable control technology (MACT) standards to existing facilities and new facilities that load marine tank vessels with petroleum or gasoline and have aggregate actual HAP emissions of 10 tons or more of HAP or 25 tons or more of all HAP combined. These regulations also apply reasonably available control technology (RACT) standards to such facilities with an annual throughput of 10 million or more barrels of gasoline or 200 million or more barrels of crude oil.

Owners or operators of marine tank vessel loading facilities subject to the rule must maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart Y and 40 CFR part 63, subpart A, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 12 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: Review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Marine tank vessel loading operations.

Estimated Number of Respondents: 804.

Frequency of Response: On occasion, semiannually and annually.

Estimated Total Annual Hour Burden: 9,872.

Estimated Total Annual Cost: $629,850. There are no annualized capital/startup and annual O&M costs associated with this ICR.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: April 3, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–7870 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8553–8]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Rick Westlund (202) 566–1682, or e-mail at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses To Agency Clearance Requests

OMB Approvals

EPA ICR Number 2261.01; Safer Detergent Stewardship Initiative (SDSI) Program; was approved 03/11/2008; OMB Number 2070–0171; expires 03/31/2011.

EPA ICR Number 1710.05; Residential Lead-Based Paint Hazard Disclosure Requirements (Renewal); in 40 CFR part 745, subpart F; was approved 03/21/2008; OMB Number 2070–0151; expires 03/31/2011.

EPA ICR Number 0983.10; Equipment Leaks of VOC in Petroleum Refineries;

in 40 CFR part 60, subparts GGG and GGGa; was approved 03/21/2008; OMB Number 2060–0067; expires 03/31/2011.

EPA ICR Number 2227.02; NSPS for Stationary Spark Ignition Internal Combustion Engines (Final Rule); in 40 CFR part 60, subpart JJJJ; was approved 03/24/2008; OMB Number 2060–0610; expires 03/31/2011.

EPA ICR Number 2274.02; NESHAP for Clay Ceramics Manufacturing, Glass Manufacturing and Secondary Nonferrous Metals Processing Area Sources (Final Rule); in 40 CFR part 63, subparts RRRRRR, SSSSSS, and TTTTTT; was approved 03/24/2008; OMB Number 2060–0606; expires 03/31/2011.

EPA ICR Number 1715.09: TSCA Section 402 and Section 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities (Renewal); in 40 CFR part 745, subparts L and Q; was approved 03/26/2008; OMB Number 2070–0155; expires 03/31/2011.

EPA ICR Number 2078.02; Energy Star Product Labeling (Renewal); was approved 03/26/2008; OMB Number 2060–0528; expires 03/31/2011.

EPA ICR Number 1365.08; Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule (Renewal); in 40 CFR part 763, subpart E, Appendix C; was approved 03/27/2008; OMB Number 2070–0091; expires 03/31/2011.

EPA ICR Number 1630.09; Oil Pollution Act Facility Response Plans (Renewal); in 40 CFR 112.20 and 112.21; was approved 03/31/2008; OMB Number 2050–0135; expires 03/31/2011.

Short Term Extension of Expiration Date

EPA ICR Number 1860.03; Assessment of Compliance Assistance Projects; a short term extension of the expiration date was granted by OMB on 03/31/2008; OMB Number 2020–0015; expires 09/30/2008.

Disapproval

EPA ICR Number 1823.03; Reporting and Recordkeeping Requirements Under the Perfluorocompound (PFC) Reduction/Climate Partnership for the Semi-conductor Industry; a short term extension request by EPA of the expiration date was disapproved by OMB on 04/02/2008; OMB Number 2060–0382; expired 03/31/2008.

Dated: April 7, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–7871 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0057; FRL–8553–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Pesticide Active Ingredient Production (Renewal), EPA ICR Number 1807.04, OMB Control Number 2060–0370

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before May 14, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0057, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 *FR* 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0057, which is available for public viewing online at *http://www.regulations.gov,* in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov,* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NESHAP for Pesticide Active Ingredient Production (Renewal).

ICR Numbers: EPA ICR Number 1807.04, OMB Control Number 2060–0370.

ICR Status: This ICR is scheduled to expire on June 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Pesticide Active

Ingredient Production were promulgated on June 23, 1999 (64 *FR* 33550).

Owners or operators of pesticide active ingredient (PAI) production facilities to which this regulation applies must choose one of the compliance options that are described in the rule or install and monitor a specific control system that reduces hazardous air pollutant (HAP) emissions to the compliance level. The respondents are subject to sections of subpart A of 40 CFR part 63 relating to the National Emission Standards for Hazardous Air Pollutants (NESHAP). These requirements include those associated with the applicability determination; the notification that the facility is subject to the rule; and the notification of testing (control device performance test and continuous monitoring system [CMS] performance evaluation); the results of performance testing and CMS performance evaluations; startup, shutdown, and malfunction report; and semiannual or quarterly summary reports and/or excess emissions and CMS performance reports. In addition to the requirements of subpart A, many respondents are required to submit pre-compliance plan and leak detection and repair (LDAR) reports; and plants that wish to implement emissions averaging provisions must submit an emission averaging plan.

Respondents electing to comply with the emission limit or emission reduction requirements for process vents, storage tanks, or wastewater must record the values of equipment operating parameters as specified in 40 CFR 63.1367 of the rule. If the owner or operator identifies any deviation resulting from any known cause for which no federally approved or promulgated exemption from an emission limitation or standard applies, the compliance report will also include all records that the source is required to maintain that pertain to the periods during which such deviation occurred, as well as the following: The magnitude of each deviation; the reason for each deviation; a description of the corrective action taken for each deviation, including action taken to minimize each deviation and action taken to prevent recurrence; and a copy of all quality assurance activities performed on any element of the monitoring protocol.

Owners or operators of PAI production facilities subject to the rule must maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart MMM, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

Since many of the facilities potentially affected by the NESHAP standards are currently subject to new source performance standards (NSPS), the standards include an exemption from the NSPS for those sources. That exemption eliminates a duplication of information collection requirements.

In the Administrator's judgment, pollutants emitted from PAI production facilities cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 60 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Pesticide active ingredient production.

Estimated Number of Respondents: 88.

Frequency of Response: Initially, quarterly and semiannually.

Estimated Total Annual Hour Burden: 24,168.

Estimated Total Annual Cost: $1,895,079, which includes $236,430 annualized capital costs, or $116,600 in O&M costs, and $1,542, 049.

Changes in the Estimates: There is a slight increase of four labor hours which was caused by a calculation error in the previous ICR. This did not affect or changed the burden or cost in any way as compared to the previous ICR. The regulations have not changed over the past three years and are not anticipated to change over the next three years. Since the growth rate for the industry is very low, negative or non-existent, there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: April 3, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–7872 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0035; FRL–8554–1]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (Renewal), EPA ICR Number 1805.05, OMB Control Number 2060–0377

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before May 14, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0035, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and

Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leonard Lazarus, Compliance Assessment and Media Programs Division (CAMPD), Office of Compliance, (2223A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–6369; fax number: (202) 564–0050; e-mail address: *lazarus.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 *FR* 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0035, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills (Renewal).

ICR Numbers: EPA ICR Number 1805.05, OMB Control Number 2060–0377.

ICR Status: This ICR is scheduled to expire on April 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while his submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Hazardous air pollutant (HAP) emissions from chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Therefore, National Emission Standards for Hazardous Air Pollutants (NESHAP) were promulgated for this source category.

The control of emissions of HAP from chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills requires not only the installation of properly designed equipment, but also the operation and maintenance of that equipment. This NESHAP covering emissions from chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills relies on the capture and/or reduction of HAP emissions by recovery furnaces, smelt dissolving tanks (SDTs), lime kilns, or soda or sulfite combustion units.

Pulp mill owners or operators (respondents) are required to submit initial notifications, maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Respondents are required to monitor and keep records of specific operating parameters for each control device and to perform and document periodic inspections of the closed vent and wastewater conveyance systems. As much as possible, in order to reduce the burden, the compliance monitoring and recordkeeping requirements are designed to cover parameters that are already being monitored as part of the manufacturing process. All respondents must submit semiannual summary reports of monitored parameters, and they must submit an additional monitoring report during each quarter in which monitored parameters were outside the ranges established in the standard or during initial performance tests. A source identified to be out of compliance with the NESHAP will be required to submit quarterly reports until the Administrator is satisfied that the source has corrected its compliance problem.

In order to ensure compliance with these standards, adequate reporting and recordkeeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard and note the operating conditions under which compliance was achieved. The quarterly reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations. The standard also requires semiannual reporting of deviations from monitored opacity, as this is a good indicator of the source's compliance status. Responses to this information collection are mandatory (40 CFR part 63, subpart MM). Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (CBI) (see 40 CFR part 2; 41 *FR* 36902, September 1, 1976; amended by 43 *FR* 40000, September 8, 1978; 43 *FR* 42251, September 20, 1978; 44 *FR* 17674, March 23, 1979).

Burden Statement: The annual public reporting and recordkeeping burden for

this collection of information is estimated to average 475 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of pulp mills with chemical recovery combustion sources:

Estimated Number of Respondents: 130.

Frequency of Response: Initially, on occasion, quarterly, semiannually.

Estimated Total Annual Hour Burden: 150,043 hours.

Estimated Total Annual Cost: $8,667,298, which includes capital/startup costs of $123,000, O&M costs of $864,000, and $7,680,298 in labor costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: April 7, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–7873 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0034; FRL–8554–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Pulp and Paper Production (Renewal), EPA ICR Number 1657.06, OMB Control Number 2060–0387

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before May 14, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0034, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leonard Lazarus, Compliance Assessment and Media Programs Division (CAMPD), Office of Compliance, (2223A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–6369; fax number: (202) 564–0050; e-mail address: *lazarus.leonard@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 *FR* 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0034, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Pulp and Paper Production (Renewal).

ICR Numbers: EPA ICR Number 1657.06, OMB Control Number 2060–0387.

ICR Status: This ICR is scheduled to expire on April 30, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Hazardous air pollutant (HAP) emissions from pulp mills cause or contribute to air pollution that may

reasonably be anticipated to endanger public health or welfare. Therefore, National Emission Standards for Hazardous Air Pollutants (NESHAP) were promulgated for this source category.

This NESHAP covering emissions from the pulping process relies on the capture and destruction of hazardous air pollutants (HAP) by either burning them in a boiler or kiln or by introducing them into the wastewater treatment system. The HAPs captured from bleaching systems are controlled with a chlorine gas scrubber.

Pulp mill owners or operators (respondents) are required to submit initial notifications, maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Respondents are required to monitor and keep records of specific operating parameters for each control device and to perform and document periodic inspections of the closed vent and wastewater conveyance systems. As much as possible, in order to reduce the burden, the compliance monitoring and recordkeeping requirements are designed to cover parameters that are already being monitored as part of the manufacturing process. All respondents must submit semiannual summary reports of monitored parameters, and they must submit an additional monitoring report during each quarter in which monitored parameters were outside the ranges established in the standard or during initial performance tests. A source identified to be out of compliance with the NESHAP will be required to submit quarterly reports until the Administrator is satisfied that the source has corrected its compliance problem.

In order to ensure compliance with these standards, adequate reporting and recordkeeping is necessary. In the absence of such information, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard and note the operating conditions under which compliance was achieved. The quarterly reports are used for problem identification, as a check on source operation and maintenance, and for compliance determinations. The standard also requires semiannual reporting of deviations from monitored opacity, as this is a good indicator of the source's compliance status. Responses to this information collection are mandatory (40 CFR part 63, subpart S). Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (CBI) (see 40 CFR part 2; 41 *FR* 36902, September 1, 1976; amended by 43 *FR* 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 *FR* 17674, March 23, 1979).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 104 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of pulp mills.

Estimated Number of Respondents: 137.

Frequency of Response: Initial, On occasion, Quarterly, Semiannually.

Estimated Total Annual Hour Burden: 42,444 hours.

Estimated Total Annual Cost: $3,085,125, including $2,708,129 in labor costs and $377,000 in annual O&M testing costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR and there is no change in burden to industry.

Dated: April 3, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–7874 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2008–0259; FRL–8554–4]

Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Registration of Pesticide-Producing and Device-Producing Establishments (EPA Form 3540–8) and Pesticide Report for Pesticide-Producing and Device-Producing Establishments (EPA Form 3540–16); EPA ICR No. 0160.09, OMB Control No. 2070–0078

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on September 30, 2008. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 13, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OECA–2008–0259, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: docket.oeca@epa.gov.*
- *Fax:* (202) 566–1511.
- *Mail:* Enforcement and Compliance Docket and Information Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode: 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* Enforcement and Compliance Docket and Information

Center (ECDIC), Environmental Protection Agency, EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue. NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Such deliveries are only accepted during the Docket Center's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OECA–2008–0259. 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 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

FOR FURTHER INFORMATION CONTACT: Robin Nogle, Office of Compliance, Agriculture Division (2225A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–4154; fax number: (202) 564–0085; e-mail: *nogle.robin@epa.gov*.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OECA–2008–0259, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the Enforcement and Compliance Docket and Information Center (ECDIC), in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is 202–566–1752.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document.

What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act (PRA), EPA is soliciting comments and information to enable it to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the Agency's 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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Offer alternative ways to improve the collection activity.

6. Make sure to submit your comments by the deadline identified under **DATES**.

7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What Information Collection Activity or ICR Does This Apply to?

Affected entities: Entities potentially affected by this action are those which produce pesticides and pesticide devices.

Title: Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Registration of Pesticide-Producing and Device-Producing Establishments (EPA Form 3540–8) and Pesticide Report for Pesticide-Producing and Device-Producing Establishments (EPA Form 3540–16).

ICR numbers: EPA ICR No. 0160.09, OMB Control No. 2070–0078.

ICR status: This ICR is currently scheduled to expire on September 30, 2008. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 7(a) requires that any person who produces pesticides or pesiticide devices subject to the Act must register with the Administrator of EPA the

establishment in which the pesticide or the device is produced. This section further requires that application for registration of any establishment shall include the name and address of the establishment and of the producer who operates such an establishment. EPA Form 3540–8, Application for Registration of Pesticide-Producing and Device-Producing Establishments, is used to collect the establishment registration information required by this section.

FIFRA section 7(c) requires that any producer operating an establishment registered under section 7 report to the Administrator within 30 days after it is registered, and annually thereafter by March 1st for certain pesticide/device production and sales/distribution information. The producers must report which types and amounts of pesticides, active ingredients, or devices are currently being produced, were produced during the past year, sold or distributed in the past year. The supporting regulations at 40 CFR part 167 provide the requirements and time schedules for submitting production information. EPA Form 3540–16, Pesticide Report for Pesticide-Producing and Device-Producing Establishments, is used to collect the pesticide production information required by section 7(c) of FIFRA.

Establishment registration information, collected on EPA Form 3540–8, is a one-time requirement for all pesticide-producing and device-producing establishments. Pesticide and device production information, reported on EPA Form 3540–16, is required to be submitted within 30 days after the company is notified of their pesticide-producing or device-producing establishment number, and annually thereafter on or before March 1st.

Burden Statement: The average annual burden to the industry over the next three years is estimated to be 2 person hours per response.

Respondents/Affected Entities: 13,250.

Estimated Number of Respondents: 13,250.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 26,500.

There are no capital/startup costs or operating and maintenance costs associated with this ICR since all equipment associated with this ICR is present as part of ordinary business practices.

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

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: April 3, 2008.

Richard Colbert,

Director, Agriculture Division, Office of Compliance, Office of Enforcement and Compliance Assurance.

[FR Doc. E8–7877 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2007–0060; FRL–8554–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Engine Test Cells/Stands (Renewal), EPA ICR Number 2066.04, OMB Control Number 2060–0483

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before May 14, 2008.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2007–0060, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On March 9, 2007 (72 *FR* 10735), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2007–0060, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1927.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether

submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NESHAP for Engine Test Cells/Stands (Renewal).

ICR Numbers: EPA ICR Number 2066.04, OMB Control Number 2060–0483.

ICR Status: This ICR is scheduled to expire on July 31, 2008. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP), for Engine Test Cells/Stands were proposed on May 14, 2002 (67 *FR* 34547), and promulgated on May 27, 2003 (68 *FR* 28785). These standards apply to any existing, reconstructed, or new affected sources. An affected source is the collection of all equipment and activities associated with engine test cells/stands used for testing uninstalled stationary or uninstalled mobile engines. Respondents of affected sources are subject to the requirements of 40 CFR part 63, subpart A, the General Provisions, unless the regulation specifies otherwise.

Owners and operators must submit an initial notification report upon the construction, or reconstruction of any engine test cells/stands used for testing internal combustion engines. The respondents are required to submit a semiannual compliance report. If there were no deviations from the emission limitation and the continuous emission monitoring system (CEMS) was operating correctly, the semiannual report must contain a statement that no deviation occurred. If a deviation occurred from an emission limit, the report must contain detailed information of the nature of the deviation. Performance test reports are the Agency's records of a source's initial capability to comply with the emission standards, and serve as a record of the operating conditions under which compliance is to be achieved.

The information generated by monitoring, recordkeeping and reporting requirements described in this ICR are used by the Agency to ensure that facilities affected by the standard continue to operate the control equipment and achieve continuous compliance with the regulation. Owners or operators of engine test cells/stands facilities subject to the rule must maintain a file of these measurements, and retain the file for at least five years following the date of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 63, subpart PPPPP, as authorized in section 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 76 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Engine test cells/stands.

Estimated Number of Respondents: 18.

Frequency of Response: Semiannually, annually, and initially.

Estimated Total Annual Hour Burden: 3,043.

Estimated Total Annual Cost: $248,264. Including $5,400 in O&M costs, no annualized capital costs, and $242,864 in labor costs.

Changes in the Estimates: There is no change in the labor hours or cost in this ICR compared to the previous ICR; however, a rounding error was corrected in the Annual Cost. There are no changes due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent, so there is no significant change in the overall burden.

Since there are no changes in the regulatory requirements and there is no significant industry growth, the labor hours and cost figures in the previous ICR are used in this ICR, and there is no change in burden to industry.

Dated: April 8, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–7878 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0922; FRL–8553–6]

Draft Risk and Exposure Assessment Reports for Nitrogen Dioxide (NO_2)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft reports for public review and comment.

SUMMARY: On April 4, 2008, the Office of Air Quality Planning and Standards (OAQPS) of EPA is making available for public review and comment two draft documents. The first document is titled "Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: First Draft." The title of the second document is "Risk and Exposure Assessment to Support the Review of the NO_2 Primary National Ambient Air Quality Standard: Draft Technical Support Document (TSD)." The purpose of these draft documents is to convey the approach taken to assess exposures to ambient NO_2 and to characterize associated health risks, as well as to present the results of those assessments.

DATES: Comments on the above reports must be received on or before May 1, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0922, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2006–0922.
- *Fax:* Fax your comments to 202–566–9744, Attention Docket ID. No. EPA–HQ–OAR–2006–0922.
- *Mail:* Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–OAR–2006–0922.
- *Hand Delivery or Courier:* Deliver your comments to: EPA Docket Center, 1301 Constitution Ave., NW., Room 3334, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2006–0922. The 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The Docket telephone number is 202–566–1742; fax 202–566–9744.

FOR FURTHER INFORMATION CONTACT: Dr. Scott Jenkins, Office of Air Quality Planning and Standards (Mailcode C504–06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; e-mail: *Jenkins.scott@epa.gov;* telephone: 919–541–1167; fax: 919–541–0237.

General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

SUPPLEMENTARY INFORMATION: Under section 108(a) of the Clean Air Act (CAA), the Administrator identifies and lists certain pollutants which "cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare." The EPA then issues air quality criteria for listed pollutants, which are commonly referred to as "criteria pollutants." The air quality criteria are to "accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air, in varying quantities." Under section 109 of the CAA, EPA establishes NAAQS for each listed pollutant, with the NAAQS based on the air quality criteria. Section 109(d) of the CAA requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria.

Air quality criteria have been established for the nitrogen oxides (NO_X) and NAAQS have been established for nitrogen dioxide (NO_2), an indicator for NO_X. Presently, EPA is reviewing the air quality criteria for NO_X and the NAAQS for NO_2. As part of its review of the NAAQS, EPA is preparing an assessment of exposures and health risks associated with ambient NO_2. A draft plan describing the proposed approaches to assessing exposures and risks is described in the

draft document, *Nitrogen Dioxide Health Assessment Plan: Scope and Methods for Exposure and Risk Assessment*. This document was released for public review and comment in September, 2007 and was the subject of a consultation with the Clean Air Scientific Advisory Committee (CASAC) on October 24 and 25, 2007. Comments received from that consultation have been considered in developing the draft risk and exposure assessment documents being released at this time.

The draft documents convey the approach taken to assess exposures to ambient NO_2 and to characterize associated health risks, as well as to present the results of those assessments. These draft documents will be available online at: *http://www.epa.gov/ttn/naaqs/standards/nox/s_nox_cr_rea.html*.

The EPA is soliciting advice and recommendations from the CASAC by means of a review on the draft documents at an upcoming public meeting of the CASAC. A **Federal Register** notice will inform the public of the date and location of that meeting. Following the CASAC meeting, EPA will consider comments received from the CASAC and the public in preparing a second draft risk and exposure assessment report. The release of the second draft report will be followed by another CASAC meeting and ultimately by a final risk and exposure assessment report.

Dated: April 4, 2008.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E8–7882 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8553–5]

Application of Watershed Ecological Risk Assessment Methods to Watershed Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is announcing the availability of a final report titled, "Application of Watershed Ecological Risk Assessment Methods to Watershed Management" (EPA/600/R–06/037F), which was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD).

DATES: This document will be available on or about April 14, 2008.

ADDRESSES: The document will be available electronically through the NCEA Web site at *http://www.epa.gov/ncea*. A limited number of paper copies will be available from the EPA's National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242; telephone: 1–800–490–9198; facsimile: 301–604–3408; e-mail: *nscep@bps-lmit.com*. Please provide your name, your mailing address, the title and the EPA number of the requested publication.

FOR FURTHER INFORMATION CONTACT: The Information Management Team, National Center for Environmental Assessment (8601P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Telephone: 703–347–8561; fax: 703–347–8691; e-mail: *nceadc.comment@epa.gov*.

SUPPLEMENTARY INFORMATION: Ecological risk assessment (ERA) is a process for analyzing environmental problems and is intended to increase the use of ecological science in decision making in order to evaluate the likelihood that adverse ecological effects may occur or are occurring as a result of exposure to one or more stressors. Applying ERA principles to watershed management makes scientific information more relevant to the needs of environmental managers. Watershed ERAs are complex because addressing impacts from multiple sources and stressors on multiple endpoints presents a scientific challenge and because multiple stakeholders have diverse interests. The needs of managers and stakeholders may change, and the need to take action may require using the best available information at the time, sometimes before an ERA is completed. Therefore, some flexibility of ERA methods is needed when performing watershed ERAs. It is also important that risk assessors and managers interact regularly and repeatedly.

This report supplements the *Guidelines for Ecological Risk Assessment* (U.S. EPA, 1998a) by addressing issues unique to ecological assessments of watersheds. Using lessons learned from watershed ERAs, the report presents guidance and examples for scientists performing watershed ecological assessments. The report also can be useful to risk assessors, watershed associations, landscape ecologists, and others seeking to increase the use of environmental assessment data in decision making.

Each activity and phase of the watershed ERA process is explained sequentially in this report. Guidance on how to involve stakeholders to generate environmental management goals and objectives is provided. The processes for selecting assessment endpoints, developing conceptual models, and selecting the exposure and effects pathways to be analyzed are described. Suggestions for predicting how multiple sources and stressors affect assessment endpoints are also provided; these include using multivariate analyses to compare land use with biotic measurements. In addition, the report suggests how to estimate, describe, and communicate risk and how to evaluate management alternatives.

Dated: April 3, 2008.

Rebecca Clark,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. E8–7774 Filed 4–11–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

April 7, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated

collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments June 13, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), (202) 395–5887, or via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission (FCC). To submit your comments by e-mail send them to: *PRA@fcc.gov*.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called "Currently Under Review", (3) click the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information, send an e-mail to Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–1021.

Title: Section 25.139, NGSO FSS Coordination and Information Sharing Between MVDDS Licensees in the 12.2 GHz to 12.7 GHz Band.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 6 respondents; 6 responses.

Estimated Time per Response: 6 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 36 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting or third party disclosure requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance.

This rule section requires Non-geostationary Satellite Orbit (NGSO) Fixed-Satellite Service (FSS) licensees to maintain a subscriber database in a format that can be readily shared with Multichannel Video Distribution and Data Service (MVDDS) licensees for the purpose of determining compliance with the MVDDS transmitting antenna space requirement relating to qualifying existing NGSO FSS subscriber receivers set forth in 47 CFR 101.129.

The Commission uses the data obtained under 47 CFR 25.139 to ensure hat NGSO FSS licensees provide MVDDS licensees with the data needed to determine whether a proposed MVDDS transmitting site meets the minimum spacing requirement relative to certain NGSO FSS receivers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–7879 Filed 4–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

April 8, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 14, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167 and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC or via Internet at *Cathy.Williams@fcc.gov* or *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR."

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station.

Form Number: FCC Form 301.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents/Responses: 4,278.

Frequency of Response: On occasion reporting requirement; One time reporting requirement; Third party disclosure requirement.

Estimated Time per Response: 2 to 4 hours.

Total Annual Burden: 10,513 hours.

Total Annual Cost: $51,350,347.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. On December 22, 2007, the Commission adopted a Report and Order in the matter of the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television,* MB Docket No. 07–91, FCC 07–228, to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. With the DTV transition deadline less than 14 months away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility on their final, post-transition (digital) channel that will reach viewers in their authorized service areas by the statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition. Specifically, the Report and Order requires full-power commercial television stations to use revised FCC Form 301 to obtain the necessary Commission approvals (*i.e.*, construction permits and licenses) in time to build their post-transition facility.

• *Applications for post-transition facilities.* Full-power commercial television stations without a construction permit for their final, post-transition (DTV) facility must file an application to construct or modify that facility using FCC Forms 301.

• *Requests to transition early to post-transition channel.* Full-power commercial television stations may request authority to transition early to their post-transition channel using FCC Forms 301.

• *Revisions to FCC Form 301.* FCC Form 301 was revised to accommodate the filing of post-transition applications.

The FCC received approval under the "emergency processing provisions" of the PRA on January 7, 2008. The requirements for this collection have not changed since we received approval.

OMB Control Number: 3060–0029.

Title: Application for TV Broadcast Station License, FCC Form 302 TV; Application for DTV Broadcast Station License, FCC Form 302–DTV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349.

Form Number(s): FCC Form 302–TV; FCC Form 302–DTV; FCC Form 340; *FCC Form 349.*

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; State, local or tribal government.

Number of Respondents/Responses: 4,325.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; One time reporting requirement; Third party disclosure requirement.

Estimated Time per Response: 1 to 4 hours.

Total Annual Burden: 12,150 hours.

Total Annual Costs: $21,091,625.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Confidentiality: No need for confidentiality required.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Congress has mandated that after February 17, 2009, full-power television broadcast stations must transmit only in digital signals, and may no longer transmit analog signals. On December 22, 2007, the Commission adopted a Report and Order in the matter of the *Third Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television,* MB Docket No. 07–91, FCC 07–228, to establish the rules, policies and procedures necessary to complete the nation's transition to DTV. With the DTV transition deadline less than 14 months away, the Commission must ensure that broadcasters meet their statutory responsibilities and complete construction of, and begin operations on, the facility on their final, post-transition (digital) channel that will reach viewers in their authorized service areas by the statutory transition deadline, when they must cease broadcasting in analog. The Commission wants to ensure that no consumers are left behind in the DTV transition. Specifically, the Report and Order requires Noncommercial Educational ("NCE") television stations to use revised FCC Form 340 to obtain the necessary Commission approvals (i.e., construction permits and licenses) in time to build their post-transition facility.

• *Applications for post-transition facilities.* NCE television stations without a construction permit for their final, post-transition (DTV) facility must file an application to construct or modify that facility using FCC Forms 340.

• *Requests to transition early to post-transition channel.* NCE television stations may request authority to transition early to their post-transition channel using FCC Form 340.

• *Revisions to FCC Form 340.* FCC Form 340 was revised to accommodate the filing of post-transition applications.

In addition, the Report and Order requires that stations that have applied to construct or modify post-transition facilities must use the Form 302–DTV to obtain a new or modified station license to cover those post-transition facilities.

The FCC received approval under the "emergency processing provisions" of the PRA on January 7, 2008. The requirements for this collection have not changed since we received approval.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–7884 Filed 4–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting Scheduled for Thursday, April 10, 2008, Cancelled

April 10, 2008.

The Federal Communications Commission has cancelled the Open Meeting on the subjects previously scheduled for Thursday, April 10, 2008, at 445 12th Street, SW., Washington, DC.

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 08–1128 Filed 4–10–08; 11:35 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2860]

Petition for Reconsideration of Action in Rulemaking Proceeding

April 7, 2008.

A Petition for Reconsideration has been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to this petition must be filed by April 29, 2008. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: In the Matter of Telephone Number Requirements for IP-Enabled Services Providers (WC Docket No. 07–243)

Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244).

IP-Enabled Services (WC Docket No. 04–36).

Telephone Number Portability (CC Docket No. 95–116).

Numbering Resource Optimization (CC Docket No. 99–200).

Number of Petitions Filed: 1.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–7881 Filed 4–11–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and renewal the following collection of information titled: Notice of Branch Closure (3064–0109).

DATES: Comments must be submitted on or before May 14, 2008.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods. All comments should refer to the name of the collection as well as the OMB control number(s):

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *E-mail: comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room F–1064, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

Comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the address or telephone number identified above.

SUPPLEMENTARY INFORMATION:

Title: Notice of Branch Closure.

OMB Number: 3064–0109.

Frequency of Response: On occasion.

Affected Public: Insured depository institutions.

Estimated Number of Respondents: 509.

Estimated Time per Response: 2.6 hours.

Total Annual Burden: 1,319 hours.

General Description of Collection: An institution proposing to close a branch must notify its primary regulator no later than 90 days prior to the closing. Each FDIC-insured institution must adopt policies for branch closings. This collection covers the requirements for notice, and for policy adoption.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 9th day of April, 2008.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–7847 Filed 4–11–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, April 15, 2008, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(8), (9)(A)(ii), (9)(B), and (10) of Title 5, United States Code, to consider matters relating to the Corporation's supervisory and corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7122.

Dated: April 8, 2008.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–7850 Filed 4–11–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, April 15, 2008, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Amendments to the Guidelines for Appeals of Material Supervisory Determinations.

Discussion Agenda:

Update on the Basel II Standardized Approach.

Memorandum and resolution re: Interim Final Covered Bond Policy Statement.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

This Board meeting will be Webcast live via the Internet at: *http://www.vodium.com/goto/fdic/boardmeetings.asp.* This service is free and available to anyone with the following systems requirements: *http://www.vodium.com/home/sysreq.html* (*http://www.vodium.com*). Adobe Flash Player is required to view these presentations. The latest version of Adobe Flash Player can be downloaded at *http://www.macromedia.com/go/getflashplayer.* Installation questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed internet connection is recommended. The Board meetings videos are made available on-demand approximately one week after the event.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7122.

Dated: April 8, 2008.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–7851 Filed 4–11–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

DATE AND TIME: Thursday, April 17, 2008 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting will be Open to the Public.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes.

ADVISORY OPINION 2008–01: Butler County Democrats for Change (DPAC), by its treasurer, Diane L. Sipe.

ADVISORY OPINION 2008–02: Todd Goldup.

Management and Adminisrative Matters.

PERSON TO CONTACT FOR INFORMATION: Robert Biersack, Press Officer, *Telephone:* (202) 694–1220.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mary Dove, Commission Secretary, at (202) 694–1040, at least 72 hours prior to the hearing date.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. E8–7725 Filed 4–11–08; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 012038.

Title: CSAV Group/K Line USEC–ECSA Vessel Sharing Agreement.

Parties: Compania Sud Americana de Vapores S.A., Companhia Libra de Navegacao, Compania Libra de Navegacao Uruguay S.A., and Kawasaki Kaisen Kaisha Ltd.

Filing Party: Walter H. Lion, Esq.; McLaughlin & Stern, LLP; 260 Madison Avenue; New York, NY 10016.

Synopsis: The agreement authorizes the parties to share vessel space in the trade between U.S. East Coast ports and ports in Argentina, Brazil, Paraguay, Uruguay, and Venezuela. The parties request expedited review.

By Order of the Federal Maritime Commission.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E8–7861 Filed 4–11–08; 8:45 am]

BILLING CODE 6730–01–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 April 28, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Fred W. McKee, Grace M. Norris, David H. McKee, all of Indianapolis, Indiana, and George D. McKee, Binghamton, New York; to retain voting shares of Midstate Financial Corporation, Brownsburg, Indiana, and thereby indirectly acquire Hendricks County Bank and Trust Company, Brownsburg, Indiana.

Board of Governors of the Federal Reserve System, April 9, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–7859 Filed 4–11–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application 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 May 9, 2008.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Black Cat Financial Corp., Winnfield, Louisiana; to become a bank holding company by acquiring 100 percent of Bank of Winnfield and Trust Company, Winnfield, Louisiana.

Board of Governors of the Federal Reserve System, April 9, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–7858 Filed 4–11–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 10 a.m. (Eastern Time), April 21, 2008.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the March 17, 2008 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director:
a. Recent Market Events and Counter-Party Risk in Securities Lending;
b. Monthly Participant Activity Report;
c. Legislative Report.
3. Quarterly Reports:
a. Investment Performance and Policy Review;
b. Vendor Financial Reports.
4. Additional Reports:
a. Financial Audit;
b. 2008 Board Meeting Calendar.

Parts Closed to the Public

5. Confidential Vendor Financial Data.
6. Procurement.
7. Personnel.

FOR FURTHER INFORMATION CONTACT: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: April 10, 2008.

Thomas K. Emswiler,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 08–1126 Filed 4–10–08; 9:26 am]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0058]

Information Collection; Federal Management Regulation; Standard Form 151, Deposit Bond, Annual Sale of Government Personal Property

AGENCY: Federal Acquisition Service, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a renewal of a currently approved information collection requirement regarding Standard Form 151, Deposit Bond, Annual Sale of Government Personal Property. The clearance currently expires on June 30, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: June 13, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Iris Wright-Simpson, Property Marketing Specialist, Sales Branch, by telephone at (703) 605–2912 or via email to *iris.wright-simpson@gsa.gov.*

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VPR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0058; Standard Form 151, Deposit Bond, Annual Sale of Government Personal Property.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard Form 151 is used by bidders participating in sales of Government personal property whenever the sales invitation permits an annual type of deposit bond in lieu of cash or other form of deposit.

B. Annual Reporting Burden

Respondents: 250
Responses per Respondent: 1
Total Responses: 250
Hours per Response: .25
Total Burden Hours: 62.5
Obtaining copies of proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 3090–0058, Standard Form 151, Deposit Bond, Annual Sale of Government Personal Property, in all correspondence.

Dated: March 20, 2008.

Casey Coleman,

Chief Information Officer.

[FR Doc. E8–7816 Filed 4–11–08; 8:45 am]

BILLING CODE 6820–89–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Second Meeting of the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Disease Prevention and Health Promotion.

ACTION: Notice of meeting.

Authority: 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended. The Committee is governed by the provision of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

SUMMARY: The U.S. Department of Health and Human Services (HHS) announces the second in a series of federal advisory committee meetings regarding the national health promotion and disease prevention objectives for 2020, to be held online (via Webex software). This Committee meeting will be the equivalent of an in-person meeting of the Committee and will be open to the public. The Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 will review the nation's health promotion and disease prevention objectives and efforts to develop goals and objectives to improve

the health status and reduce health risks for Americans by the year 2020. The Committee will provide to the Secretary of Health and Human Services advice and consultation for developing and implementing the next iteration of national health promotion and disease prevention goals and objectives and provide recommendations for initiatives to occur during the initial implementation phase of the goals and objectives. HHS will use the recommendations to inform the development of the national health promotion and disease prevention objectives for 2020 and the process for implementing the objectives. The intent is to develop and launch objectives designed to improve the health status and reduce health risks for Americans by the year 2020.

DATES: The Committee will meet on May 1, 2008, from 4 p.m. to 6 p.m. Eastern Daylight Time.

ADDRESSES: The meeting will be held online, via WebEx software. For detailed instructions about how to make sure that your windows computer/browser is set up for WebEx, please visit the "Secretary's Advisory Committee" page of the Healthy People Web site at: *http://www.healthypeople.gov/hp2020/advisory/default.asp.*

FOR FURTHER INFORMATION CONTACT: Carter Blakey, Designated Federal Officer, Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020, U.S. Department of Health and Human Services, Office of Public Health and Science, Office of Disease Prevention and Health Promotion, 1101 Wootton Parkway, Room LL–100, Rockville, MD 20852, (240) 453–8250 (telephone), (240) 453–8281 (fax). Additional information is available on the Internet at *http://www.healthypeople.gov.* For information on meeting logistics, please contact Hilary Scherer at *HP2020@norc.org* (e-mail), (301) 634–9374 (phone) or (301) 634–9301 (fax).

SUPPLEMENTARY INFORMATION: The names of the 13 members of the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 are available at *http://www.healthypeople.gov.*

Purpose of Meeting: Every 10 years, through the Healthy People initiative, HHS leverages scientific insights and lessons from the past decade, along with the new knowledge of current data, trends, and innovations to develop the next iteration of national health promotion and disease prevention objectives. Healthy People provides science-based, 10-year national objectives for promoting health and preventing disease. Since 1979, Healthy People has set and monitored national health objectives to meet a broad range of health needs, encourage collaborations across sectors, guide individuals toward making informed health decisions, and measure the impact of our disease prevention and health promotion activities. Healthy People 2020 will reflect assessments of major risks to health and wellness, changing public health priorities, and emerging technologies related to our nation's health preparedness and prevention.

Public Participation at Meeting: Members of the public are invited to listen to the online Advisory Committee meeting. There will be no opportunity for oral public comments during the online Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 meeting. Written comments, however, are welcome throughout the development process of the national health promotion and disease prevention objectives for 2020 and may be e-mailed to *HP2020@hhs.gov.*

To listen to the Committee meeting, individuals must pre-register to attend the Secretary's Advisory Committee on National Health Promotion and Disease Prevention Objectives for 2020 at the Healthy People Web site located at *http://www.healthypeople.gov.* Registrations must be completed by close of business Eastern Daylight Time on April 28, 2008.

Participation in the meeting is limited. Registrations will be accepted until maximum WebEx capacity is reached. A waiting list will be maintained should registrations exceed WebEx capacity. Individuals on the waiting list will be contacted as additional space for the meeting becomes available.

Registration questions may be directed to Hilary Scherer at *HP2020@norc.org* (e-mail), (301) 634–9374 (phone) or (301) 634–9301 (fax).

Dated: April 8, 2008.

Penelope Slade Royall,

RADM, USPHS, Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion), Office of Disease Prevention and Health Promotion.

[FR Doc. E8–7843 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Chronic Care Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 25th meeting of the American Health Information Community Chronic Care Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: May 29, 2008, from 1 p.m. to 4 p.m., Eastern Time.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/chroniccare/.*

SUPPLEMENTARY INFORMATION: The workgroup will hear testimony on ways to use information technology to better coordinate care for patients with chronic conditions and will discuss this information in light of opportunities to better facilitate patient care coordination.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/chroniccare/cc_instruct.html.*

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–7713 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–45–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Confidentiality, Privacy, & Security Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 19th meeting of the American Health Information Community Confidentiality, Privacy, & Security Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: May 27, 2008, from 1 p.m. to 5 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.govlhealthit/ahic/confidentiality/.*

SUPPLEMENTARY INFORMATION: The Workgroup Members will continue discussing and evaluating the confidentiality, privacy, and security protections and requirements for participants in electronic health information exchange environments.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/cps_instruct.html.*

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–7714 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Electronic Health Records Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 23rd meeting of the American Health Information Community Electronic Health Records Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: May 21, 2008, from 1 p.m. to 4 p.m. {Eastern}

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthitlahic/healthrecords/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on ways to achieve widespread adoption of certified EHRs, minimizing gaps in adoption among providers.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/healthrecords/ehr_instruct.html.*

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–7716 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–45–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 26th meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: May 15, 2008, from 1 p.m. to 4 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090. Please bring photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/consumer/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how to encourage the widespread adoption of a personal health record that is easy-to-use, portable, longitudinal, affordable, and consumer-centered.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/consumer/ce_instruct.html.*

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–7718 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–45–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Quality Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 17th meeting of the American Health Information Community Quality Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: May 9, 2008, from 1 p.m. to 4 p.m. [Eastern].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/quality/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how health information technology can provide the data needed for the development of quality measures that are useful to patients and others in the health care industry, automate the measurement and reporting of a comprehensive current and future set of quality measures, and accelerate the use of clinical decision support that can improve performance on those quality measures.

The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/quality/quality_instruct.html.*

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–7719 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–45–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Population Health and Clinical Care Connections Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 26th meeting of the American Health Information Community Population

Health and Clinical Care Connections Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: May 7, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/population/.*

SUPPLEMENTARY INFORMATION: The Workgroup will continue its discussion on how to facilitate the flow of reliable health information among population health and clinical care systems necessary to protect and improve the public's health. The meeting will be available via Web cast. For additional information, go to: *http://www.hhs.gov/healthit/ahic/population/pop_instruct.html.*

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–7720 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–45–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Personalized Healthcare Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 15th meeting of the American Health Information Community Personalized Healthcare Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92.463, 5 U.S.C., App.).

DATES: May 2, 2008, from 1 p.m. to 4 p.m. [Eastern Time].

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090. Please bring a photo ID for entry to a Federal building.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthcare/.*

SUPPLEMENTARY INFORMATION: The Workgroup will discuss possible common data standards to incorporate interoperable, clinically useful genetic/genomic information and analytical tools into Electronic Health Records (EHRs) to support clinical decision-making for the clinician and consumer.

The meeting will be available via Web cast. For additional information, go to:*http://www.hhs.gov/healthit/ahic/healthcare/phc_instruct.html.*

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. E8–7722 Filed 4–11–08; 8:45 am]

BILLING CODE 4150–45–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–08AY]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirements of section 3506(C)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden 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. Written comments should be received within 60 days of this notice.

Proposed Project

Knowledge, Attitudes, and Behavior of Medical Residents toward Adult Patients Who Have Experienced Adverse Childhood Experiences—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Recent advances in public health and medical research have underscored the role childhood trauma plays in the genesis of major risk factors for the leading causes of morbidity and mortality among adults in the United States. Evidence from a range of samples suggests that exposure to adverse childhood experiences (ACEs) is more common than previously understood, and that those affected by ACEs will have a major impact on the delivery of health care services through higher utilization and treatment costs. Although these findings are widely cited by psychologists, psychiatrists, and social workers, it is less clear that this information has circulated broadly within medical professions where it may be helpful in secondary and tertiary prevention of health problems. The literature also suggests that physicians may be uncomfortable with screening adult patients for ACEs.

As part of ongoing efforts to reduce the burden of chronic disease, the Division of Adult and Community Health at CDC seeks to collect information about the penetration into current medical education of evidence concerning the relationship between ACEs and poor adult health. Information will be collected by administering a brief voluntary questionnaire to 300 fourth-year medical residents. The sample will be drawn from a range of U.S. medical schools as well as through the American Medical Student Association. Potential participants will be solicited via e-mail, and those who choose to participate will be directed via a web-link to a web-based survey instrument.

Information to be collected includes residency type, public health experience, and an attitudes and knowledge measure designed to determine medical residents' current expertise in recognizing the long-term outcomes associated with adverse childhood experiences.

By understanding the quality of medical education in this area and the attitudes, beliefs, and experiences of medical residents, educational initiatives can be developed that will address the unmet needs of future physicians to care for the large number of patients burdened by ACEs.

There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Medical School Residents	300	1	30/60	150

Dated: April 8, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–7844 Filed 4–11–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–08–07BD]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Building Related Asthma Research in Public Schools—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The mission of the National Institute for Occupational Safety and Health (NIOSH) is to promote safety and health at work for all people through research and prevention. The Occupational Safety and Health Act, Public Law 91–596 (section 20[a][1]) authorizes the National Institute for Occupational Safety and Health (NIOSH) to conduct research to advance the health and safety of workers. NIOSH is conducting a longitudinal study among teachers and staff in public schools. The goals of this study are (1) to document the time course of changes in respiratory health, sick leave, and quality of life in relation to building remediation for water incursion and dampness problems; (2) to validate the reporting of building-related lower respiratory symptoms in school staff with bronchial hyper-responsiveness by the use of serial spirometry to look for building-related patterns of airflow variability; and (3) to demonstrate that a toolkit comprised of a semi-quantitative index for assessing water damage and signs of moisture in schools, along with a short health questionnaire, can be used by school personnel to pinpoint specific problem areas and aid remediation efforts.

The Centers for Disease Control and Prevention sponsored the Institute of Medicine to make an exhaustive review of the published literature relating exposures in damp buildings to health consequences. The committee findings, summarized in *Damp Indoor Spaces and Health* (Institute of Medicine of the National Academies of Science 2004), concluded that sufficient evidence exists for associating the presence of mold or other agents in damp buildings to nasal and throat symptoms, cough, wheeze, asthma symptoms in sensitized asthmatics, and hypersensitivity pneumonitis in susceptible persons. Identification of specific causal agents for these health outcomes in damp environments requires more investigation, and more research and demonstration projects are needed to evaluate interventions in damp buildings.

NIOSH is proposing to conduct an initial cross-sectional respiratory health survey in three public schools. The study will then continue with two additional years of longitudinal follow-up, which will be used to assess respiratory health and environmental conditions in relation to time and intervention status in the three schools. NIOSH will study one school with no history of building leaks and good control of internal moisture sources, one school with previous building leaks and water damage but with subsequent renovation before the start of the study, and one school with current building leaks and dampness problems with renovation scheduled during the study. The questionnaire will be administered each year by a NIOSH interviewer who will record the responses directly into a computer. The questionnaire will be offered to all school employees; we expect no more than 300 participants. It will include sections on the participant's medical history, work history, and home environment. For participants who no longer work at the school, a short questionnaire will be administered by NIOSH staff over the telephone during the second and third years of the study. Assuming that 10% of the participants will leave the school during the three-year period, we expect to interview about 30 former workers.

All participants from the initial cross-sectional survey meeting an epidemiologic definition of asthma and reporting that the symptoms improve away from the school will be asked to perform spirometry and a methacholine challenge test, or if obstructed, a bronchodilator test, both of which are standard medical tests for asthma; NIOSH anticipates about 45 respondents for these tests. A maximum of twenty participants who are positive for either lung function test will be asked to participate in the serial spirometry study, which will cover three weeks during the school term and an additional three weeks during the summer break.

The school nurse will be trained in using a shortened version of the health questionnaire to all school staff and analyze the results of the survey. Additionally, facility personnel will be trained in the use of a semi-quantitative index tool and asked to use the tool to assess areas in the schools for water damage and signs of moisture during their routine inspections. Participation in all components of the study is completely voluntary.

There are no costs to the respondents other than their time. The total estimated annualized burden hours are 1030.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Forms	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Teachers and staff	NIOSH-Administered Questionnaire	300	1	45/60
Former teachers and staff	Former Worker Questionnaire (Years 2 & 3 only).	30	1	9/60
Teachers and staff	Spirometry, Methacholine Challenge Test or Bronchodilator Administration.	45	1	1
Teachers and staff	Serial Spirometry	20	1	37
Facility personnel	Semi-Quantitative Assessment Sheet	3	1	5

Dated: April 8, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–7845 Filed 4–11–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–08–08AV]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden 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. Written comments should be received within 60 days of this notice.

Proposed Project

Cost and Follow-up Assessment of Administration on Aging (AoA)—Funded Fall Prevention Programs for Older Adults—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NCIPC seeks to examine cost of implementing each of the three AoA-funded fall prevention programs for older adults (Stepping On, Moving for Better Balance and Matter of Balance) and to assess the maintenance of fall prevention behaviors among participants six months after completing the Matter of Balance program.

To assess the maintenance of fall prevention behaviors, CDC will conduct telephone interviews of 300 Matter of Balance program participants six months after they have completed the program. The interview will assess their knowledge and self-efficacy related to falls as taught in the course, their activity and exercise levels, and their reported falls both before and after the program. The results of the follow-up assessment will determine the extent to which preventive behaviors learned during the Matter of Balance program are maintained and can continue to reduce fall risk.

The cost assessment will calculate the lifecycle cost of the Stepping On, Moving for Better Balance, and Matter of Balance programs. It will also include calculating the investment costs required to implement each program, as well as the ongoing operational costs associated with each program. These costs will be allocated over a defined period of time, depending on the average or standard amount of time these programs continue to operate (standard lifecycle analysis ranges from five to 10 years). As part of the lifecycle cost calculation, these data will allow us to compare program costs and to identify specific cost drivers, cost risks, and unique financial attributes of each program.

Local program coordinators for the 200 sites in each of the AoA-funded states will collect the cost data using lifecycle cost spreadsheets that will be returned to CDC for analysis.

The results of these studies will support the replication and dissemination of these fall prevention programs and enable them to reach more older adults.

There are no costs to respondents other than their time.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Data collection activity	Number of respondents	Number of responses	Average burden per response	Total burden (in hours)
Cost Assessment	200	1	2	400
Impact Survey	300	1	1	300
Total				700

Dated: April 7, 2008.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–7857 Filed 4–11–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–648, Revision of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form N–648, Medical Certification for Disability Exceptions; OMB Control No. 1615–0060.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until June 13, 2008.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail, please add the OMB Control Number 1615–0060 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the 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 collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved information collection.

(2) *Title of the Form/Collection:* Medical Certification for Disability Exceptions.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–648. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary*: Individuals and households. USCIS uses the Form N–648 medical certification issued by the licensed medical professional to substantiate a claim for an exception to the requirements of section 312(a) of the Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 20,000 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 40,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit: *http://www.regulations.gov/search/index.jsp*.

We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: April 8, 2008.

Stephen Tarragon,

Acting Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E8–7865 Filed 4–11–08; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5147–FA–01]

Announcement of Funding Awards for the Section 4 Capacity Building for Community Development and Affordable Housing Program; Fiscal Year 2007

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the 2007 Notice of Funding Availability (NOFA) for the section 4 Capacity Building for Community Development and Affordable Housing grants program. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Karen E. Daly, Director, Office of Policy Development and Coordination, Office of Community Planning and Development, 451 Seventh Street, SW., Room 7240, Washington, DC 20410–7000; telephone (202) 402–5552 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at (800) 877–8339. For general information on this and other HUD programs, call Community Connections at (800) 998–9999 or visit the HUD Web site at *http://www.hud.gov*.

SUPPLEMENTARY INFORMATION: HUD's Capacity Building for Community Development and Affordable Housing program is authorized by section 4 of the HUD Demonstration Act of 1993 (Pub. L. 103–120, 107 Stat. 1148, 42 U.S.C. 9816 note), as amended, and the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 109–289, division B, as amended by Pub. L. 109–369 and Pub. L. 109–383). The section 4 Capacity Building program provides grants to national community development intermediaries to enhance the capacity and ability of community development corporations and community housing development organizations to carry out community development and affordable housing activities that benefit low-income families and persons. Capacity Building funds support activities such as

training, education, support, loans, grants, and development assistance.

The Fiscal Year 2007 competition was announced in the **Federal Register** on September 18, 2007 (72 FR 53255). The NOFA allowed for approximately $29.59 million for section 4 Capacity Building grants. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice. For the Fiscal Year 2007 competition, HUD awarded two competitive section 4 Capacity Building grants totaling $26,140,000.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and the amounts of the awards in Appendix A to this document.

Dated: April 4, 2008.

Nelson R. Bregón,

General Deputy Assistant Secretary for Community Planning and Development.

APPENDIX A—FISCAL YEAR 2007 FUNDING AWARDS FOR THE SECTION 4 CAPACITY BUILDING FOR COMMUNITY DEVELOPMENT AND AFFORDABLE HOUSING PROGRAM

Recipient	State	Amount
Enterprise Community Partners, Inc.	MD	$13,070,000
Local Initiatives Support Corporation	NY	13,070,000
Total	.....	$26,140,000

[FR Doc. E8–7834 Filed 4–11–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2008–N0028; 40136–1265–0000–S3]

Red River National Wildlife Refuge, Caddo, Bossier, Desoto, Red River, and Natchitoches Parishes, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: draft comprehensive conservation plan and environmental assessment; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (Draft CCP/EA) for Red River National Wildlife Refuge for public review and comment. In this Draft CCP/EA, we describe the alternative we propose to use to manage this refuge for the 15 years following approval of the Final CCP.

DATES: To ensure consideration, we must receive your written comments by May 14, 2008.

ADDRESSES: Requests for copies of the Draft CCP/EA should be addressed to: Tina Chouinard, Natural Resource Planner, Fish and Wildlife Service, 6772 Highway 76 South, Stanton, Tennessee 38069. The Draft CCP/EA may also be accessed and downloaded from the Service's Internet Site: *http://southeast.fws.gov/planning.* Comments on the Draft CCP/EA may be submitted to the above address or via electronic mail to: *tina_chouinard@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Tina Chouinard; Telephone: 731/780–8208; or Fax: 731/772–7839.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Red River National Wildlife Refuge. We started the process through a notice in the **Federal Register** on March 13, 2006 (71 FR 12710).

The Red River National Wildlife Refuge is a unit of the North Louisiana National Wildlife Refuge Complex. The refuge was signed into existence on October 13, 2000, with the passage of the Red River National Wildlife Refuge Act. With land acquisition, the refuge was formally established in August 2002. There are three purposes of the refuge, as stated in the Red River National Wildlife Refuge Act. These are to: (1) Provide for the restoration and conservation of native plants and animal communities on suitable sites in the Red River basin, including restoration of extirpated species; (2) provide habitat for migratory birds; and (3) provide technical assistance to private landowners in the restoration of their lands for the benefit of fish and wildlife.

According to legislation, the refuge is approved for up to approximately 50,000 acres of Federal lands and waters along that section of the Red River between Colfax, Louisiana, and the Arkansas State line, a distance of approximately 120 miles. The refuge growth will be strategically planned within five focus areas that will each have a management unit of the Red River National Wildlife Refuge. These focus areas are: Lower Cane River (Natchitoches Parish); Spanish Lake Lowlands (Natchitoches Parish); Bayou Pierre Floodplain (Desoto and Red River Parishes); Headquarters Site (Bossier Parish); and Wardview (Caddo Parish).

Currently, the Service has acquired 9,787 acres, with 40,213 acres remaining to be purchased. The lands within the five areas will be acquired through a combination of fee title purchases from willing sellers and conservation easements, leases, and/or cooperative agreements from willing landowners. Currently, fee title lands have been purchased within portions of all the focus areas, with the exception of Wardview.

Historically, the Red River Valley was forested with bottomland hardwoods, cypress sloughs, and shrub swamps; however, for the last three decades, the Red River Valley has been utilized extensively for agricultural production, and, as a result, has lost almost all of its forest cover. The river itself was very turbid, and its wildlife and fishery habitat was poor compared to other parts of the State. After completion of the Red River Waterway Project in 1994, water levels in the river became higher and more constant, greatly reducing its turbidity. Water quality improved and with seasonal retention of water levels, a rich diversity of aquatic flora and fauna has developed.

Increased water levels on the river also improved some adjacent habitats. Flooded timber and farm fields with wet depressions are now common, providing habitat for migratory birds. The refuge has been involved in several reforestation projects and has improved moist-soil habitat. With management of this refuge in its infancy, the planning process will define priorities for current and future refuge resources and management.

Wildlife species found on the refuge are typical of forested wetlands and fields. The Red River is a historic migration corridor for migratory birds

that use the Central and Mississippi Flyways on their journey to the Gulf Coast. Examples of priority species for conservation include the swallow-tailed kite, Swainson's warbler, yellow-billed cuckoo, and several species of waterfowl. Wading birds and shorebirds use the numerous sandbars, shallow flooded fields, and mudflats. Listed species include the interior least tern, which nests on riverine sandbars; the piping plover; and the possibility of the transient Louisiana black bear. Resident game and furbearer species are the typical variety of white-tailed deer, gray and fox squirrels, mink, and beaver. A variety of nongame mammals, amphibians, and reptiles are also present.

Background

The CCP Process

The National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd-668ee), which amended the National Wildlife Refuge System Administration Act of 1966, requires us to develop a CCP for each national wildlife refuge. The purpose in 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, 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, wildlife photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Improvement Act and NEPA.

Significant issues addressed in the Draft CCP/EA include: management of white-tailed deer, invasive species, waterfowl, and bottomland hardwood forests; refuge access; land acquisition to include a minor boundary expansion; visitor services; visitor center; watershed protection; and cultural resource protection.

CCP Alternatives, Including Our Proposed Alternative

We developed three alternatives for managing the refuge and chose Alternative C as the proposed alternative.

Alternatives

A full description of each alternative is in the Draft CCP/EA. We summarize each alternative below.

Alternative A—No Action Alternative

Red River National Wildlife Refuge is part of the Lower Mississippi River Ecosystem and is considered to be in the West Gulf Coastal Plain Bird Conservation Area. As such, it is a component of many regional and ecosystem conservation-planning initiatives. Under Alternative A, the No Action Alternative, present management of the refuge would continue at its current level of participation in these initiatives throughout the 15-year duration of the CCP. Current approaches to managing wildlife and habitats, protecting resources, and allowing for public use would remain unchanged.

The main habitat types on the refuge are bottomland hardwood forests, managed wetlands, agriculture, and moist-soil units. Under Alternative A, management would continue to work with electric utilities and partners to restore bottomland hardwood forest habitat through the "Carbon Sequestration Program." The refuge would continue to provide habitat for thousands of wintering waterfowl and year-round habitat for wood ducks. It would also maintain the current habitat mix for the benefit of other migratory birds, shorebirds, marsh birds, and landbirds. Staff would continue existing surveys and monitor long-term population trends and health of resident species.

Currently, there are few public use and environmental education programs on the refuge. The refuge would continue to serve the public without being guided by a Visitor Services' Management Plan, relying instead on experience, general Service mandates and practices, and guidance and advice from recreation staff in the Regional Office. A new Headquarters/Visitor Center has been budgeted and would be constructed. The staff would continue to consist of one employee, the refuge manager.

Alternative B—Minimize Management and Visitor Services

Under Alternative B, there would be less management of habitat and wildlife and a reduced public use program. Biological inventorying and monitoring would be intensified and enhanced with management programs developed that could be implemented less frequently, yet still accomplish the objectives. Extensive baseline inventorying and monitoring programs would be conducted with several partners to provide a solid foundation for the current condition of refuge habitats and wildlife, while monitoring for changes in trends.

Additional research projects would be implemented through granting and partnership opportunities with other agencies and universities. An intensive inventory of bottomland hardwood forests to define current conditions and monitor natural successional changes would be implemented. Management in the bottoms would be limited so that the forest would go through natural succession, as defined in a revised Habitat Management Plan. Open fields would be allowed to go through natural succession to bottomland hardwood forests and moist-soil units would not be maintained. Management of invasive species would become a priority to establish baseline information on location and density. Partnerships would continue to be fostered for several biological programs, hunting regulations, law enforcement issues, and research projects.

Public use would be limited with custodial-level maintenance. Public use would be monitored for impacts to wildlife. An extensive survey for monitoring the deer population and its association with habitat conditions would be implemented. Fishing and hunting would continue as currently managed. Environmental education, wildlife observation, and wildlife photography would be accommodated at present levels with the addition of a Visitor Center; but access would be limited to July–October and February–April to minimize disturbance to migratory birds. Staffing would increase by five positions [*e.g.*, wildlife biologist, maintenance worker, equipment operator, administrative officer, and a park ranger (law enforcement)] to handle the increase in biological inventory and monitoring and control of invasive species.

Alternative C—Optimize Biological Program and Visitor Services (Proposed)

Under Alternative C, the proposed alternative, the refuge would strive to optimize both its biological program and visitor services program. As explained in the Draft CCP/EA, Louisiana's Red River Valley is one of the most heavily degraded ecosystems in the State. The greatest habitat type lost was bottomland hardwood forest; therefore, bottomland hardwood forest habitat restoration and management would continue to be an important goal under this alternative. Under this alternative, the refuge would continue to participate in the Carbon Sequestration Program as

described in the Draft CCP/EA. Any lands within the acquisition boundary of the refuge that have had their forest cover removed prior to 1990, would be targeted for acquisition and reforestation.

The refuge would continue to benefit resident wildlife species and would aim to increase its knowledge base about migratory birds by developing and implementing monitoring programs. It would continue to provide habitats for waterfowl, shorebirds, marsh birds, nesting colonial waterbirds, and landbirds. Resources would be used to create and/or maintain a variety of habitats compatible with historic habitat types of the Red River Valley. These would include the above-mentioned bottomland hardwood forest habitat, as well as moist prairie. Prior farming practices on lands acquired by the refuge have left, in place, a number of water control structures. These water control structures would be maintained and enhanced to control water levels on several thousand acres of refuge lands. Efforts to control invasive species would increase.

Land acquisition, reforestation, and resource protection would be intensified from the level now maintained in the No Action Alternative. The refuge would expand the approved acquisition boundary to incorporate 1,413 acres in the Spanish Lake Lowlands Unit, 87 acres in the Headquarters Unit, and 1,938 acres in the Lower Cane Unit. In the refuge's Private Lands Program, staff would work with private landowners on adjacent tracts to manage and improve habitats. The refuge would develop and begin to implement a Cultural Resources Management Plan (CRMP). Until such time as the CRMP is completed and implemented, the refuge would follow standard Service protocol and procedures in conducting cultural resource surveys by qualified professionals as needed.

Wildlife-dependent visitor services would increase under this alternative. Within three years of CCP completion, the refuge would develop a Visitor Services' Plan to be used in expanding public use facilities and opportunities on the refuge. This step-down management plan would provide overall, long-term direction and guidance in developing and running a larger public use program at Red River Refuge. Federal funds are now available to construct a Refuge Headquarters/Visitor Center at the Headquarters Unit. The new visitor center would include a small auditorium for use in talks, meetings, films, videos, and other audio-visual presentations. Alternative C would also increase opportunities for visitors by adding facilities such as photo-blinds, observation sites, and trails. Over the 15-year life of the CCP, more emphasis would be placed on environmental education and interpretation to increase the public's understanding of the importance of habitats and resources of the Red River Valley. Within five years of CCP approval, the refuge would prepare a Fishing Plan that would outline and expand permissible fishing opportunities within the refuge. A fishing pier would be constructed at the Headquarters Unit. Staff would investigate opportunities for expanding hunting possibilities.

Alternative C would provide an assistant manager, a full-time law enforcement officer, an equipment operator, a maintenance worker, a wildlife biologist, an administrative assistant, and an outdoor recreational specialist.

Next Step

After the comment period ends, we will analyze the comments and address them in the form of a final CCP and Finding of No Significant Impact.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: February 8, 2008.

Cynthia K. Dohner,

Acting Regional Director.

[FR Doc. E8–7853 Filed 4–11–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–21964, AA–10702, AA–10703, AA–10704, AA–11791; AK–962–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Bering Straits Native Corporation for lands located in the vicinity of Wales and Saint Michael, Alaska. Notice of the decision will also be published four times in the Nome Nugget.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until May 14, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from:Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13,Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Transfer Resolution Specialist, Resolution Branch.

[FR Doc. E8–7839 Filed 4–11–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6655–D, AA–6655–G, AA–6655–H, AA–6655–A2; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Chignik River Limited. The lands are in the vicinity of Chignik Lake, Alaska, and are located in:

Seward Meridian, Alaska

Sec. 12(a) Lands

T. 43 S., R. 60 W.,
Sec. 18.
Containing 642.06 acres.
T. 43 S., R. 61 W.,
Secs. 1, 2, and 12;
Secs. 25, 26, 34, and 35
Containing approximately 4,451 acres.
T. 44 S., R. 61 W.,
Secs. 4 and 9
Containing approximately 1,280 acres.
T. 44 S., R. 62 W.,
Secs. 26 and 36.
Containing approximately 1,241 acres.

Sec. 12(b) Lands

T. 44 S., R. 62 W.,
Sec. 31.
Containing approximately 639 acres.
Aggregating approximately 8,253.06 acres.

The subsurface estate in these lands will be conveyed to Bristol Bay Native Corporation when the surface estate is conveyed to Chignik River Limited. Notice of the decision will also be published four times in the Bristol Bay Times.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until May 14, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from:Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION, CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Jason Robinson,

Land Law Examiner, Land Transfer Adjudication I.

[FR Doc. E8–7846 Filed 4–11–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–940–08–1420–BJ]

Notice of Filing of Plats of Survey; Oklahoma

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plat of survey described below is scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication, per BLM Manual 2097, Opening Orders.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico

The plat representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, a portion of the subdivision of section 3, and the survey of a portion of the subdivision of section 3, and the metes and bounds survey of the boundaries of the Federal Law Enforcement Training Center and the City of Artesia Airport lease, Township 17 South, Range 25 East, New Mexico Principal Meridian, accepted April 2, 2008, for Group 1074 NM.

If a protest against a survey, in accordance with 43 CFR 4.450–2, of the above plat is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been addressed.

A person or party who wishes to protest against this survey must file a written protest with the New Mexico State Director, Bureau of Land Management at the address below, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet. Contact Marcella Montoya at 505–438–7537, or *Marcella_Montoya@nm.blm.gov*, for assistance.

Dated: April 2, 2008.

Robert Casias,

Chief Cadastral Surveyor for New Mexico.

[FR Doc. E8–7824 Filed 4–11–08; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921; WYW 172386]

Notice of Proposed Withdrawal and Transfer of Jurisdiction; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Energy (DOE) has filed an application requesting the Secretary of the Interior to segregate from the mining laws approximately 749.08 acres of public land and 2559.13 acres of Federal reserved mineral interests underlying private surface estate from mining associated with a proposed withdrawal and transfer of jurisdiction. The proposed withdrawal will protect public health and safety on lands contaminated by previous mining and milling operations. This notice temporarily segregates the lands for up to 2 years from location and entry under the United States mining laws while the withdrawal application is being processed.

DATES: Comments must be received on or before July 14, 2008.

ADDRESSES: Comments should be sent to the State Director, BLM Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003–1828.

FOR FURTHER INFORMATION CONTACT: Janet Booth, Realty Specialist, BLM Wyoming State Office, at the above address, 307–775–6124.

SUPPLEMENTARY INFORMATION: The United States Department of Energy has filed an application with the Bureau of Land Management to segregate from the United States mining laws the following described public lands and Federal reserved mineral interests. Jurisdiction over approximately 749.08 acres of public lands and 2559.13 acres of federally owned mineral interests will ultimately be withdrawn and transferred from the Department of the Interior to the Department of Energy, subject to valid existing rights.

Sixth Principal Meridian

T. 29 N., R. 91 W.,
Sec. 6, lots 8 through 13, incl., E½SE¼;
T. 29 N., R. 92 W.,

Sec. 1, lots 1 and 2, S½NE¼, SE¼SE¼;
Sec. 2, SE¼SW¼, SW¼SE¼;
Sec. 11, NW¼NE¼, NE¼NW¼;
Sec. 12, W½NE¼.

The area described contains approximately 749.08 acres of public surface and Federal minerals in Fremont County.

T. 29 N., R. 91 W.,
Sec. 6, lot 5, SE¼NW¼, SW¼SE¼;
Sec. 7, lots 3 and 4, E½SW¼, SW¼SE¼;
Sec. 18, lot 1, NE¼NW¼.
T. 29 N., R. 92 W.,
Sec. 1, lot 4, SW¼, W½SE¼;
Sec. 2, NE¼SW¼, SW¼SW¼, N½SE¼, SE¼SE¼;
Sec. 3, SE¼SE¼;
Sec. 11, NE¼NE¼, NW¼NW¼, S½N½, S½;
Sec. 12, E½NE¼, NW¼, S½;
Sec. 13, N½;
Sec. 14, NE¼, NE¼NW¼.

The area described contains approximately 2559.13 acres of Federal reserved minerals underlying private surface in Fremont County.

The purpose of the proposed withdrawal and transfer of jurisdiction is to allow the United States Department of Energy perpetual administration over the land as a hazardous material site under the authority of the Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. 7902, *et seq.*

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed action may present their views in writing to the Wyoming State Director, BLM, at the address noted above.

Comments, including names and street addresses of respondents, and records relating to the proposed withdrawal will be available for public review during regular business hours at the BLM Wyoming State Office at the address specified above. Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This application will be processed in accordance with the regulations set forth in 43 CFR 2300.

Rights-of-way, leases, permits, cooperative agreements and other discretionary land use authorizations of a temporary nature would continue under the BLM during the 2-year segregation period.

No water rights would be needed to fulfill the purpose of this withdrawal.

Effective on the date of publication of this notice, the lands will be segregated from location and entry under the United States mining laws. The segregative effect of this application will terminate April 14, 2010, unless final withdrawal action is taken or the application is denied or cancelled prior to that date (43 CFR 2310.2). Notice of any action will be published in the **Federal Register**.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal and transfer of jurisdiction. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal and transfer of jurisdiction must submit a written request to the BLM Wyoming State Director at the address indicated above within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

(Authority: 43 CFR 2310.3–1)

Dated: March 24, 2008.

Michael Madrid,

Chief, Branch of Fluid Mineral Operations, Lands and Appraisal.

[FR Doc. E8–7837 Filed 4–11–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921; WYW 164606, WYW 164607]

Notice of Proposed Withdrawal and Transfer of Jurisdiction; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Energy (DOE) has filed application requesting the Secretary of the Interior segregate from the mining laws approximately 1345 acres of public land associated with the proposed withdrawal and transfer of jurisdiction. The proposed withdrawal will protect public health and safety on lands contaminated by previous mining and milling operations. This notice temporarily segregates the lands for up to 2 years from location and entry under the United States mining laws while the withdrawal application is being processed.

DATES: Comments must be received on or before July 14, 2008.

ADDRESSES: Comments should be sent to the State Director, BLM Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003–1828.

FOR FURTHER INFORMATION CONTACT: Janet Booth, Realty Specialist, BLM Wyoming State Office, at the above address, 307–775–6124.

SUPPLEMENTARY INFORMATION: The United States Department of Energy has filed an application with the Bureau of Land Management to segregate from the United States mining laws the public lands described below. Jurisdiction over approximately 1345 acres will ultimately be withdrawn and transferred from the Department of the Interior to the Department of Energy, subject to valid existing rights.

Sixth Principal Meridian

T. 38 N., R. 73 W.,
Sec. 9, W½SW¼SW¼SW¼, N½SW¼SW¼.
T. 33 N., R. 89 W.,
Sec. 9, SE¼;
Sec. 10, S½;
Sec. 15, N½, SE¼SE¼;
Sec. 21, NE¼; and
Sec. 22, N½.

The area described contains approximately 1345 acres in Converse, Fremont and Natrona Counties.

The purpose of the proposed withdrawal and transfer of jurisdiction is to allow the United States Department of Energy perpetual administration over the land as a hazardous material site under the authority of the Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. 7902, *et seq.*

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed action may present their views in writing to the Wyoming State Director, BLM, at the address noted above.

Comments, including names and street addresses of respondents, and records relating to the proposed withdrawal will be available for public review during regular business hours at the BLM Wyoming State Office at the address specified above. Before including your address, phone number, e-mail address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

This application will be processed in accordance with the regulations set forth in 43 CFR 2300.

Rights-of-way, leases, permits, cooperative agreements and other discretionary land use authorizations of a temporary nature would continue under the BLM during the 2-year segregation period.

No water rights would be needed to fulfill the purpose of this withdrawal.

Effective on the date of publication of this notice, the lands will be segregated from location and entry under the United States mining laws. The segregative effect of this application will terminate April 14, 2010, unless final withdrawal action is taken or the application is denied or cancelled prior to that date (43 CFR 2310.2). Notice of any action will be published in the **Federal Register**.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal and transfer of jurisdiction. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal and transfer of jurisdiction must submit a written request to the BLM Wyoming State Director at the address indicated above within 90 days from the date of publication of this notice. If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

(Authority: 43 CFR 2310.3–1)

Dated: March 24, 2008.

Michael Madrid,

Chief, Branch of Fluid Mineral Operations, Lands and Appraisal.

[FR Doc. E8–7840 Filed 4–11–08; 8:45 am]

BILLING CODE 6450–01–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–455 and 731–TA–1149–1150 (Preliminary)]

Certain Circular Welded Carbon Quality Steel Line Pipe From China and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigation No. 701–TA–455 (Preliminary) and antidumping duty investigation Nos. 731-TA–1149–1150 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China and Korea of certain circular welded carbon quality steel line pipe, provided for in subheadings 7306.19.10 and 7306.19.51[1] of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of China, and sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B)of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a (c)(1)(B)), the Commission must reach a preliminary determination in these investigations in 45 days, or in this case by May 19, 2008. The Commission's views are due at Commerce within five business days thereafter, or by May 27, 2008.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: April 3, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Haines (202–205–3200), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on April 3, 2008, by Maverick Tube Corp. (Houston, TX), Tex-Tube Co. (Houston, TX), U.S. Steel Corp. (Pittsburgh, PA), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO–CLC (Pittsburgh, PA).

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on April 24, 2008, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Elizabeth Haines (202–205–3200) not later than April 21, 2008, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the

[1] Prior to February 2, 2007, the subject merchandise was provided for in subheadings 7306.10.10 and 7306.10.50.

Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 29, 2008, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 Fed. Reg. 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: April 4, 2008.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–7830 Filed 4–11–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Park System Resource Protection Act

Notice is hereby given that on April 7, 2008, a proposed Consent Decree ("Decree") in *United States* v. *Kristin R. Blake*, Civil Action No. 07–5001 MMM (FMOx), was lodged with the United States District Court for the Central District of California, Western Division.

In this action the United States sought to recover response costs and damages pursuant to the Park System Resource Protection Act ("PSRPA), 16 U.S.C. 19jj to 19jj–4, and treble damages pursuant to California trespass law for injury to and destruction of vegetation resulting from the defendant's alleged cutting of a horse trail on a parcel owned by the United States and located within the Santa Monica Mountains National Recreation Area. The Decree would settle these claims in return for a payment of $56,500, to be deposited in the Department of the Interior's Natural Resource Damage Assessment and Restoration Fund, and applied toward response and damage assessment costs incurred as a result of the defendant's alleged incursion onto property of the United States and/or natural resource restoration projects related to this incident.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should reference *United States* v. *Kristin R. Blake.*, Civil Action No. 07–5001 MMM (FMOx), D.J. Ref. No. 90–5–1–1–08909.

The Decree may be examined at the Office of the United States Attorney, 300 North Los Angeles Street, room 7516, Los Angeles, CA 90012. During the public comment period, the Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $2.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by email or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry Friedman,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–7779 Filed 4–11–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before May 14, 2008.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic mail: Standards-Petitions@dol.gov.*

2. *Facsimile:* 1–202–693–9441.

3. *Regular Mail:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

4. *Hand-Delivery or Courier:* MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Reynolds, Office of Standards, Regulations, and Variances at 202–693–9449 (Voice), *reynolds.lawrence@dol.gov* (E-mail), or 202–693–9441 (Telefax), or contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-

mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2008–008–C.

Petitioner: D. Molesevich & Sons Construction Company, Inc., 333 South Pine Street, Mount Carmel, Pennsylvania 17851.

Mine: Snake Road Stripping Mine, MSHA I.D. No. 36–09485, located in Northumberland County, Pennsylvania.

Regulation Affected: 30 CFR 77.1200(c) & (k) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of cross-sections in lieu of contour lines at regular intervals through the area to be mined and to limit the required mapping of mine workings below to those present within 100 feet of the vein(s) being mined. The petitioner states that: (1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible; (2) use of cross-sections in lieu of contour lines has been practiced since the late 1800s thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably; (3) the vast majority of current surface anthracite mining involves either the mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings which may or may not be mapped; and (4) the mine workings below are usually inactive and abandoned, therefore, are not subject to changes during the life of the mine, but active mines will be mapped. The petitioner asserts that the proposed alternative method will in no way provide less than the same measure of protection than that afforded the miners under the existing standard.

Docket Number: M–2008–009–C.

Petitioner: XMV, Inc., 215 Suppliers Road, Bluefield, Virginia 24605.

Mine: Mine No. 35, MSHA I.D. No. 46–08131, located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.364(b)(4) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit the following examinations to be conducted in lieu of evaluating the seals underground: (1) Establish Monitoring Point P at an abandoned portal used by Postar Coal Company, Inc., Postar No. 1 Mine, MSHA I.D. No. 46–07983 for bleeder flow evaluation and establish Evaluation Point X at a drill hole near the Mine No. 35, MSHA I.D. No. 46–08131 side of the separator seals; (2) use Monitoring Point P to evaluate the atmosphere behind the separator seals in the abandoned Postar No. 1 Mine to insure that the atmosphere remains at a non-explosive range and use Evaluation Point X to insure that the No. 35 Mine side of the separator seals are being ventilated with intake air provided by the exhausting bleeder fan; and (3) have a certified person conduct weekly examinations and evaluations that will be maintained in an approved record book. The petitioner states that: (1) The Mine is a drift operation with multiple outcrop and surface openings with no history of methane or ventilation problems; (2) the separator seals existed when the cross through to the U.S. Steel No. 9 Mine, MSHA I.D. No. 46–01418 old panel took place and the bleeder system was established; and (3) ventilation is set up to prevent any contaminant from the abandoned area to reach the working section. The petitioner asserts that Monitoring Point P and Evaluation Point X will provide a level of safety as is required by the existing standard.

Docket Number: M–2008–010–C.

Petitioner: Pleasant View Mining Company, Inc., 755 Nebo Road, Madisonville, Kentucky 42431.

Mine: Richland No. 9 Mine, MSHA I.D. No. 15–17232, located in Hopkins County, Kentucky.

Regulation Affected: 30 CFR 75.1101–1(b) (Deluge-type water spray systems).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance in lieu of using blow-off dust covers for deluge-type water spray nozzles. The petitioner proposes to have a person trained in the testing procedures specific to the deluge-type water spray fire suppression systems used at each belt drive to conduct the following procedures once each week: (1) A visual examination of each of the deluge-type water spray fire suppression system; (2) a functional test of the deluge-type water spray fire suppression systems by actuating the system and observing its performance; and (3) record the results of the examination and functional test in a book maintained on the surface and made available to the authorized representative of the Secretary. The record book will be retained for one year. The petitioner asserts that the proposed alternative method will provide a measure of protection equal to or greater than that of the standard.

Docket Number: M–2008–011–C.

Petitioner: Chevron Mining, Inc., 12398 New Lexington Road, Barry, Alabama 35546.

Mine: North River Mine, MSHA I.D. No. 01–00759, located in Fayette County, Alabama.

Regulation Affected: 30 CFR 75.507 (Power Connection Points).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of three-phase, alternating current, and deep-well non-permissible pumps in boreholes in the mine. The petitioner proposes to use non-permissible pumps in boreholes into an area of the North River Mine where water has accumulated and not on intake air. The petitioner states that: (1) The pump will be equipped with sensors to determine high and low water level; (2) pumps in inaccessible underground locations will utilize undercurrent shutdown protection with redundant electronic pressure transducers that are suitable for submersible pump applications; (3) the low water probe will be located not less than 30 feet above the pump inlet and motor and electrical connections of the pump; (4) the high, low, or level water probes will include redundant electronic pressure transducers that are suitable for submersible pump control application; (5) all probe circuits will be protected by MSHA approved intrinsically safe barriers; and (6) the pumps will also be equipped with intrinsically safe ultrasonic water level sensors isolated by MSHA approved barriers. The petitioner further states that within 60 days of the Proposed Decision and Order, proposed revisions of its Part 48 training plan will be submitted to the District Manager for the

area in which the mine is located. Persons may review a complete description of petitioner's alternative method and procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection to all miners as would be provided by the standard.

Jack Powasnik,

Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. E8–7804 Filed 4–11–08; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities; Announcement of the Office of Management and Budget (OMB) Control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice; announcement of OMB approval of information collection requirements.

SUMMARY: The Occupational Safety and Health Administration announces that OMB has extended its approval for a number of information collection requirements found in sections of 29 CFR parts 1910, 1915, and 1926. OSHA sought approval under the Paperwork Reduction Act of 1995 (PRA–95), and, as required by that Act, is announcing the approval numbers and expiration dates for those requirements.

DATES: This notice is effective April 14, 2008.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION: In a series of **Federal Register** notices, the Agency announced its requests to OMB to renew its current extensions of approvals for various information collection (paperwork) requirements in its safety and health standards for general industry, shipyard employment, and the construction industry, (*i.e.*, 29 CFR Parts 1910, 1915, and 1926). In these **Federal Register** announcements, the Agency provided 60-day comment periods for the public to respond to OSHA's burden hour and cost estimates.

In accordance with PRA–95 (44 U.S.C. 3501–3520), OMB renewed its approval for these information collection requirements and assigned OMB control numbers to these requirements. The table below provides the following information for each of these OMB-approved requirements: The title of the collection; the date of the **Federal Register** notice; the **Federal Register** reference (date, volume, and leading page); OMB's control number; and the new expiration date.

Title	Date of Federal Register publication, Federal Register reference, and OSHA docket number	OMB control number	Expiration date
Access to Employee Exposure and Medical Records (29 CFR 1910.1020).	02/15/2007, 72 FR 7465, Docket No. OSHA–2007–0009.	1218–0065	05/31/2010
Additional Requirements for Special Dipping and Coating Operations (Dip Tanks) (29 CFR 1910.126(g)(4)).	03/15/2007, 72 FR 12200, Docket No. OSHA–2007–0014.	1218–0237	08/31/2010
Application for Training Grant	06/21/2007, 72 FR 34299, Docket No. OSHA–2007–0056.	1218–0020	11/30/2010
Asbestos in General Industry (29 CFR 1910.1001)	04/05/2007, 72 FR 16830, Docket No. OSHA–2007–0026.	1218–0133	08/31/2010
Bloodborne Pathogens (29 CFR 1910.1030)	07/27/2007, 72 FR 41357, Docket No. OSHA–2007–0063.	1218–0180	01/31/2011
Concrete and Masonry Construction (29 CFR Part 1926, Subpart Q).	07/24/2007, 72 FR 40337, Docket No. OSHA–2007–0059.	1218–0095	12/31/2010
Construction Fall Protection Plans and Training Requirements (29 CFR 1926.502 and 1926.503).	03/28/2007, 72 FR 14615, Docket No. OSHA–2007–0037.	1218–0197	08/31/2010
Cranes and Derricks for Construction (29 CFR 1926.550).	07/31/2007, 72 FR 41775, Docket No. OSHA–2007–0060.	1218–0113	12/31/2010
Crawler, Locomotive, and Truck Cranes (29 CFR 1910.180).	05/04/2007, 72 FR 25333, Docket No. OSHA–2007–0035.	1218–0221	09/30/2010
Definition and Requirements for a Nationally Recognized Testing Laboratory (29 CFR 1910.7).	01/05/2007, 72 FR 583, Docket No. OSHA–2007–0050.	1218–0147	06/30/2010
Derricks (29 CFR 1910.181)	03/23/2007, 72 FR 13825, Docket No. OSHA–2007–0025.	1218–0222	08/31/2010
Fire Protection in Shipyard Employment (29 CFR Part 1915, Subpart P).	07/23/2007, 72 FR 40172, Docket No. OSHA–2007–0057.	1218–0248	01/31/2011
Formaldehyde (29 CFR 1910.1048)	02/15/2007, 72 FR 7464, Docket No. OSHA–2008–2007.	1218–0145	05/31/2010
Gear Certification, OSHA–70 Form (29 CFR Part 1919).	09/17/2007, 72 FR 52912, Docket No. OSHA–2007–0061.	1218–0003	01/31/2011
Grantee Quarterly Progress Report	06/08/2007, 72 FR 31863, Docket No. OSHA–2007–0048.	1218–0100	10/31/2010
Ionizing Radiation (29 CFR 1910.1096)	07/27/2007, 72 FR 41358, Docket No. OSHA–2007–0049.	1218–0103	01/31/2011
Logging Operations (29 CFR 1910.266)	08/22/2007, 72 FR 47081, Docket No. OSHA–2007–0018.	1218–0198	12/31/2010
Manlifts (29 CFR 1910.68(e))	09/06/2007, 72 FR 51253, Docket No. OSHA–2007–0020.	1218–0226	01/31/2011
Mechanical Power Presses (29 CFR 1910.217(e)(1)(i) and (e) (1)(ii)).	06/04/2007, 72 FR 30729, Docket No. OSHA–2007–0036.	1218–0229	09/30/2010

Title	Date of Federal Register publication, Federal Register reference, and OSHA docket number	OMB control number	Expiration date
Noise Exposure (29 CFR 1910.95)	04/27/2007, 72 FR 21054, Docket No. OSHA–2007–0022.	1218–0048	08/31/2010
Overhead and Gantry Cranes (29 CFR 1910.179)	05/30/2007, 72 FR 30035, Docket No. OSHA–2007–0034.	1218–0224	09/30/2010
Portable Fire Extinguishers (Annual Maintenance Certification Record) (29 CFR 1910.157(e)(3)).	07/02/2007, 72 FR 36068, Docket No. OSHA–2007–0052.	1218–0238	11/30/2010
Powered Platforms for Building Maintenance (29 CFR 1910.66).	10/05/2007, 72 FR 57072, Docket No. OSHA–2007–0062.	1218–0121	01/31/2011
Presence Sensing Device Initiation (PSDI) (29 CFR 1910.217(h)).	03/29/2007, 72 FR 14832, Docket No. OSHA–2007–0027.	1218–0143	08/31/2010
Procedures for the Handling of Discrimination Complaints under Federal Employee Protection Statutes.	09/18/2007, 72 FR 53266, Docket No. OSHA–2007–0071.	1218–0236	01/31/2011
Rigging Equipment for Material Handling (29 CFR 1926.251).	06/22/2007, 72 FR 34483, Docket No. OSHA–2007–0055.	1218–0233	11/30/2010
Storage and Handling of Anhydrous Ammonia (29 CFR 1910.111).	08/16/2007, 72 FR 46097, Docket No. OSHA–2007–0019.	1218–0208	01/31/2011
Student Data Form (OSHA Form 182)	05/25/2007, 72 FR 29353, Docket No. OSHA–2007–0047.	1218–0172	10/31/2010
The Hydrostatic Testing Provision of the Standard on Portable Fire Extinguishers (29 CFR 1910.157(f)(16)).	06/18/2007, 72 FR 33537, Docket No. OSHA–2007–0051.	1218–0218	10/31/2010
Welding, Cutting and Brazing (29 CFR 1910.255(e))	07/23/2007, 72 FR 40170, Docket No. OSHA–2007–0050.	1218–0207	11/30/2010

In accordance with 5 CFR 1320.5(b), an agency cannot conduct, sponsor, or require a response to a collection of information unless the collection displays a valid OMB control number and the agency informs respondents that they are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31159).

Signed at Washington, DC, on April 8, 2008.

Edwin G. Foulke, Jr.

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–7783 Filed 4–11–08; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2008–0004]

Occupational Exposure to Hazardous Chemicals in Laboratories Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its proposal to extend OMB approval of the information collection requirements specified by the Occupational Exposure to Hazardous Chemicals in Laboratories Standard (§ 1910.1450).

DATES: Comments must be submitted (postmarked, sent, or received) by June 13, 2008.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2008–0004, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., ET.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2008–0004) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Jamaa Hill at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Jamaa N. Hill or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The standard entitled "Occupational Exposure to Hazardous Chemicals in Laboratories" (29 CFR 1910.1450; the "Standard") applies to laboratories that use hazardous chemicals in accordance with the Standard's definitions for "laboratory use of hazardous chemicals" and "laboratory scale." The Standard requires these laboratories to maintain employee exposures at or below the permissible exposure limits specified for the hazardous chemicals in 29 CFR part 1910, subpart Z. They do so by developing a written Chemical Hygiene Plan (CHP) that describes: Standard operating procedures for using hazardous chemicals; hazard control techniques; equipment reliability measures; employee information-and-training programs; conditions under which the employer must approve operations, procedures, and activities before implementation; and medical consultations and examinations. The CHP also designates personnel responsible for implementing the CHP, and specifies the procedures used to provide additional protection to employees exposed to particularly hazardous chemicals.

Other information collection requirements of the Standard include: Documenting exposure monitoring results; notifying employees in writing of these results; presenting specified information and training to employees; establishing a medical surveillance program for overexposed employees; providing required information to the physician; obtaining the physician's written opinion on using proper respiratory equipment and establishing, maintaining, transferring, and disclosing exposure monitoring and medical records. These collection of information requirements, including the CHP, control employee overexposure to hazardous laboratory chemicals, thereby preventing serious illnesses and death among employees exposed to such chemicals.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is proposing to extend the information collection requirements contained in the Occupational Exposure to Hazardous Chemicals in Laboratories Standard (29 CFR 1910.1450). The Agency is requesting to increase its current burden hour total from 270,636 hours to 281,419 hours for a total increase of 10,783 hours. The adjustment is primarily a result of an increase in the number of facilities being monitored (from 43,300 to 45,616) and the number of employees covered by the Standard (from 1,598,385 to 1,660,408) based on updated data obtained from the U.S. Census Bureau and the Bureau of Labor Statistics. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the Standard.

Type of Review: Extension of a currently approved information collection requirement.

Title: Occupational Exposure to Hazardous Chemicals in Laboratories.

OMB Number: 1218–0131.

Affected Public: Business or other for-profits; not-for-profit institutions; Federal government; State, local, or Tribal governments.

Number of Respondents: 45,616.

Frequency of Response: Annually; monthly; on occasion.

Total Responses: 911,446.

Average Time per Response: Varies from 5 minutes (.08 hour) for a variety of requirements (e.g., for an office clerk to develop and post exposure monitoring results) to 8 hours for an employer to develop a Chemical Hygiene Plan.

Estimated Total Burden Hours: 281,419.

Estimated Cost (Operation and Maintenance): $35,978,301.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2008–0004). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social

security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31159).

Signed at Washington, DC, on April 8, 2008.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–7785 Filed 4–11–08; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before *May 14, 2008.* Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: requestschedule@nara.gov.

Fax: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1228.24(b)(3).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Agriculture, Rural Development (N1–221–08–1, 22 items, 15 temporary items). Records relating to a program which provides grants and loans for rural telecommunications projects. Proposed for permanent retention are special studies and reports, loan docket files and supporting data, records of technical standards committees, and records relating to approved grants.

2. Department of the Army, Agency-wide (N1-AU–08–1, 3 items, 2 temporary items). Master file and standard reports associated with an electronic information system used to report sexual assault and prevention data. Data includes information on the victim and perpetrator, nature of the incident, actions taken, and final results. Proposed for permanent retention are annual reports on sexual assaults.

3. Department of Energy, Agency-wide (N1–434–08–2, 2 items, 1 temporary item). Research and professional files of researchers who have held a range of positions or have been a recognized expert in cross-disciplinary work. Proposed for permanent retention are files of researchers who have achieved national or international prominence in their career.

4. Department of Homeland Security, Office for Civil Rights and Civil Liberties (N1–563–07–6, 6 items, 4 temporary items). Records tracking allegations of racial, ethnic, and religious profiling by employees and officials of the agency. Proposed for permanent retention are records associated with significant cases.

5. Department of the Interior, National Park Service (N1–79–07–2, 15 items, 7 temporary items). Records related to the implementation and administration of the Native American Graves Protection and Repatriation Act national program. Proposed for permanent retention are case files, advisory committee records, awarded grant files, program records, and associated indexes.

6. Department of the Navy, Agency-wide (N1-NU–07–10, 1 item, 1 temporary item). Personnel rosters, listings, cards, indexes and similar records maintained by preparing units.

7. Department of State, Foreign Service Institute (N1–59–08–7, 8 items, 8 temporary items). Records relating to registration for internal and external training, including course information, management reports, course schedules, and travel records.

8. Department of the Treasury, Internal Revenue Service (N1–58–08–10, 3 items, 3 temporary items). Master file, outputs, and system documentation for the Enterprise Data Access Strategy—Integrated Production Model, which consists of data used in modernization projects.

9. Federal Communications Commission, Office of the Inspector General (N1–173–07–2, 8 items, 5 temporary items). Non-significant investigative files, allegations that do not relate to a specific investigation, audits, strategic plans, and general correspondence. Proposed for permanent retention are significant investigative files, semi-annual reports, and annual audit plans. The proposed disposition instructions are limited to paper records for significant investigative files, semi-annual reports, and annual audit plans.

10. National Archives and Records Administration. Office of Records Services—Washington, DC (N1–64–08–2, 5 items, 5 temporary items). Data, audit logs, user profiles, and system documentation of the Accessions Management Information System used to track information about accessions of electronic records.

11. National Archives and Records Administration, Office of Records Services—Washington, DC (N1–64–08–03, 5 items, 5 temporary items). Data, audit logs, user profiles, and system documentation used in the verification of format and structure of data submitted by agencies for accession through the Archival Electronic Records Inspection and Control System.

12. National Archives and Records Administration, Office of Records Services—Washington, DC (N1–64–08–4, 4 items, 4 temporary items). System usage and performance reports, system audit logs, user profiles, and system documentation associated with the Access to Archival Databases System, which provides web access to selected accessioned electronic records, including databases, images and texts.

13. National Archives and Records Administration, Office of Records Services—Washington, DC (N1–64–08–5, 4 items, 4 temporary items). Data files, system audit logs, custom developed source code, and system documentation associated with the Archival Processing System, which maintains metadata related to the agency's holdings of electronic records such as recording characteristics, preservation master and backup copy management, technical file specifications, tape location management, media recopy and refresh scheduling, and reference requests.

14. Peace Corps, Office of Management (N1–490–08–1, 1 item, 1 temporary item). Master file of an electronic information system used to record volunteers' foreign language test scores.

15. United States Information Agency, Broadcasting Service (N1–306–97–2, 28 items, 16 temporary items). Subject files that are duplicative or are lacking historical significance, travel vouchers, and requests for information. Proposed for permanent retention are records of subject, country, program, and other files that document programs and policies. The proposed disposition instructions are limited to paper records.

Dated: April 7, 2008.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E8–7867 Filed 4–11–08; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 32—Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.

2. *Current OMB approval number:* 3150–0001.

3. *How often the collection is required:* There is a one-time submittal of information to receive a license. Renewal applications are submitted every 10 years. In addition, recordkeeping must be performed on an ongoing basis, and reporting of transfer of byproduct material must be reported every calendar year, and in some cases, every calendar quarter.

4. *Who is required or asked to report:* All specific licensees who manufacture or initially transfer items containing byproduct material for sale or distribution to general licensees or persons exempt from licensing.

5. *The number of annual respondents:* 474 (158 NRC licensees and 316 Agreement State licensees).

6. *An estimate of the number of responses annually:* 474 (158 for NRC licensees and 316 for Agreement State licensees).

7. *The number of hours needed annually to complete the requirement or request:* 98,477 (29,900 hours for NRC licensees [233 hours reporting, or an average of 0.45 hour per response + 29,667 hours recordkeeping, or 86 hours per record keeper] and 68,577 hours for Agreement State licensees [339 hours reporting, or an average of 0.5 hours per response + 68,238 hours recordkeeping, or an average of 114 hours per record keeper]).

8. *Abstract:* 10 CFR Part 32 establishes requirements for specific licenses for the introduction of byproduct material into products or materials and transfer of the

products or materials to general licensees or persons exempt from licensing. It also prescribes requirements governing holders of the specific licenses. Some of the requirements are for information which must be submitted in an application for a specific license, records which must be kept, reports which must be submitted, and information which must be forwarded to general licensees and persons exempt from licensing. In addition, 10 CFR Part 32 prescribes requirements for the issuance of certificates of registration (concerning radiation safety information about a product) to manufacturers or initial transferors of sealed sources and devices. Submission or retention of the information is mandatory for persons subject to the 10 CFR Part 32 requirements. The information is used by NRC to make licensing and other regulatory determinations concerning the use of radioactive byproduct material in products and devices.

Submit, by June 13, 2008, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, Maryland 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by e-mail to *INFOCOLLECTS@NRC.GOV*.

Dated at Rockville, Maryland this 7th day of April 2008.

For the Nuclear Regulatory Commission.

Gregory Trussell,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. E8–7856 Filed 4–11–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–150]

Ohio State University Research Reactor; Notice of Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a renewed Facility License No. R–75, to be held by Ohio State University (OSU or the licensee), which would authorize continued operation of the Ohio State University Research Reactor (OSURR), located in Columbus, Franklin County, Ohio. Therefore, pursuant to 10 CFR 51.21, the NRC is issuing an Environmental Assessment and Finding of No Significant Impact.

Description of Proposed Action

The proposed action is approval of the licensee's application for renewal of Facility License No. R–75 for a period of 20 years from the date of issuance of the renewed license. The proposed action is in accordance with the licensee's application dated December 15, 1999, as supplemented on August 21, 2002, August 18, 2005, July 26, 2006, May 22, 2007, May 31, 2007, September 4, and September 28, 2007; and February 29, 2008.

The OSURR is located approximately 1.5 miles (2.4 km) west of the main campus on land owned by OSU and is a part of the Ohio State University Research Center. The site comprises the reactor building and a small area immediately surrounding it, bounded by a chain-link fence. The nearest permanent residences are located approximately 0.3 miles (0.5 km) to the west and approximately 0.3 miles (0.5 km) to the south. There are no nearby industrial, transportation, or military facilities that could pose a threat to the OSURR.

The OSURR is a pool-type, light water moderated and cooled research reactor licensed to operate at a steady-state power level of 500 kilowatts thermal power (kW(t)). A detailed description of the reactor can be found in the OSURR Safety Analysis Report (SAR). The major modifications to the Facility License were conversion from high enriched fuel to low enriched fuel in 1988 and a licensed power increase from 10 kW(t) to 500 kW(t) in November 1990.

The licensee has not requested any changes to the facility design or operating conditions as part of the renewal request. The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in occupational or public radiation exposure. Therefore, license renewal should not change the environmental impact of facility operation.

Summary of the Environmental Assessment

The NRC staff reviewed the licensee's application which included an Environmental Report. To document its review, the NRC staff has prepared an environmental assessment (EA) which discusses the OSURR site and facility; radiological impacts of gaseous, liquid, and solid effluents; environmental and personnel radiation monitoring; radiation dose estimates for the maximum hypothetical accident (MHA); impacts of the "no action" alternative to the proposed action; alternative use of resources; considerations related to the National Environmental Policy Act (NEPA); and presents the radiological and non-radiological environmental impacts of the proposed action.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 15, 1999 (ML993610185), as supplemented by letters dated August 21, 2002 (ML022380431), August 18, 2005 (ML052350564); July 26, 2006 (ML062090072); May 22, 2007 (ML071430417); May 31, 2007(ML071550098); September 4, 2007 (ML072490367); September 28, 2007 (ML072750038); and February 29, 2008 (ML080650352). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC

Web site, *http://www.nrc.gov/reading-rm/adams.html*. The EA can be found in ADAMS under Accession Number ML070230004. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or send an e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 7th day of April, 2008.

For the Nuclear Regulatory Commission.

Daniel S. Collins,

Chief, Research and Test Reactors Branch A, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E8–7848 Filed 4–11–08; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0123

New Information Collection:

Study on the Impact of Companies' Compliance with the Requirements Implementing Section 404 of the Sarbanes-Oxley Act of 2002; OMB Control No. 3235–xxxx; SEC File No. 270–575

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") has submitted to the Office of Management and Budget this request for approval.

The Commission staff plans to undertake a study that will involve collecting and analyzing empirical data regarding the impact on public companies of compliance with the requirements implementing section 404 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7262). The study will consider whether recent actions by the Commission and the Public Company Accounting Oversight Board are having their intended effect of increasing efficiency and lowering compliance costs. Participation in the study will be voluntary. Participants in the study are expected to include companies subject to the reporting requirements under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 15 U.S.C. 78o(d)), as well as financial analysts, auditors, investors and other interested parties.

We plan to invite up to 10,000 respondents to participate in the study. If all of these respondents participate in the study at an average estimated 1 hour per response, the total annual burden will be 10,000 hours. In addition, we also plan to conduct a follow-up survey and in-depth interviews with up to 500 respondents, at an estimated two hours per response, for a total annual burden of approximately 1,000 hours. Therefore, the total aggregate burden associated with the study is an estimated 11,000 hours.

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 regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Alexander_T._Hunt@omb.eop.gov*; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, 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*. Comments must be submitted to OMB within 30 days of this notice.

April 7, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7828 Filed 4–11–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8908; 34–57638; File No. 265–24]

Advisory Committee on Improvements to Financial Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting of SEC Advisory Committee on Improvements to Financial Reporting.

SUMMARY: The Securities and Exchange Commission Advisory Committee on Improvements to Financial Reporting is providing notice that it will hold a public meeting on Friday, May 2, 2008, at the Donald E. Stephens Conference Center, Room 21, 5555 N. River Road, Rosemont, Illinois 60018. The meeting will begin at 8 a.m. (CDT) and will be open to the public. The meeting will be webcast on the Commission's Web site at *http://www.sec.gov*. Persons needing special accommodations to take part because of a disability should notify a contact person listed below. The public is invited to submit written statements for the meeting.

The agenda for the meeting includes hearing oral testimony from panel participants regarding the Advisory Committee's developed proposals and conceptual approaches, as presented in the Advisory Committee's progress report dated February 14, 2008 (*http://www.sec.gov/rules/other/2008/33-8896.pdf*), related to substantive complexity and the standards-setting process; consideration of comment letters received by the Advisory Committee; consideration of updates from subcommittees of the Advisory Committee; and discussion of next steps and planning for the next meeting.

DATES: Written statements should be received on or before April 25, 2008.

ADDRESSES: Written statements may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet submission form *(http://www.sec.gov/rules/other.shtml)*; or
- Send an e-mail message to *rule-comments@sec.gov*. Please include File Number 265–24 on the subject line.

Paper Comments

- Send paper statements in triplicate to Nancy M. Morris, Federal Advisory Committee Management Officer, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–24. This file number should be included on the subject line if e-mail is used. To help us process and review your statements more efficiently, please use only one method. The Commission staff will post all statements on the Advisory Committee's Web site (*http://www.sec.gov/about/offices/oca/acifr.shtml*). Statements also will be available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: James L. Kroeker, Deputy Chief Accountant, or Shelly C. Luisi, Senior Associate Chief Accountant, at (202) 551–5300, Office of the Chief Accountant, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6561.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a), James L. Kroeker, Designated Federal Officer of the Committee, has approved publication of this notice.

Dated: April 9, 2008.

Nancy M. Morris,

Committee Management Officer.

[FR Doc. E8–7893 Filed 4–11–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57631; File No. SR–Amex–2008–30]

Self-Regulatory Organizations; American Stock Exchange, LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Amend the Eligibility Criteria for Components of an Index or Portfolio Underlying Portfolio Depositary Receipts and Index Fund Shares

April 8, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2008, the American Stock Exchange, LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. On April 1, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .03 to Amex Rule 1000–AEMI (Portfolio Depositary Receipts or "PDRs") and Commentary .02 to Amex Rule 1000A–AEMI (Index Fund Shares or "IFSs," and together with PDRs, collectively, "ETFs") to exclude ETFs and securities defined as Managed Fund Shares (Amex Rule 1000B), Trust Issued Receipts (Amex Rule 1200), Commodity-Based Trust Shares (Amex Rule 1200A), Currency Trust Shares (Amex Rule 1200B), Partnership Units (Amex Rule 1500), and Paired Trust Shares (Amex Rule 1600) (together with ETFs, collectively, "Derivative Securities Products") when applying certain quantitative listing requirements of Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *www.amex.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to enable the listing and trading of ETFs that are linked to, or based on, Derivative Securities Products pursuant to Rule 19b–4(e) under the Act.[3] To this end, the Exchange proposes to amend Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI.

Amex Rules 1000–AEMI and 1000A–AEMI provide that the Exchange may approve a series of PDRs and IFSs, respectively, for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b–4(e) under the Act,[4] if such series satisfies the criteria set forth in such Rules. In this proposal, the Exchange seeks to exclude Derivative Securities Products when applying certain quantitative listing requirements of Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI relating to the listing of PDRs and IFSs, respectively, based on a U.S. index or portfolio or an international or global index or portfolio.

With respect to Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI, the Exchange proposes to exclude Derivative Securities Products, as components, when applying the following existing component eligibility requirements: (1) Component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum market value of at least $75 million (Commentary .03(a)(A)(1) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(1) to Amex Rule 1000A–AEMI); (2) component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum monthly trading volume during each of the last six months of at least 250,000 shares (Commentary .03(a)(A)(2) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(2) to Amex Rule 1000A–AEMI); and (3) the most heavily weighted component stock must not exceed 30% of the weight of the index or portfolio, and the five most heavily weighted component stocks must not exceed 65% of the weight of the index or portfolio (Commentary .03(a)(A)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(3) to Amex Rule 1000A–AEMI). Component stocks, in the aggregate, excluding Derivative Securities Products, would still be required to meet the criteria of these provisions. Thus, for example, when determining compliance with Commentaries .03(a)(A)(1) and (2) to Amex Rule 1000–AEMI and Commentaries .02(a)(A)(1) and (2) to Amex Rule 1000A–AEMI, component stocks that, in the aggregate, account for at least 90% of the remaining index weight, after excluding any Derivative Securities Products, would be required to have a minimum market value of at least $75 million and minimum monthly trading volume of 250,000 shares during each of the last six months, respectively. In addition, with respect to Commentary .03(a)(A)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(3) to Amex Rule 1000A–AEMI, when determining the component weight for the most heavily

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Rule 19b–4(e) under the Act provides that the listing and trading of a new derivative securities product by a self-regulatory organization ("SRO") shall not be deemed a proposed rule change, pursuant to Rule 19b–4(c)(1) (17 CFR 240.19b–4(c)(1)), if the Commission has approved, pursuant to Section 19(b) of the Act (15 U.S.C. 78s(b)), the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class. *See* 17 CFR 240.19b–4(e).

[4] *See id.*

weighted stock and the five most heavily weighted component stocks for an underlying index that includes a Derivative Securities Product, the weight of such Derivative Securities Products included in the underlying index or portfolio would not be considered.

In addition, the Exchange proposes to modify the requirements in Commentary .03(a)(A)(4) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(4) to Amex Rule 1000A–AEMI, which provide that the underlying index or portfolio must include a minimum of 13 component stocks. Specifically, the Exchange proposes that there shall be no minimum number of component stocks if: (1) One or more series of ETFs constitute, at least in part, components underlying a series of ETFs; or (2) one or more series of Derivative Securities Products account for 100% of the weight of the index or portfolio. Thus, for example, if the index or portfolio underlying a series of ETFs includes one or more series of ETFs, or if it consists entirely of other Derivative Securities Products, then there would not be required to be any minimum number of component stocks (*i.e.*, one or more components comprising the underlying index or portfolio would be acceptable). However, if the index or portfolio consists of Derivative Securities Products other than ETFs (*e.g.*, Commodity-Based Trust Shares or Currency Trust Shares), as well as securities that are not Derivative Securities Products (*e.g.*, common stocks), then there would have to be at least 13 components in the underlying index or portfolio.

Consistent with current Commentary .03(a)(A)(5) to Amex Rule 1000-AEMI and Commentary .02(a)(A)(5) to Amex Rule 1000A–AEMI, all securities in the index or portfolio would have to be "US Component Stocks" (as defined in Amex Rules 1000–AEMI(b)(3) and 1000A–AEMI(b)(4)) [5] listed on a national securities exchange and NMS Stocks, as defined in Rule 600 of under the Act.[6]

With respect to Commentary .03(a)(B) to Amex Rule 1000–AEMI and Commentary .02(a)(B) to Amex Rule 1000A–AEMI, the Exchange proposes to exclude Derivative Securities Products, as components, when applying the following existing component eligibility requirements: (1) Component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum market value of at least $100 million (Commentary .03(a)(B)(1) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(1) to Amex Rule 1000A–AEMI); (2) component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares (Commentary .03(a)(B)(2) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(2) to Amex Rule 1000A–AEMI); and (3) the most heavily weighted component stock must not exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks must not exceed 60% of the weight of the index or portfolio (Commentary .03(a)(B)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(3) to Amex Rule 1000A–AEMI). Thus, for example, when determining compliance with Commentaries .03(a)(B)(1) and (2) to Amex Rule 1000–AEMI and Commentaries .02(a)(B)(1) and (2) to Amex Rule 1000A–AEMI, component stocks that, in the aggregate, account for at least 90% of the remaining index weight, after excluding any Derivative Securities Products, would be required to have a minimum market value of at least $100 million and minimum worldwide monthly trading volume of 250,000 shares during each of the last six months, respectively. In addition, with respect to Commentary .03(a)(B)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(3) to Amex Rule 1000A–AEMI, when determining the component weight for the most heavily weighted stock and the five most heavily weighted component stocks for an underlying index that includes a Derivative Securities Product, the weight of such Derivative Securities Products included in the underlying index or portfolio would not be considered.

In addition, the Exchange proposes to modify the requirements in Commentary .03(a)(B)(4) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(4) to Amex Rule 1000A–AEMI, which provide that the underlying index or portfolio must include a minimum of 20 component stocks. Specifically, the Exchange proposes that there shall be no minimum number of component stocks if: (1) One or more series of ETFs constitute, at least in part, components underlying a series of ETFs; or (2) one or more series of Derivative Securities Products account for 100% of the weight of the index or portfolio. Thus, for example, if the index or portfolio underlying a series of ETFs includes one or more series of ETFs, or if it consists entirely of other Derivative Securities Products, then there would not be required to be any minimum number of component stocks (*i.e.*, one or more components comprising the underlying index or portfolio would be acceptable). However, if the index or portfolio consists of Derivative Securities Products other than ETFs (*e.g.*, Commodity-Based Trust Shares or Currency Trust Shares), as well as securities that are not Derivative Securities Products (*e.g.*, common stocks), then there would have to be at least 20 components in the underlying index or portfolio.

Consistent with current Commentary .03(a)(B)(5) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(5) to Amex Rule 1000A–AEMI, each component that is a U.S. Component Stock (which would include each Derivative Securities Product) would be required to be listed on a national securities exchange and be an NMS Stock, as defined in Rule 600 under the Act, and each component that is a Non-US Component Stock (as defined in Amex Rules 1000–AEMI(b)(4) and 1000A–AEMI(b)(5)) [7] would be required to be listed and traded on an exchange that has last-sale reporting.

The Exchange believes it is appropriate to exclude Derivative Securities Products from certain index component eligibility criteria for ETFs insofar as Derivative Securities Products are themselves subject to specific quantitative listing and continued listing requirements of a national securities exchange on which such Derivative Securities Products are listed. Derivative Securities Products that are components of an index or portfolio underlying a series of ETFs would have been listed and traded on a national securities exchange pursuant to a proposed rule change approved by the Commission pursuant to Section 19(b)(2) of the Act [8] or submitted by a national securities exchange pursuant to Section 19(b)(3)(A) of the Act,[9] or would have been listed by a national securities exchange pursuant to the requirements

[5] "US Component Stock" is an equity security that is registered under Section 12(b) or 12(g) of the Act or an American Depositary Receipt, the underlying equity security of which is registered under Section 12(b) or 12(g) of the Act. *See* Amex Rules 1000–AEMI(b)(3) and 1000A–AEMI(b)(4).

[6] *See* 17 CFR 242.600(b)(47).

[7] "Non-US Component Stock" is an equity security that is not registered under Section 12(b) or 12(g) of the Act and that is issued by an entity that (1) is not organized, domiciled, or incorporated in the United States, and (2) is an operating company (including Real Estate Investment Trusts and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives). *See* Amex Rules 1000–AEMI(b)(4) and 1000A–AEMI(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 15 U.S.C. 78s(b)(3)(A).

of Rule 19b–4(e) under the Act.[10] Finally, the Exchange notes that Derivative Securities Products are derivatively priced, and, therefore, the Exchange submits that it would not be necessary to apply the generic quantitative criteria (*e.g.*, market capitalization, trading volume, index or portfolio component weighting) applicable to non-Derivative Securities Products (*e.g.*, common stocks) to such products.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5),[12] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposal will facilitate the listing and trading of additional types of ETFs that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in the proposed rules are intended to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange states that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange states that no written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–Amex–2008–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2008–30. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2008–30 and should be submitted on or before May 5, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7825 Filed 4–11–08; 8:45 am]

BILLING CODE 8011–01–P

[10] *See supra* note 3.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57629; File No. SR–CBOE–2008–02]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Replace References to Certain Committees With a Reference to the Exchange

April 7, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2008, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by the CBOE. On April 7, 2008, CBOE submitted Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to replace references to certain committees with a reference to the "Exchange." The text of the proposed rule change is available at the CBOE, the Commission's Public Reference Room, and *http://www.cboe.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend CBOE Rules to delete certain references to the appropriate Procedure, Floor Officials, appropriate Market Performance, Membership, and Product Development Committees, as well as certain general references to committees such as the "appropriate Exchange committee." These references are being replaced with a reference to the "Exchange."

The Exchange is proposing to make these changes in order to simplify and standardize its delegations of authority with respect to these Exchange committees. Under CBOE's organizational structure, Exchange committees can derive their authority in one of two ways. In addition to any powers and duties specifically granted in CBOE's Constitution or Rules, each committee has such other powers and duties as may be delegated to it by the Board of Directors ("Board").[3] Thus, in some instances CBOE's Constitution or Rules specifically reference a particular committee or "appropriate Exchange committee." In other instances, the Board separately delegates a particular authority to a committee. Because the authority exercised by committees may be delegated by the Board, the Exchange believes that referencing these committees in the rule text is not necessary. Instead, the Exchange believes a better approach than making a specific reference to the above-listed committees or a general reference to the "appropriate Exchange committee" in the rule text is to simply reference the "Exchange." In this way, the Exchange will have the flexibility to determine who will perform which authorities under the rules, which might include Exchange officials or the Board determining to delegate certain authorities to an appropriate Exchange committee.[4] In addition, excluding these committee references and referencing the "Exchange" will be more efficient from an administrative perspective because the Exchange will not have to make a rule change merely, for instance, to accommodate a change in the title of a committee or to accommodate the reassignment of an authority to another committee.[5]

In addition, as discussed below, various amendments that accommodate the above-described changes and simplify the rule text are also being made. First, though specific references to the Floor Officials Committee are being removed, specific references to Floor Official duties and authorities under the rules will remain. As a result, the Exchange is proposing to define the term "Floor Official" to mean an individual appointed by the Exchange who is granted certain duties and authorities under the CBOE Rules with respect to trading issues and market actions.[6]

Second, Rule 3.31, *Delegation of Authority*, will be deleted. This rule had indicated that (i) the authority granted to the Exchange under Chapter III, *Membership*, may be exercised by the Membership Committee and/or the Membership Department and (ii) the Membership Committee may delegate to the Membership Department any of the authority granted to the Membership Committee under the CBOE Rules. Instead of specifying these particular delegations in the rules, the Exchange will have the flexibility to delegate the applicable authorities to a designee(s).[7]

Third, the procedures contained in Rule 6.3, *Trading Halts*, currently indicate in part that any trading halt that lasts more than two consecutive business days shall be reviewed at the next regularly scheduled meeting of the Floor Officials Committee. Because the Floor Officials Committee will no longer be specifically referenced in the CBOE Rules, the proposed revisions to Rule 6.3 indicate that any trading halt that lasts more than two consecutive days will be reviewed on a regular basis by the Exchange. The revised language will provide the flexibility to establish an appropriate schedule for conducting such reviews that takes into account the Exchange designee that is delegated that responsibility (*e.g.*, a committee that might have regularly scheduled meetings or Exchange staff that might that might conduct such reviews on a regular schedule).

Fourth, Rules 6.45A, *Priority and Allocation of Equity Option Trades on the CBOE Hybrid System*, and 6.47, *Priority on Split-Price Transactions Occurring in Open Outcry*, currently contain references to the appropriate Exchange committee having authority to make certain decisions regarding all options classes or products under the committee's jurisdiction.[8] Under the proposed revisions, such decisions will now be made by the Exchange (through a designee delegated the applicable authority) on a class/product basis.[9]

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[3] *See* Rule 2.1(d).

[4] As indicated above, Exchange committees only have authorities to the extent specifically granted in CBOE's Constitution or Rules or by Board delegation. The Board may also exercise authorities of the "Exchange" under CBOE's Constitution and Rules. In addition, authorities of the "Exchange" may be performed by other Exchange officials. For example, the Exchange's Chief Executive Officer, President or other officials or designees may have authorities of the "Exchange" as long as it is not inconsistent with CBOE's Constitution or Rules or any Board directive.

[5] *See, e.g.*, Securities Exchange Act Release Nos. 53537 (March 21, 2006), 71 FR 15778 (March 29, 2006) (SR–CBOE–2006–15) (deleting from the CBOE Rules any specific references to the Clearing Procedures Committee, Exemption Committee, Modified Trading System Appointments Committee, appropriate Screen-Based Trading Committee, appropriate SBT DPM Appointments Committee, and Special Product Assignment Committee because the Exchange determined to eliminate these committees and reassign their respective authorities to other committees and/or to Exchange staff) and 39479 (December 22, 1997), 62 FR 68326 (December 31, 1997) (SR–CBOE–97–61) (deleting from the CBOE Rules any specific references to, and adding 'appropriate' to all references that related to, a particular Floor Procedure Committee or Market Performance Committee to accommodate the creation of two new committees, the Index Floor Procedure Committee and the Index Market Performance Committee, which among other things replaced the OEX Floor Procedure Committee and the OEX Market Performance Committee, respectively).

[6] *See* proposed Rule 1.1(eee). The Exchange is proposing similar changes to the definition of a "Trading Official" under its Screen-Based Trading System Rules. *See* proposed changes to Rule 40.1(g).

[7] It is CBOE's intent that any Exchange designee would be a person or persons that CBOE views as qualified to perform the particular authority granted under Chapter III.

[8] *See* paragraphs (a)(i) and (c) of Rule 6.45A (which currently indicates in part that the "final weighting formula for equity options * * * shall be determined by the appropriate Procedure Committee and apply uniformly across all options under its jurisdiction * * *", that the "appropriate Procedure Committee shall determine which of the preceding two entitlement formulas will be in effect for all classes under its jurisdiction", and that the "appropriate Procedure Committee will determine the length of the "N-second group" timer provided however that the duration of the "N-second group" timer shall not exceed five seconds [and the] duration of the "N-second group" timer shall apply uniformly across all classes under the Procedure Committee's jurisdiction"); and paragraph (b) of Rule 6.47 (which currently indicates in part that the "appropriate Exchange committee may increase the 'minimum qualifying order size' above 100 contracts for all products under its jurisdiction").

[9] Rule 6.45A will be revised to indicate that determinations on the final weighting formula, entitlement formula, and N-second group timer will be made on a class basis (also referred to as a product-basis). *See* proposed changes to paragraphs (a)(i) and (c) of Rule 6.45A and note 8, *supra*. These changes to Rule 6.45A are consistent with the existing rule language contained in Rule 6.45B, *Priority and Allocation of Trades in Index Options and Options on ETFs on the CBOE Hybrid System*. Rule 6.47 will be revised to indicate that determinations on the minimum qualifying order size will be made on a class basis. *See* proposed changes to paragraph (b) of Rule 6.47; *supra* note 8. The Exchange notes that paragraph (b) of Rule

Continued

Fifth, the procedures contained in Rules 8.16, *RAES Eligibility in Option Classes Other Than Broad-Based Indexes and Options on Exchange Traded Funds on Broad-Based Indexes*, and 24.17, *RAES Eligibility in Broad-Based Index Options*, currently indicate in part that the appropriate Market Performance Committee may exempt from certain percentage requirements with respect to trading,[10] all market maker activity in one or more option classes for certain days, and that data provided to the appropriate committee will not contain the identities of individual market-makers. Under the revised rules, the Exchange (through a designee delegated that authority) may grant the same exemptions. In addition, the revised rule will indicate that, to the extent the data is provided to an Exchange designee consisting of non-Exchange staff, the data will not contain the identities of individual market-makers.

Sixth, the procedures contained in Rule 16.3, *Reinstatement*, currently indicate in part that the affirmative vote of at least five members of the Membership Committee shall be required to approve an application for reinstatement. Under the revised rule, the Exchange (through a designee delegated that authority) would approve such applications. The requirement of an affirmative vote of at least five members of the Membership Committee will be deleted. The Exchange believes that this level of specificity in the rules is no longer applicable and unnecessary, and notes that at least one other exchange does not have this requirement in its rules.[11]

Except as described above, the Exchange notes that it is not making substantive revisions to its underlying processes as a result of this rule change.[12] The rules are simply being revised to provide more flexibility to delegate the applicable authorities, rather than including specific delegations to particular committees in the rules. It is CBOE's intent that any Exchange designee would be a person or persons that CBOE views as qualified to perform the particular authorities.[13]

For example, currently under Rule 3.5, *Denial of and Conditions to Membership and Association*, the CBOE Membership Committee has the specific authority to deny (or condition) membership or association with a member, and any decision made by the committee may be appealed under Chapter XIX of the CBOE Rules. Under the revised Rule 3.5, the "Exchange" will have the authority to deny (or condition) membership or association with a member. The authority to make such decisions may be delegated to a designee such as Exchange staff or, by a Board delegation, a committee or Exchange staff. Any decision by the designee to deny (or condition) membership or association with another member may be appealed under Chapter XIX, which will continue to apply unchanged.[14] Thus, under the revised Rule 3.5, the procedures will remain the same. The rule is simply being revised to provide the Exchange with the flexibility to assign a designee the authority to deny (or condition) membership or association with a member, rather than referencing a particular committee.[15]

8.60, *Evaluation of Trading Crowd Performance*, also contains a reference to jurisdiction that is being revised. Rule 8.60 currently indicates in part that the appropriate Market Performance Committee "may find that a Market Participant has failed to satisfy its market responsibilities if it determines from the results of the evaluation that the Market Participant is ranked one or more standard deviations from the mean score of all Market Participants within the Committee's jurisdiction, or if such a finding may reasonably be supported by any other relevant information known to the Committee." The reference to "within the Committee's jurisdiction" will be replaced with "trading the same category of option". *See* proposed changes to paragraph (b) of Rule 8.60.

[10] *See* paragraph (a)(iii) of Rule 6.8 and paragraph (b)(vii) of Rule 24.17 for the applicable percentage requirements.

[11] *See, e.g.*, paragraph (a) to International Securities Exchange Rule 1502.

[12] Various other non-substantive changes are also being proposed to the CBOE Rules. For example, in Rule 2.1, *Committees of the Exchange*, the heading in paragraph (d) will be changed from "General Duties and Powers of Committees" to "Duties and Powers of Committees" and the sentence, "Each committee shall administer the provisions of the Constitution and the rules of the Exchange pertaining to matters within its jurisdiction[,]" will be deleted. This language is duplicative and unnecessary because paragraph (d) also indicates that, "In addition to any powers and duties specifically granted in the Constitution or Rules, each committee shall have such other powers and duties as may be delegated to it by the Board of Directors." In Interpretation and Policy .06 to Rule 6.8, *RAES Operations*, a "the" will be replaced with an "a" for consistency. In Interpretation and Policy .01 to Rules 6.75, *Discretionary Transactions*, and 7.5, *Obligations for Fair and Orderly Market*, an unnecessary prefatory phrase "[t]he appropriate Procedure Committee has determined that * * *" is being deleted. In Rule 8.60, references to "market-maker" and "floor official" are being capitalized for consistency.

[13] *See, e.g.*, note 7, *supra*.

[14] The Exchange notes that it is not making any revisions to its disciplinary, arbitration or appeals procedures (or related Business Conduct, Arbitration and Appeals Committees) as a result of this rule change. *See* Chapter XVII, *Discipline*, XVIII, *Arbitration*, and XIX, *Hearings and Review*. Chapter XIX provides the procedure for persons aggrieved by Exchange action (including but not limited to those persons who have been denied membership, barred from being associated with a member, or prohibited or limited with respect to Exchange services, or the services of any Exchange member, taken pursuant to any contractual arrangement, the Constitution or the Rules of the Exchange (other than disciplinary action for which review is provided in Chapter XVII, action of the Arbitration Committee, and any other action that the Rules specify is not subject to appeal under Chapter XXIX) to apply for an opportunity to be heard and the complained of action reviewed. Applications for hearing and review are referred to the Appeals Committee, which appoints a hearing panel to conduct the hearing. The decision of the panel of the Appeals Committee is subject to review by the Board (or a Committee of the Board) and any Director who participated in a matter before it is appealed to the Board shall not participate in any review action by the Board concerning the matter.

[15] *See also, e.g.:*

(i) Proposed changes to Rule 3.18, *Members and Associated Persons Who Are or Become Subject to a Statutory Disqualification* (which currently indicates in part that the Chairperson of the Membership Committee appoints a panel composed of the Chairperson and two other members of the Membership Committee to conduct a hearing concerning the matter. The hearing panel then presents its recommended decision to the Membership Committee, who may ratify or amend the decision. The decision is then provided to the subject of the proceeding and CBOE's Executive Committee. The Executive Committee may order review of the decision. Under the proposed revisions, the Exchange (through a designee delegated that authority) will appoint a panel composed of three Exchange members to conduct a hearing concerning the matter. The hearing panel then will present its recommended decision to an Exchange designee, who may ratify or amend the decision (currently the Exchange has determined that this designee would be the Membership Committee per a Board delegation; however, the rule change will give the Exchange the flexibility to change the designee in the future). The decision will then be provided to the subject of the proceeding and the Executive Committee, and the Executive Committee can order review of the decision in the same manner as applies under the Rule today);

(ii) Proposed changes to Rule 8.60 (which currently indicates in part that the appropriate Market Performance Committee (or a panel thereof) conducts formal hearings or informal meetings, and actions taken after formal hearings may be reviewed by the Board (or a panel thereof) while actions taken after an informal meeting may be appealed in accordance with Chapter XIX; under the proposed revisions, the Exchange (through a designee delegated that authority) will conduct such hearings and actions taken by the Exchange after a formal hearing may be reviewed by the Board (or a panel thereof) while actions taken by the Exchange after an informal meeting may be appealed in accordance with Chapter XIX); and

(iii) Proposed changes to Rule 24.21, *Index Crowd Space Dispute Resolution Procedures* (which currently indicates in part that the Chairman of the appropriate Procedure Committee shall select a Crowd Space Dispute Resolution Panel composed of seven members of the Exchange, two who are members of the Chairman's Procedure Committee, and two that trade in the trading station where the dispute has arisen and two that do not trade in that station (with preference given to members who serve on another Procedure Committee or Market Performance Committee), and the seventh being the Floor Officials Committee Chairman or another Floor Officials Committee member; under the proposed revisions, a designee will be appointed to perform the function of selecting the panel (referred to as the "Space Mediator") and the panel shall consist of seven members of the Exchange, three who trade in the trading station where the dispute has arisen and three that do not trade in that station and one Floor Official designated by the Exchange.)

It is CBOE's intent that any Exchange designee would be a person or persons that CBOE views as qualified to perform the particular authority granted under the rules noted above.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of section 6 of the Act,[16] in general and section 6(b)(5) of the Act,[17] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. In particular, the Exchange believes that this proposal complies with the Act because the Exchange is amending its rules to eliminate certain committee references to facilitate compliance.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–CBOE–2008–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2008–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2008–02 and should be submitted on or before May 5, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7780 Filed 4–11–08; 8:45 am]

BILLING CODE 8011–01–P

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57632; File No. SR–ISE–2008–29]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing of Proposed Rule Change Relating to the Price Improvement Mechanism

April 8, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 20, 2008, the International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to allow members to enter orders into the Price Improvement Mechanism ("PIM") at a price that matches the national best bid or offer ("NBBO") when the ISE market is inferior to the NBBO. The text of the proposed rule change is available on the ISE's Web site (*http://www.iseoptions.com*), at the principal office of the ISE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Several options exchanges have adopted a fee structure in which firms

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

receive a rebate for the execution of orders resting on the limit order book (*i.e.*, posting liquidity) and pay a fee for the execution of orders that trade against liquidity resting on the limit order book (*i.e.*, taking liquidity). The taker fees currently range up to $0.50 per contract, and this fee is charged without consideration of the client category, thus applying to the execution of public customer orders. In contrast, ISE does not charge a fee for the execution of public customer orders.

The effective price paid by a customer who is purchasing an option can be considerably higher on an exchange that charges a taker fee. For example, a customer that enters a marketable limit order to buy 10 contracts for $0.10 will pay $100 on the ISE, whereas the cost of the same transaction will be $105 if executed on an exchange with a $.50 taker fee. This represents an effective 5% increase for the customer. Because public customer orders cannot be executed at prices that are inferior to the NBBO, members are effectively forced to pay taker fees when an exchange with a taker fee structure is at the NBBO. This is because they either route their public customer orders directly to such exchange or the taker fee is passed through when another exchange accesses the NBBO on behalf of their customer through linkage.

In order to provide broker-dealers with an alternative method of achieving an execution at the NBBO for their customers without having to pay taker fees, the Exchange proposes to expand the applicability of its PIM.[3] The PIM currently allows members to enter two-sided orders for execution at a price that improves upon the NBBO. The customer side of these orders is then exposed to all market participants to give them an opportunity to participate in the trade at the proposed cross price or better. This provides an opportunity for the customer order to receive additional price improvement. The Exchanges proposes to extend the application of the PIM to permit a member to enter an order into the PIM at a price that is equal to the NBBO when the ISE's best bid or offer ("ISE BBO") is inferior to the NBBO. This will allow members to guarantee execution of their customer orders on the ISE at a price that is at least as good as the NBBO, thus providing customers with an opportunity for price improvement over the NBBO while also allowing members to avoid paying taker fees.

[3] *See* Securities Exchange Act Release No. 50819 (December 8, 2004), 69 Fr 75093 (December 15, 2004) (approving rules implmenting the PIM).

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is found in Section 6(b)(5),[4] in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. Allowing members to guarantee their customers an execution at the NBBO on an exchange that does not charge a taker fee will lower the cost of trading and promote a more efficient marketplace for public customer orders. In addition, using the PIM to guarantee the price of the execution on the ISE will give public customer orders an opportunity to receive price improvement over the NBBO.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[4] 15 U.S.C. 78f(b)(5).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–ISE–2008–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–29. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–29 and should be submitted on or before May 5, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7826 Filed 4–11–08; 8:45 am]

BILLING CODE 8011–01–P

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57634; File No. SR–NYSEArca–2008–35]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Amendment No. 1 Thereto and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1, Relating to Equity Index-Linked Securities

April 8, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 26, 2008, NYSE Arca, Inc. ("NYSE Arca" or "Exchange"), through its wholly owned subsidiary, NYSE Arca Equities, Inc. ("NYSE Arca Equities"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been substantially prepared by the Exchange. On April 4, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. This order provides notice of the proposed rule change, as amended, and approves the proposed rule change, as modified, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules governing NYSE Arca, LLC (also referred to as the "NYSE Arca Marketplace"), which is the equities trading facility of NYSE Arca Equities. The Exchange is proposing to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2), the Exchange's continued listing standard for equity index-linked securities ("Equity Index-Linked Securities") to: (i) Clarify equity index rebalancing criteria; and (ii) amend the index rebalancing requirement for equal-dollar or modified equal-dollar weighed indexes. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2), the Exchange's continued listing standard for Equity Index-Linked Securities. Specifically, the Exchange proposes to: (i) Clarify equity index rebalancing criteria; and (ii) amend the semiannual index rebalancing requirement for equal-dollar or modified equal-dollar weighted indexes.

For Equity Index-Linked Securities, the Exchange proposes to remove, in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(i), the requirement that only capitalization weighted, modified capitalization weighted, and price weighted indexes be reviewed as of the first day of January and July in each year. The Exchange does not believe that it is consistent to impose specific semiannual index reviews only to capitalization weighted, modified capitalization weighted, or price weighted indexes.

For Equity Index-Linked Securities, the Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(d), which currently requires that equity indexes based upon the equal-dollar, or modified equal-dollar weighting method be rebalanced at least semiannually. The Exchange does not believe that it is consistent to impose a specific semiannual rebalancing requirement only to equal-dollar or modified equal-dollar weighted indexes. Instead, the Exchange proposes that all indexes be rebalanced at least annually. An index is rebalanced in accordance with its stated methodology, as determined by a third-party index sponsor.

The Exchange notes that a significant number of currently existing equity indexes that utilize the equal-dollar or modified equal-dollar weighting methodology are rebalanced annually rather than semiannually. As the issuer of Equity Index-Linked Securities generally licenses the right to utilize the underlying index from a third-party index sponsor, it is often not within the issuer's control to have the index rebalanced more frequently. As such, it is not currently possible under Rule 5.2(j)(6)(B)(I) to list Equity Index-Linked Securities based on such indexes. However, as these types of indexes are relatively common and detailed information concerning the procedures governing the construction of the underlying index will be available to investors either in the issuer's prospectus or on the index sponsor's Web site, the Exchange believes that it is appropriate to allow investors to make their own decisions as to the sufficiency of rebalancing of an equal-dollar or modified equal-dollar weighted index underlying an issuance of Equity Index-Linked Securities. Amending the generic listing standards for Equity Index-Linked Securities would promote competition and benefit investors, issuers, and third-party index sponsors since it would allow NYSE Arca to list, without the delay associated with a stand-alone rule filing, Equity Index-Linked Securities based on a broader group of indexes. The Exchange notes that its listing standards for Investment Company Units[3] do not impose a semiannual index rebalancing requirement for equal-dollar or modified equal-dollar weighted index.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NYSE Arca Rule 5.2(j)(3) Commentary .01.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2008–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2008–35. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR–NYSEArca–2008–35 and should be submitted on or before May 5, 2008.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[6] and, in particular, the requirements of Section 6 of the Act.[7] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change will provide for consistent criteria for the rebalancing of indexes based on different methodologies. The Commission further believes that the proposal should facilitate the listing and trading of Equity Index-Linked Securities based on indexes with different rebalancing requirements, thus benefiting investors by providing them with a wider selection of derivative products. The Commission notes that the proposed rule change would also conform index requirements for Equity Index-Linked Securities to the requirements[9] applicable to equity-based Investment Company Units.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that the proposed rule change is similar to a proposal related to index rebalancing of Equity Index-Linked Securities[10] that was recently approved by the Commission and does not believe that this proposal raises any novel regulatory issues. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,[11] to approve the proposed rule change on an accelerated basis.

[6] In approving this proposed rule change, the Commission 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.

[8] 15 U.S.C. 78f(b)(5).

[9] *See* NYSE Arca Equities Rule 5.2(j)(3).

[10] *See* Securities Exchange Act Release No. 56838 (November 26, 2007), 72 FR 67774 (November 30, 2007) (SR–NYSEArca–2007–118).

[11] 15 U.S.C. 78s(b)(2).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change, as modified (SR–NYSEArca–2008–35), be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–7827 Filed 4–11–08; 8:45 am]

BILLING CODE 8011–01–P

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 6188]

Notice Convening an Accountability Review Board To Examine the Circumstances of the Death of Mr. John M. Granville and Mr. Abdelrahman Abees in Khartoum, Sudan in January 2008

Pursuant to Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended (22 U.S.C. 4831 *et seq.*), the Secretary of State has determined that a recent attack on an official vehicle in Khartoum, Sudan involved loss of life that was at or related to a U.S. mission abroad. Therefore, the Secretary has convened an Accountability Review Board to examine the facts and the circumstances of the attacks and to report to me such findings and recommendations as it deems appropriate, in keeping with the attached mandate.

The Secretary has appointed Michael W. Marine, a retired U.S. ambassador, as Chair of the Board. He will be assisted by M. Bart Flaherty, Wayne S. Rychak, Lewis R. Atherton, Michael Pastirik and by Executive Secretary to the Board, Hugo Carl Gettinger. They bring to their deliberations distinguished backgrounds in government service and/or in the private sector.

The Board will submit its conclusions and recommendations to Secretary Rice within 60 days of its first meeting, unless the Chair determines a need for additional time. Appropriate action will be taken and reports submitted to Congress on any recommendations made by the Board.

Anyone with information relevant to the Board's examination of these incidents should contact the Board promptly at (202) 647–5204 or send a fax to the Board at (202) 647–3282.

This notice shall be published in the **Federal Register**.

Dated: April 7, 2008.

Patrick F. Kennedy,

Under Secretary for Management, Department of State.

[FR Doc. E8–7887 Filed 4–11–08; 8:45 am]

BILLING CODE 4710–35–P

DEPARTMENT OF STATE

[Public Notice 6186]

Determination and Waiver of Section 617(a) of the Department of State, Foreign Operations, Related Programs Appropriations Act (2008) (Division J, Pub. L. 110–161), Relating to Assistance for the Independent States of the Former Soviet Union

Pursuant to the authority vested in me as Deputy Secretary of State, including by Section 617(a) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008) (Division J, Public Law 110–161) (SFOAA), Executive Order 13118 of March 31, 1999, and State Department Delegation of Authority No. 245 of April 23, 2001, I hereby determine that it is in the national security interest of the United States to make available funds appropriated under the heading "Assistance for the Independent States of the Former Soviet Union" in Title II of the SFOAA, without regard to the restriction in that section.

This determination shall be reported to the Congress promptly and published in the **Federal Register**.

Dated: February 19, 2008.

John D. Negroponte,

Deputy Secretary of State, Department of State.

[FR Doc. E8–7960 Filed 4–11–08; 8:45 am]

BILLING CODE 4710–23–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2007–0108]

National Task Force To Develop Model Contingency Plans To Deal With Lengthy Airline On-Board Ground Delays

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of meeting of advisory committee.

SUMMARY: This notice announces a meeting of the National Task Force to Develop Model Contingency Plans to Deal with Lengthy Airline On-Board Ground Delays.

DATES: The Task Force meeting is scheduled for April 29, 2008, from 8:30 a.m. to 5 p.m., Eastern Time.

ADDRESSES: The Task Force meeting will be held at the U.S. Department of Transportation (U.S. DOT), 1200 New Jersey Avenue, SE., Washington, DC, in the Oklahoma City Conference Room on the lobby level of the West Building.

FOR FURTHER INFORMATION OR TO CONTACT THE DEPARTMENT CONCERNING THE TASK FORCE: Livaughn Chapman, Jr., or Kathleen Blank-Riether, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Ave., SE., W–96–429, Washington, DC 20590–0001; Phone: (202) 366–9342; Fax: (202) 366–7152; E-mail: *Livaughn.Chapman@dot.gov,* or *Kathleen.Blankriether@dot.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2, and the General Services Administration regulations covering management of Federal advisory committees, 41 CFR Part 102–3, this notice announces a meeting of the National Task Force to Develop Model Contingency Plans to Deal with Lengthy Airline On-Board Ground Delays. The Meeting will be held on April 29, 2008, between 8:30 a.m. and 5 p.m. at the U.S. Department of Transportation (U.S. DOT), 1200 New Jersey Avenue, SE., Washington, DC, in the Oklahoma City Conference Room on the lobby level of the West Building.

DOT's Office of Inspector General recommended, in its audit report, entitled "Actions Needed to Minimize Long, On-Board Flight Delays," issued on September 25, 2007, that the Secretary of Transportation establish a national task force of airlines, airports, and the Federal Aviation Administration (FAA) to coordinate and develop contingency plans to deal with lengthy delays, such as working with carriers and airports to share facilities and make gates available in an emergency. To effectuate this recommendation, on January 3, 2008, the Department, consistent with the requirements of the FACA, established the National Task Force to Develop Model Contingency Plans to Deal with Lengthy Airline On-Board Ground Delays. The first meeting of the Task Force took place on February 26, 2008.

The agenda topics for the April 29, 2008, meeting will include the following: (1) A presentation by FAA's Air Traffic Control on its perspective on air traffic holds and ground delays and uncertainties in the system; (2) a presentation on the regional airline perspective of tarmac delays; (3) one or more presentations on recent tarmac delay events and efforts to avoid them; (4) a briefing by the Passenger Needs Working Group, the working group that studied the common needs of significantly delayed passengers on aircraft and passengers who returned to the terminal after disembarking from such aircraft; (5) a briefing by the Delays Causes Working Group, the working group that examined the possible causes of lengthy tarmac delays; and (6) a discussion of whether additional working groups should be established to achieve the objectives of the Task Force and if so, what the purpose of these working groups should be.

Attendance is open to the public, and time will be provided for comments by members of the public. Since access to the U.S. DOT headquarters building is controlled for security purposes, any member of the general public who plans to attend this meeting must notify the Department contact noted above ten (10) calendar days prior to the meeting. Attendance will be necessarily limited by the size of the meeting room.

Members of the public may present written comments at any time and, at the discretion of the Chairman and time permitting, oral comments at the meeting. Any oral comments permitted must be limited to agenda items and will be limited to five (5) minutes per person. Members of the public who wish to present oral comments must notify the Department contact noted above via email that they wish to attend and present oral comments at least ten (10) calendar days prior to the meeting. For this April 29, 2008, meeting, no more than one hour will be set aside for oral comments. Although written material may be filed in the docket at any time, comments regarding upcoming meeting topics should be sent to the Task Force docket (10) calendar days prior to the meeting. Members of the public may also contact the Department contact noted above to be placed on the Task Force mailing list.

Persons with a disability requiring special accommodations, such as an interpreter for the hearing impaired, should contact the Department contact noted above at least seven (7) calendar days prior to the meeting.

Notice of this meeting is provided in accordance with the FACA and the General Service Administration regulations covering management of Federal advisory committees.

Issued on: April 7, 2008.

Samuel Podberesky,

Assistant General Counsel for Aviation Enforcement & Proceedings, U.S. Department of Transportation.

[FR Doc. E8–7620 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

AGENCY: Office of the Secretary, DOT.

ACTION: Notice to establish a system of records.

SUMMARY: DOT intends to establish a system of records under the Privacy Act of 1974.

DATES: Effective Date: May 27, 2008. If no comments are received, the proposal will become effective on the above date. If comments are received, the comments will be considered and, where adopted, the documents will be republished with changes.

ADDRESSES: Send comments to: Habib Azarsina, Departmental Privacy Officer, S–80, United States Department of Transportation, Office of the Secretary of Transportation, 1200 New Jersey Ave, SE., Washington, DC 20590, or *habib.azarsina@dot.gov*

FOR FURTHER INFORMATION CONTACT: Habib Azarsina, Departmental Privacy Officer, S–80, United States Department of Transportation, Office of the Secretary of Transportation, 1200 New Jersey Ave, SE., Washington, DC 20590, telephone 202–366–1965 or *habib.azarsina@dot.gov*

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

SYSTEM NUMBER:

DOT/ALL 18.

SYSTEM NAME:

International Freight Data System (IFDS).

SECURITY CLASSIFICATION:

Unclassified, sensitive

SYSTEM LOCATION:

Server: The server hosting the records will be housed at Integrated Communication Systems Inc., which is located at 5260 West View Drive, Frederick, Maryland 21703. Portal Location: This system of records will be accessed via a portal located at the Research and Innovative Technology Administration of the U.S. Department of Transportation, Room #E36–120, 1200 New Jersey Avenue, SE., Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

This system contains information on members of the public who:

- Engage in international commerce and hold licenses, registrations and/or other certifications that Federal statutes authorize the Department of Transportation to monitor and/or regulate,
- Own, ship or transport international shipments of hazardous materials—whether by import, export or in-transit,
- Import automobiles or automobile parts made outside of the U.S.,
- Serve as crew on international commercial maritime vessels, or
- Ship Government Impelled Cargoes on international maritime vessels. Government Impelled Cargoes are cargo for which a Federal agency contracts directly for shipping by water or for which a Federal agency provides financing, including financing by grant, loan or loan guarantee, resulting in shipment of the cargo by water.

CATEGORIES OF RECORDS IN THE SYSTEM:

In addition to transaction-level shipment and conveyance information on international freight flows into, from or transiting the U.S., the categories of records in IFDS include: Corporate and individual names and addresses (home addresses and telephone numbers are collected for those shippers and consignees who operate from home), their contact information (including telephone numbers, fax numbers and e-mail addresses) and titles; commercial drivers' license numbers and issuers; electronic signatures and signers' name, title, related information and date of signature; travel document numbers and issuing countries; nationalities of commercial parties such as conveyance owners and/or operators; and commercial operators' and/or crew members' dates of birth. Social security numbers are not collected in IFDS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

49 U.S.C. 112 (section 7301, P.L. 109–59); 19 U.S.C. 1411(d) (section 405, P.L. 109–347)

PURPOSES:

The U.S. Department of Transportation (DOT) has a variety of international missions that are carried out by its Operating Administrations (OAs) and have a direct impact on the movement of international freight. The International Freight Data System (IFDS) is an automated system that will provide participating DOT Operating Administrations (OAs) with international commercial information to perform their enforcement, statistical, analytical, modeling and policy responsibilities. The IFDS will interface with the U.S. Customs and Border Protection's (CBP) Automated Commercial Environment (ACE) program as well as the government-wide International Trade Data System. This will be a joint project of the following DOT OAs: Research and Innovative Technology Administration (RITA) (IFDS system manager): the National Highway Traffic Safety Administration (NHTSA); the Maritime Administration (MARAD); the Federal Aviation Administration (FAA); the Pipeline and Hazardous Materials Safety Administration (PHMSA); the Federal Motor Carrier Safety Administration (FMCSA); and the Federal Highway Administration (FHWA). Access to the IFDS will be limited to the statutory authority of each DOT OA to view and use the information. The IFDS is scheduled to deploy in 2008 and 2009.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records maintained in the IFDS will be used as follows:

(1) *RITA:* perform statistical, analytical, modeling and policy activities;

(2) *FAA:* provide support for oversight of international hazardous materials shipments by air as well as statistical, analytical, and policy activities;

(3) *FHWA:* perform statistical, analytical, modeling, and policy activities;

(4) *FMCSA:* provide enforcement support for commercial truck and bus safety and related requirements as well as statistical, analytical, modeling, and policy activities;

(5) *MARAD:* provide enforcement of crewing and Government-Impelled Cargoes requirements as well as statistical, analytical, and policy activities;

(6) *NHTSA:* provide enforcement of auto safety for non-U.S. vehicles and parts as well as statistical, analytical, and policy activities; and

(7) *PHMSA:* provide enforcement support for international hazardous materials shipments oversight as well as statistical, analytical and policy activities.

(8) See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored in the International Freight Data System Database located at the System Manager site as well as at each participating DOT OA site. Any IFDS paper records will be stored at the Research and Innovative Technology Administration, Room E36–120, U.S. DOT Headquarters Building. There is one database (IFDS), which contains international freight data for use by DOT and maintained by RITA. The IFDS obtains its data for the Department of Transportation via an interface with the Department of Homeland Security, U.S. Customs and Border Protection, International Trade Data System.

RETRIEVABILITY:

Records are retrievable by an individual's name and the categories listed in "Categories of records in the system."

SAFEGUARDS:

Access to the system is limited to authorized users of IFDS and the system administrator managing user IDs and passwords. Physical access to the system and manual records is restricted through security guards and access badges required to enter the facility where IFDS equipment and records are located. The manual records storage location, Room E36–120, is locked when not in use.

RETENTION AND DISPOSAL:

Records maintained in the IFDS cover the most recent two to three year period depending upon the participating OA's particular needs and authorities. Historical data will be archived and maintained in a secure manner in accordance with federal regulations governing electronic data records retention and disposal in accordance with the National Archives and Records Administration's record retention schedule. Standard Form 115 will be used to gain authority for the disposition of the records.

SYSTEM MANAGER(S) AND ADDRESS:

FDS Program Manager, Bureau of Transportation Statistics, Research & Innovative Technology Administration, Department of Transportation, Room #E32–342, 1200 New Jersey Avenue, SE., Washington, DC 20590.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether their information is contained in this system should address written inquiries to IFDS Program Manager, Bureau of Transportation Statistics, Research & Innovative Technology Administration, Department of Transportation, Room #E32–342, 1200 New Jersey Avenue, SE., Washington, DC 20590. Requests should include name, address and telephone number and describe the records you seek.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "System Manager."

RECORD SOURCE CATEGORIES:

Information on individuals is provided to IFDS by the Department of Homeland Security through Customs and Border Protection's Automated Commercial Environment (ACE) and the ITDS. International traders and carriers or their agents provide this information to ACE in order to facilitate Federal pre-clearance of international cargoes, including their compliance with all Federal regulations governing import into, export from or transiting of the United States and its territories.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Habib Azarsina,

Departmental Privacy Officer, DOT/OST/S–83.

[FR Doc. E8–7880 Filed 4–11–08; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 4, 2008.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 after the date of publication of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 14, 2008 to be assured of consideration.

Office of Domestic Finance

OMB Number: 1505–0123.

Type of Review: Extension.

Title: Survey of Foreign-Residents' Holdings of U.S. Securities.

Description: The survey collects information on foreign residents' holdings of U.S. securities, including selected money market instruments. The data is used in the computation of the U.S. balance of payments accounts and U.S. international investment position, in the formulation of U.S. financial and monetary policies, to satisfy 22 U.S.C. 3101, and for information on foreign portfolio investment patterns. Respondents are primarily the largest banks, securities dealers, and issuers of U.S. securities.

Respondents: Businesses or other for-profit institutions.

Estimated Total Reporting Burden: 31,500 hours.

Clearance Officer: Office of Domestic Finance, (202) 622–1276, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Rm. 5205, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. E8–7832 Filed 4–11–08; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of American Eagle 10th Anniversary Platinum Coin Set Price Increase

Summary: The United States Mint is adjusting the price for its American Eagle 10th Anniversary Platinum Coin Set.

Pursuant to the authority that 31 U.S.C. 5111(a) and 5112(k) grant the Secretary of the Treasury to mint and issue platinum coins, and to prepare and distribute numismatic items, the United States Mint minted last year and continues to issue 2007 American Eagle Platinum Proof Coins. In accordance with 31 U.S.C. 9701(b)(2)(B), the United States Mint is changing the price of this coin set to reflect the increase in value of the underlying precious metal content of the coins—the result of

increases in the market price of platinum.

Accordingly, the United States Mint will commence selling the 2007 American Eagle 10th Anniversary Platinum Coin Set according to the following price schedule:

Description	Price
American Eagle 10th Anniversary Platinum Coin Set	$2,649.95

For Further Information Contact: Gloria C. Eskridge, Associate Director for Sales and Marketing; United States Mint; 801 Ninth Street, NW.; Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: April 9, 2008.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. E8–7900 Filed 4–11–08; 8:45 am]

BILLING CODE 4810–02–P

Corrections

Federal Register
Vol. 73, No. 72
Monday, April 14, 2008

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP08–59–000]

Columbia Gas Transmission Corporation; Notice of Request for Permission to Withdraw Tariff Filing

Correction

In notice document E8–5252 beginning on page 14242 in the issue of Monday, March 17, 2008, make the following correction:

On page 14242, in the third column, the docket number should read as set forth above.

[FR Doc. Z8–5252 Filed 4–11–08; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International—Standards

Correction

In notice document E8–6996 appearing on page 18812 in the issue of Monday, April 7, 2008, make the following correction:

On page 18812, in the second column, in the first paragraph, in the seventh line, "("ASTN")" should read "("ASTM")".

[FR Doc. Z8–6996 Filed 4–11–08; 8:45 am]
BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Development and Evaluation of a Gas Chromatograph Testing Protocol

Correction

In notice document E8–7007 appearing on page 18813 in the issue of Monday, April 7, 2008, make the following correction:

On page 18813, in the first column, in the second paragraph, in the third line, "ABE Inc." should read "ABB Inc.".

[FR Doc. Z8–7007 Filed 4–11–08; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Monday,
April 14, 2008

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 648

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 11; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 071130780–8013–02]

RIN 0648–AU32

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 11

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

ACTION: Final rule.

SUMMARY: NMFS is implementing approved measures contained in Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (FMP), developed by the New England Fishery Management Council (Council). Amendment 11 was developed by the Council to control the capacity of the open access general category fleet. Amendment 11 establishes a new management program for the general category scallop fishery, including a limited access program with individual fishing quotas (IFQs) for qualified general category vessels, a specific allocation for general category fisheries, and other measures to improve management of the general category scallop fishery.

DATES: Effective June 1, 2008.

ADDRESSES: A final supplemental environmental impact statement (FSEIS) was prepared for Amendment 11 that describes the action and other considered alternatives and provides a thorough analysis of the impacts of the approved measures and alternatives. Copies of Amendment 11 and the FSEIS are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council (Council), 50 Water Street, Newburyport, MA 01950. These documents are also available online at: *http://www.nero.noaa.gov/nero/hotnews/scallamend11/*.

Written comments regarding the burden-hour estimate or other aspects of the collection-of-information requirement contained in this final rule should be submitted to the Regional Administrator at 1 Blackburn Drive, Gloucester, MA 01930, and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Policy Analyst, phone 978–281–9288, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

Prior to the implementation of Amendment 11, the general category scallop fishery was an open access fishery allowing any vessel to fish for up to 400 lb (181.4 kg) of Atlantic sea scallops (scallops), provided the vessel has been issued a general category or limited access scallop permit. This open access fishery was established in 1994 by Amendment 4 to the FMP (Amendment 4) to allow vessels fishing in non-scallop fisheries to catch scallops as incidental catch, and to allow a small-scale scallop fishery to continue outside of the limited access and effort control programs that applied to the large-scale scallop fishery. Over time, participation in the general category fishery has increased. In 1994, there were 1,992 general category permits issued. By 2005 that number had increased to 2,950. In 1994, 181 general category vessels landed scallops, while in 2005 more than 600 did.

Out of concern about the level of fishing effort and harvest from the general category scallop fleet, the Council recommended that a **Federal Register** notice be published to notify the public that the Council was considering limiting entry to the general category scallop fishery as of a specified control date. NMFS subsequently established the control date of November 1, 2004 (69 FR 63341). In January 2006, the Council began the development of Amendment 11 to evaluate alternatives for a limited access program and other measures for general category vessels. The Council held 35 public meetings on Amendment 11 between January 2006 and June 2007. After considering a wide range of issues, alternatives, and public input, the Council adopted a draft supplemental environmental impact statement (DSEIS) for Amendment 11 on April 11, 2007. Amendment 11 was adopted by the Council on June 20, 2007. The Notice of Availability (NOA) for Amendment 11 was published on November 30, 2007, (72 FR 67691) with a comment period ending on January 29, 2008. A proposed rule for Amendment 11 was published on December 17, 2007 (72 FR 71315), with a comment period ending on January 31, 2008. On February 27, 2008, NMFS approved Amendment 11 on behalf of the Secretary of Commerce.

Amendment 11 establishes criteria and authority for determining the percentage of scallop catch allocated to the general category fleet, and establishes the IFQ program. However, these specific allocation amounts have been developed by the Council as part of Framework 19 to the FMP (Framework 19), which will establish scallop fishery management measures for the 2008 and 2009 fishing years.

Approved Measures

In a comment letter on the proposed rule, the Council suggested interpretations of the Council's intent regarding some of the measures and regulations. NMFS has accepted some of the Council's interpretations and clarifications which are reflected in the descriptions of the management measures and in the regulatory text in this final rule. Responses to comments identify whether NMFS agreed or disagreed with the Council's recommendations. Changes in the descriptions of the management measures from the proposed rule's descriptions are noted below. Changes in the regulatory text from the proposed rule are noted under "Changes from Proposed Rule to Final Rule" in the preamble of this final rule.

The FSEIS for Amendment 11 included a description of each of the measures approved by the Council, but the description of the measures lack the regulatory detail necessary to ensure effective implementation and administration of the approved management measures. Under its authority granted by section 305(d) of the Magnuson-Stevens Act (16 U.S.C. § 1855(d)), NMFS added regulatory provisions in the proposed rule and in this final rule to ensure that the regulations are sufficiently detailed to ensure effective implementation, administration, and enforcement of the approved measures. While most of the measures described below required such additional regulatory detail, the most prominent regulatory additions appear in the limited access permit program, IFQ transfers, transition to IFQ, and Sector provisions.

Limited Access Program for the General Category Fishery

Amendment 11 requires vessels to be issued a limited access general category (LAGC) scallop permit in order to land scallops under general category rules. All general category permits are limited access, requiring that a vessel owner submit an application demonstrating that the vessel is eligible for the permit. The current general category permits (1A-non VMS, and 1B-VMS permits) are replaced with three types of LAGC scallop permits: IFQ LAGC scallop permit (IFQ scallop permit); Northern Gulf of Maine (NGOM) LAGC scallop permit (NGOM scallop permit); and

incidental catch LAGC scallop permit (Incidental scallop permit).

A vessel is eligible to be issued an IFQ scallop permit if NMFS records verify that the vessel landed at least 1,000 lb (454 kg) of scallop meats in any fishing year between March 1, 2000, and November 1, 2004, and a general category scallop permit had been issued to the vessel during the fishing year in which the landings were made.

The owner of a vessel who cannot qualify for an IFQ scallop permit can instead choose to apply for and be issued an NGOM or Incidental scallop permit. These permits have the same qualification requirement but have different restrictions. A vessel owner might choose the NGOM scallop permit if he or she wanted to land up to 200 lb (90.7 kg) per trip and fish exclusively within the most Northern portion of the scallop resource. A vessel owner might choose the Incidental scallop permit if he or she wants to retain up to 40 lb (18.1 kg) of scallops per trip while fishing for other species.

A vessel qualifies for the NGOM or Incidental scallop permit if it was issued a valid general category scallop permit as of November 1, 2004. There are no landings eligibility criteria. The NGOM scallop permit allows the vessel to fish in the NGOM exclusively, defined as the waters north of 42°20′ N. lat. and within the Gulf of Maine Scallop Dredge Exemption Area as defined in § 648.80(a)(11), and are subject to additional restrictions outlined in the description of the NGOM Scallop Management Area below. The Incidental scallop permit allows a vessel to possess and land up to 40 lb (18.1 kg) of scallops per trip in all areas and is intended to allow landing of incidental scallop catch. The Council also indicated in its description of this measure that some vessels that qualify for an IFQ scallop permit may opt for the Incidental scallop permit because it allows vessels to land an incidental catch of scallops on an unlimited number of trips. In response to the proposed rule, the Council commented that a vessel that qualifies for an IFQ permit, but for which the owner elects to be issued an NGOM or Incidental scallop permit, automatically qualifies for an NGOM scallop permit. This clarification was necessary because a vessel that qualifies for an IFQ scallop permit would not necessarily meet the requirement that it held a general category scallop permit as of November 1, 2004 (*i.e.*, it could have been issued a general category only in 1 year prior to the 2004 fishing year). However, the Council intended that the NGOM and Incidental Catch scallop permits have more liberal qualification requirements, allowing a qualified IFQ scallop vessel to choose the other permit category.

Initial Application for a LAGC Scallop Permit

A vessel owner is required to submit an initial application for a LAGC scallop permit or confirmation of permit history (CPH) within 90 days of the effective date of the final regulations. The Council recommended the shorter than usual application period to expedite the transition to the IFQ program. The IFQ program cannot be implemented until all IFQ permits are issued because the number of vessels and the contribution factors for all qualified IFQ scallop vessels will be used to determine each vessel's IFQ share of the TAC allocated to IFQ scallop vessels (see "IFQs for Limited Access General Category Scallop Vessels" below).

Limited Access Vessel Permit Provisions

Amendment 11 establishes measures to govern future transactions related to limited access vessels, such as purchases, sales, or reconstruction. These measures apply to all LAGC scallop vessels. The Council clarified that this was the Council's intent. Except as noted, the provisions in Amendment 11 are consistent with those that govern most of the other Northeast region limited access fisheries; there are some differences in the limited access program for American lobster.

1. Initial Eligibility

Initial eligibility for an LAGC scallop permit must be established during the first year after the implementation of Amendment 11. A vessel owner is required to submit an application for an LAGC scallop permit or CPH no later than 90 days from effective date of this final rule.

2. Landings History

Amendment 11 specifies landings and permit history criteria that a vessel must meet to qualify for LAGC permits. It also specifies that an IFQ scallop vessel will be allocated IFQ based on its best year of scallop landings and the number of fishing years it was active during the qualification period of March 1, 2000, through November 1, 2004. Amendment 11 specifies that qualifying landings must be from the same scallop fishing year (March 1 through February 28/29, or through November 1, 2004, for the 2004 fishing year) that a vessel was issued a general category scallop permit during the qualification period. Therefore, this final rule requires that, for any landings to be used in determining eligibility, best year of fishing, years active, and the resulting contribution factor, the vessel must have been issued a general category scallop permit in the fishing year the landings were made.

The best year of scallop landings is the scallop fishing year during the qualification period with the highest amount of scallop meats landed, provided the vessel was issued a general category scallop permit. Years active is the number of scallop fishing years during the qualification period (through November 1, 2004) that the vessel landed at least 1 lb (0.45 kg) of scallops, provided the vessel was issued a general category scallop permit. In-shell scallop landings reported in pounds of scallops are converted to meat-weight using the formula of 8.33 lb (3.78 kg) of scallop meats for each pound of in-shell scallops, for qualification purposes. In-shell scallop landings reported in bushels of scallops are converted to meat-weight using the formula of 8 lb (3.63 kg) of scallop meats per bushel of in-shell scallops.

NMFS landings data from dealer reports will be used to determine a vessel's eligibility for an IFQ scallop permit, a qualified IFQ scallop vessel's best year of scallop landings, and years active in the general category scallop fishery. The NMFS permit database shall be used to determine permit criteria eligibility for all LAGC scallop permits. Applicants are allowed to appeal the denial of an LAGC permit, or contribution factor (based on best year and years active), through the eligibility appeals process described below.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) restricts the release of confidential fishery information to anyone other than the owner of the vessel at the time the data were compiled. Due to this restriction, for qualifying vessel IFQ information, for vessels that are currently owned by someone other than the owner of the vessel that made the landings, NMFS may be restricted in the release of the contribution factor if the release of such information is inconsistent with the MSA. NMFS understands that this may add complexity to the qualification and appeals process, but will work with vessel owners to ensure fairness in the appeals process.

3. Confirmation of Permit History

A person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, or been destroyed, or transferred to another person, is required to apply for and receive a CPH if the fishing and permit

history of such vessel has been retained lawfully by the applicant and the applicant wishes to maintain eligibility for an LAGC scallop permit. An application for a CPH to establish the initial LAGC qualification of a vessel must be made within 90 days of the effective date of the final regulations for Amendment 11. The CPH provides a benefit to a vessel owner by securing limited access eligibility through a registration system when the individual does not currently own a vessel. To be eligible to obtain a CPH, the applicant must show that the qualifying vessel meets the eligibility requirements for the applicable LAGC permit, and that all other permit restrictions described below are satisfied. Issuance of a valid CPH preserves the eligibility of the applicant to apply for an LAGC permit for a replacement vessel based on the qualifying LAGC scallop vessel's fishing and permit history at a subsequent time. A CPH must be applied for in order for the applicant to preserve the LAGC scallop permit eligibility of the qualifying vessel. IFQ would be issued for IFQ scallop vessels in CPH, and IFQ associated with a CPH can be transferred. IFQ associated with a CPH counts toward a vessel owner's overall ownership of IFQ, and is restricted under the 5-percent ownership cap.

4. Permit Transfers

An LAGC scallop permit and fishery history is presumed to transfer with a vessel at the time it is bought, sold, or otherwise transferred from one owner to another, unless it is retained through a written agreement signed by both parties in the vessel sale or transfer.

5. Permit Splitting

Amendment 11 includes the permit-splitting provision currently in effect for other limited access fisheries in the Northeast region for transactions occurring after the initial qualification and permit issuance period. Therefore, after the initial issuance of an LAGC scallop permit, it cannot be issued to a vessel if the vessel's permit or fishing history has been used to qualify another vessel for a limited access permit. This means all limited access permits, including LAGC scallop permits, must be transferred as a package when a vessel is replaced or sold. However, Amendment 11 explicitly states that the permit-splitting provision does not apply to the transfer/sale of general category scallop fishing history prior to the implementation of Amendment 11, if any limited access permits were issued to the subject vessel, with the exception of limited access vessels that qualify for an LAGC scallop permit. Thus, vessel owners who sold vessels with limited access permits and retained the general category scallop fishing history with the intention of qualifying a different vessel for the LAGC scallop permit are allowed to do so under Amendment 11. A vessel with an existing limited access scallop permit (*i.e.*, full-time, part-time, or occasional) that also qualifies for an LAGC scallop permit cannot split the LAGC scallop permit or fishing history from the limited access scallop permit.

6. Qualification Restriction

Except as provided under the permit splitting provision above, consistent with previous limited access programs, no more than one vessel can qualify, at any one time, for a limited access permit or CPH based on that or another vessel's fishing and permit history, unless more than one owner has independently established fishing and permit history on the vessel during the qualification period and has either retained the fishing and permit history, as specified above, or owns the vessel at the time of initial application under Amendment 11. If more than one vessel owner claimed eligibility for a limited access permit or CPH, based on a vessel's single fishing and permit history, the NMFS Northeast Regional Administrator (Regional Administrator) will determine who is entitled to qualify for the permit or CPH.

7. Appeal of Permit Denial

Amendment 11 specifies an appeals process for applicants who have been denied an LAGC scallop permit. Such applicants may appeal in writing to the Regional Administrator within 30 days of the denial, and any such appeal must be based on the grounds that the information used by the Regional Administrator was incorrect.

The appeals process allows an opportunity for a hearing before a hearing officer designated by the Regional Administrator. The owner of a vessel denied an LAGC scallop permit can fish for scallops under the applicable general category scallop regulations, provided that the denial has been appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish under the LAGC scallop permit category. The Regional Administrator shall issue such a letter for the pendency of any appeal, if requested. If the appeal is ultimately denied, the Regional Administrator shall send a notice of final denial to the vessel owner; and the authorizing letter would become invalid 5 days after receipt of the notice of denial, but no longer than 10 days after the date that the denial letter is sent.

8. Vessel Upgrades

A vessel issued an LAGC scallop permit is not limited by vessel size upgrade restrictions if the owner wished to modify or replace the vessel. However, if that vessel has also been issued limited access permits under § 648.4 that have upgrade restrictions (*i.e.*, all other limited access permits issued in accordance with § 648.4), the upgrade restrictions for that fishery shall apply to any modification or replacement, unless the permit with the restrictions were permanently relinquished as specified under "voluntary relinquishment of eligibility," below.

9. Vessel Baselines

A vessel's baseline refers to those specifications (length overall, gross registered tonnage, net tonnage, and horsepower) from which any future vessel size change is measured. Because there are no vessel size upgrade restrictions, a vessel issued an LAGC scallop permit does not have baseline size and horsepower specifications. However, if that vessel has also been issued limited access permits under § 648.4 that have upgrade restrictions, any size change shall be restricted by those baseline specification requirements, unless those permits were permanently relinquished as specified in "voluntary relinquishment of eligibility" below.

10. Vessel Replacements

The term vessel replacement (vessel replacement), in general, refers to replacing an existing limited access vessel with another vessel. This final rule requires that the same entity must own both the LAGC scallop vessel (or fishing history) that is being replaced, and the replacement vessel. Unlimited upgrades of vessel size and horsepower through a vessel replacement is allowed, unless the vessel to be replaced is restricted on upgrades because it has been issued other limited access permits pursuant to § 648.4.

11. Ownership Cap

A vessel issued an IFQ scallop permit may not be allocated more than 2 percent of the TAC allocated to the fleet of vessels issued IFQ scallop permits. In addition, an individual may not have ownership interest in more than 5 percent of the TAC allocated to the fleet of vessels issued IFQ scallop permits. The only exceptions to these ownership cap provisions are if a vessel's initial contribution factor results in the

ownership of more than 2 percent of the overall TAC initially upon initial application for the IFQ scallop permit, or if the vessel owner owns more than 5 percent of the overall TAC initially upon initial application for the IFQ scallop permits. This restriction does not apply to existing limited access scallop vessels that also have been issued an IFQ scallop permit, since such vessels are already subject to the 5-percent ownership cap for limited access permits and because such vessels would not be permitted to transfer IFQ between vessels.

12. Voluntary Relinquishment of Eligibility

A vessel owner can voluntarily exit the LAGC fishery by permanently relinquishing the permit. In some circumstances, doing so would allow vessel owners to choose between different permits, with different restrictions, without being bound by the more restrictive requirement (e.g., lobster permit holders may choose to relinquish their other Northeast region limited access permits to avoid being subject to the reporting requirements associated with those other permits). If a vessel's LAGC scallop permit or CPH is voluntarily relinquished to the Regional Administrator, no LAGC scallop permit can ever be reissued or renewed based on that vessel's permit and fishing history.

13. Permit Renewals and CPH Issuance

A vessel owner must maintain the limited access permit status for an eligible vessel by renewing the permits on an annual basis or applying for issuance of a CPH. All LAGC scallop permits must be issued on an annual basis by the last day of the fishing year for which the permit is required, unless a CPH has been issued. However, as a condition of the permit, the vessel may not fish for, catch, possess, or land, in or from Federal or state waters, any species of fish authorized by the permit, unless and until the permit has been issued or renewed in any fishing year, or the permit either has been voluntarily relinquished or otherwise forfeited, revoked, or transferred from the vessel. A complete application for such permits must be received no later than 30 days before the last day of each fishing year. A CPH does not need to be renewed annually. Once a CPH has been issued to an individual who has retained the LAGC scallop permit and fishing history of a vessel, it remains valid until it is replaced by a vessel permit through the vessel replacement process.

A vessel's LAGC scallop permit history shall be cancelled due to the failure to renew, in which case no LAGC scallop permit can ever be reissued or renewed based on that vessel's permit and fishing history.

Amendment 11 establishes an IFQ cost recovery program, with the payment procedures and details to be established in Framework 19. Under the IFQ program, up to 3 percent of the ex-vessel value of IFQ scallop landings will be collected by NMFS to offset the cost of managing, enforcing, and implementing the IFQ program, as required by the Magnuson-Stevens Act. NMFS will not renew an IFQ scallop permit for a subsequent fishing year for a vessel for which the owner failed to pay cost recovery fees by the specified due date. If a vessel owner fails to pay his or her cost recovery fee by the end of the fishing year for which the IFQ scallop permit has not been renewed due to failure to pay the cost recovery fee, no IFQ scallop permit could ever be reissued or renewed based on that vessel's permit and fishing history. The Council has proposed detailed cost recovery provisions as part of Framework 19 to the FMP.

Limited Access Scallop Vessels Fishing Under General Category Rules

A vessel issued one of the existing limited access scallop permits (*i.e.*, a full-time, part-time, or occasional scallop permit) may also be eligible to be issued a LAGC scallop permit if it meets the qualification criteria described above. Such a vessel is allowed to fish under general category regulations when not fishing under the scallop DAS or Area Access programs. Existing limited access scallop vessels were not required to be issued a general category scallop permit. Therefore, to be issued an Incidental or NGOM scallop permit, the limited access vessel must have been issued a valid limited access scallop permit as of November 1, 2004. To be issued the IFQ scallop permit, an existing limited access scallop vessel must have been issued a valid limited access scallop permit during the period March 1, 2000, through November 1, 2004, and must meet the landings criteria specified in "Limited Access Program for the General Category Fishery" and "Landings History" above. LAGC scallop permit eligibility established while the vessel was also a limited access scallop vessel cannot be split from the limited access vessel. Limited access scallop vessels that also qualify for an IFQ scallop permit cannot transfer IFQ. Therefore, neither the general category maximum allocation restriction nor the maximum percentage ownership restriction for general category TAC apply. The limited access general category permit and IFQ scallop permit cannot be split from the limited access scallop permit. A limited access scallop vessel that does not qualify for a LAGC scallop permit cannot fish for, possess, or retain scallops when not fishing under the scallop DAS and Area Access programs.

Allocation of the Total Annual Projected Scallop Catch to the General Category Fishery Under the IFQ Program

Once the IFQ program is implemented, 5 percent of the total projected annual scallop catch will be allocated to vessels with IFQ scallop permits. This will be calculated by deducting estimated catch by Incidental scallop vessels from the total projected annual scallop catch. Five percent of the resultant catch will then be allocated to the IFQ scallop fishery. IFQs for IFQ scallop vessels will be derived from the 5-percent TAC allocation. The 5-percent allocation will not apply to current limited access vessels that also have IFQ scallop permits. Limited access scallop vessels with IFQ scallop permits will be allocated 0.5 percent of the total projected annual scallop catch after deduction of incidental catch. IFQs for these vessels will be derived from the 0.5-percent TAC allocation. The remaining 94.5 percent of the total projected annual scallop catch, after deduction of incidental catch, shall be allocated for harvest by the current limited access scallop fishery. Based on a comment from the Council, NMFS has clarified that the NGOM TAC will not be deducted from the overall TACs, as was incorrectly described in the proposed rule preamble.

IFQs for Limited Access General Category Scallop Vessels

A vessel issued an IFQ scallop permit will be allocated a percentage of the TAC allocated to the IFQ scallop fishery based on the vessel's "contribution factor." The contribution factor for each vessel will be determined by multiplying a vessel's best fishing year of landings during the March 1, 2000, through November 1, 2004, qualification period by an index factor based on the number of years the vessel was active in the scallop fishery during the qualification period. A vessel will be determined to have been active in the scallop fishery if it landed at least 1 lb (0.45 kg) of scallops. Landings to determine the best year and years active must have been from November 1, 2004, or earlier during the March 1, 2000, through November 1, 2004, qualification period. The index factors for varying levels of participation during the

qualification period are: 0.75 for 1 year; 0.875 for 2 years; 1.0 for 3 years; 1.125 for 4 years; and 1.25 for 5 years. The index factor is intended to provide more weight in calculating the allocation for vessels that participated in the general category fishery for a longer period of time. A vessel's contribution percentage will be determined by dividing its contribution factor by the sum of the contribution factors of all vessels issued a limited access general category scallop permit. A vessel's IFQ shall be determined by multiplying the TAC for IFQ scallop vessels by the vessel's contribution percentage. The IFQs will be rounded up to the nearest 10 lb (4.5 kg). IFQ will be issued to owners of CPHs, since that vessel's contribution would be included in the determination of IFQs as described below. IFQ associated with a CPH is transferable.

The following is an example of how a vessel's IFQ will be determined, using hypothetical values: A vessel landed 48,550 lb (22,023 kg) of scallops in its best year, and was active in the general category scallop fishery for 5 years. The vessel's contribution factor would be equal to 60,687 lb (27,527 kg) (48,550 lb (22,023 kg) × 1.25 = 60,687 lb (27,527 kg)). In this example, the highest total scallop landings is assumed to be 3.8 million lb (1,724 mt), and the number of qualifying vessels is assumed to be 380. The sum of the contribution factors for limited access general category scallop vessels is assumed to be 4.18 million lb (1,896 mt). The contribution percentage of the above vessel would therefore be 1.45 percent (60,687 lb (27,527 kg) / 4.18 million lb (1,896 mt) = 1.45 percent). The vessel's IFQ would be the vessel's contribution percentage (1.45 percent) multiplied by the TAC allocated to all IFQ scallop vessels. Assuming a TAC equal to 2.5 million lb (1,134 mt), the vessel's IFQ would be 36,250 lb (16,443 kg) (1.45 percent × 2.5 million lb (1,134 mt) = 36,250 lb (16,443 kg)).

The IFQ program cannot be implemented until all IFQ scallop permits and CPHs have been issued because the calculation of the IFQ shares requires the contribution factors for all qualified IFQ scallop vessels to be totaled. However, eligibility, best year, and the contribution factor for each vessel will be determined upon initial application for a limited access general category scallop permit. This issue is discussed under the "Measures for the Transition Period to IFQ" description below.

IFQ Transfers

IFQ scallop vessel and CPH owners can transfer IFQ on a temporary or permanent basis. A temporary IFQ transfer (or lease) allows one IFQ scallop vessel to combine IFQs to increase fishing opportunity for a single fishing year. A permanent IFQ transfer permanently moves the IFQ from one vessel to another. Since a permanent IFQ transfer requires the vessel to transfer the IFQ scallop permit (and any other permits) to the transferee, the transferring vessel is not eligible to enter into an agreement to transfer IFQ back to the vessel, unless the vessel replaced another IFQ scallop vessel. Each IFQ allocation must be transferred in full before it is utilized, and a vessel that uses IFQ in a fishing year cannot transfer its IFQ during that fishing year. An IFQ can be transferred only once in a fishing year. An IFQ transfer will not be approved if it would result in the receiving IFQ scallop vessel having a share of more than 2 percent of the total TAC allocation to the IFQ fishery. IFQ transfers will not be permitted for existing limited access scallop vessels that also have been issued an IFQ scallop permit.

IFQ Cost Recovery

The Magnuson-Stevens Act requires any Limited Access Privilege Program which includes IFQ programs to include a cost recovery program, whereby NMFS would collect up to 3 percent of ex-vessel value of landed product to cover actual costs directly related to management, data collection, and enforcement of an IFQ program. The authority and procedures for collection of cost recovery fees are established in this rule. Further details of the cost recovery program have been proposed in Framework 19, in which TACs would be established for LAGC scallop vessels. The proposed rule for Amendment 11 specified that the cost recovery fee for an IFQ that was temporarily transferred to another IFQ scallop vessel would be the responsibility of the owner of the transferring IFQ scallop vessel, not the owner of the receiving IFQ scallop vessel. However, in developing the actual IFQ cost recovery provisions in Framework 19, NMFS has determined that both vessel owners involved in IFQ transfers may be held responsible for non-payment of cost recovery fees. Therefore, this final rule clarifies that the transferor and transferee would be held jointly and severally responsible for non-payment of the cost recovery fee.

Measures for the Transition Period to IFQ

Amendment 11 recognizes that it will take 12 to 24 months, or longer, to determine the universe of qualified vessels that would be issued an IFQ scallop permit. The time is necessary to accommodate applicants who pursue permits through the appeals process. As a result, it will not be possible to implement an IFQ program at the same time that NMFS is in the process of determining eligibility and contribution factors. Recognizing the timing issue, Amendment 11 specifies measures for a transition period. During the transition period, the general category scallop fishery will be allocated 10 percent of the total projected scallop catch. The resulting TAC will be divided by quarter (Q1: March through May; Q2: June through August; Q3: September through November; Q4: December through February). Framework 19 proposes the percentage allocation of the TAC for each quarter. Vessels that qualify for an IFQ scallop permit and vessels under appeal for an IFQ scallop permit will be authorized to fish for scallops, subject to the quarterly TAC, with all landings counted toward the TAC. When the TAC is projected to be attained, the general category fishery will close for the remainder of the quarter. Any underage or overage of the first quarter will be applied to the third quarter, and any underage or overage of the second and/or third quarter will be applied to the fourth quarter. The quarterly TACs for the 2008 fishing year, beginning March 1, 2008, will be specified in Framework 19. A quarterly TAC is proposed rather than an annual TAC due to concerns about derby fishing. This quarterly distribution of TAC is intended to reduce the negative effects of a race to take the TAC. The 10-percent allocation will result in a TAC that is intended to be consistent with recent projections for scallop mortality from the general category fishery and will account for additional effort expected from vessels under the appeals process.

Although there appears to be some confusion based on the comment from the Council about the level of scallop TAC to be allocated to the general category scallop fishery in the unlikely event that the IFQ program is not implemented by the start of the 2010 fishing year, Amendment 11 clearly states that the level should be 10 percent for the entire transition period, without regard to how long it takes. Therefore, NMFS has specified in this final rule that the 10-percent allocation of TAC to the general category scallop fishery, divided by quarter, would continue beyond the 2009 fishing year if the IFQ program cannot be implemented.

Mechanism To Allow Voluntary Sectors in the General Category Fishery

Amendment 11 includes a mechanism to allow the owners of IFQ scallop vessels to form voluntary sectors that could manage their own fishing activity as a group. This rule outlines the procedures that must be used to form a sector, and the sector program requirements. The sector provisions include: Restrictions on participation; definition and requirements for operations plans; specifications for the review, approval, and revocation process; allocation of TAC to sectors; sector share determination; restrictions on sector membership changes; restrictions on interactions between sectors; monitoring and enforcement provisions for sectors; a prohibition on trading of allocation between sectors; restrictions on vessel movement between sectors; and a 20-percent maximum total allocation for a single sector. The 400-lb (181.4-kg) possession limit is maintained for vessels in a sector. The formation of sectors is intended to provide greater flexibility for participants and create outcomes that are more socially and economically relevant for fishing groups within the biological limitations of the fishery. The 20-percent cap on a sector's share of the IFQ is intended to prevent one sector from controlling an excessive percentage of the general category allocation. Unlike the sector program for the Northeast multispecies fishery, Amendment 11 does not allow sectors to be exempt from any scallop regulations, except that participating vessels would not be restricted by their IFQs. Amendment 11 specified the sector provisions but omitted some of the details necessary for implementation of sector provisions. Under its authority granted by section 305(d) of the Magnuson-Stevens Act (16 U.S.C. 1855(d)), NMFS has included regulations in the Sector provisions in § 648.63 that are necessary to ensure effective implementation and administration of the Sector provisions, and to ensure consistency with some of the Sector provisions for the NE Multispecies FMP.

NGOM Scallop Management Area

The NGOM scallop management area is defined as waters north of 42°20′ N. lat. and within the Gulf of Maine Scallop Dredge Exemption Area specified in § 648.80(a)(11). The proposed rule for Amendment 11 specified that the NGOM Scallop Management Area was all areas north of 42°20′ N. lat., but the Council commented that Amendment 11 specifies that the area is confined within the Gulf of Maine Scallop Dredge Exemption Area as well. The NGOM scallop management area is managed separately, because the Council clarified that the fishery there has unique characteristics. The abundance of scallops in the NGOM fluctuates more widely, supporting sporadic fisheries, and scallops are confined to small "patchy" areas throughout the area. There are times and areas within the NGOM that have sufficient abundance of scallops in small areas to support a substantial fishery and other times and areas that do not. The NGOM scallop management area measures establish scallop fishing controls appropriate for the fishery while protecting the resource in the area from overharvest, if and when scallops are present in the area. Measures include the separate NGOM general category scallop permit and qualification criteria; a TAC based on historical landings from Federal waters in the NGOM; a possession limit of 200 lb (90.7 kg) of scallops per trip, with one trip per calendar day allowed; a provision that an IFQ vessel fishing in the NGOM scallop management area shall have scallop landings deducted from its IFQ and the NGOM scallop management area TAC; and a prohibition on possession of scallops by any vessel, once the NGOM scallop management area TAC is harvested. Amendment 11 does not include specific restrictions for vessels fishing under scallop DAS in the NGOM, except that such vessels cannot continue fishing in the NGOM once the TAC for the area has been reached.

Monitoring

All LAGC scallop vessels are required to install and operate a vessel monitoring system (VMS). Operators of IFQ and NGOM scallop vessels are required to declare a general category trip or other fishing activity code, as appropriate. In addition, IFQ and NGOM scallop vessels are required to report scallop landings through VMS. This provision improves monitoring of the IFQ program by requiring vessels to report their catch, approximate time of landing, and port of landing before crossing the VMS demarcation line in order to enhance enforcement of the IFQ program and NGOM scallop fishery. The report submitted through VMS includes the vessel trip report (VTR) serial number, amount of scallops on-board, the port of landing, and the approximate time of arrival in port, and any other information relevant to a general category trip as required by the Regional Administrator. This monitoring requirement enables NMFS to monitor the TAC and IFQs on a more real-time basis.

Change Issuance Date of General Category Permit

The issuance date of general category permits is changed from May 1 to March 1 of each year to be consistent with the scallop fishing year. Synchronizing the issuance of general category scallop permits with the scallop fishing year makes this permit consistent with the existing limited access scallop permit issuance date.

Other Measures

This action clarifies that vessels that are fishing under a Northeast multispecies or monkfish DAS are not restricted to the 144-ft (43.9-m) net sweep restriction at § 648.52 that currently specifies that a vessel using a net with a sweep greater than 144 ft (43.9 m) cannot fish for, possess, retain, or land more than 40 lb (18.1 kg) of shucked or 5 bu (1.76 hL) of in-shell scallops. The Council recommended this change because the 144-ft (43.9-m) restriction was not intended to apply to vessels fishing for other species that would have an incidental catch of scallops, provided the vessel is issued the appropriate LAGC scallop permit.

This action allows an IFQ scallop vessel to possess up to 100 bu (35.2 hL) of in-shell scallops seaward of the VMS demarcation line only. Once shoreward of the VMS demarcation line, a vessel could possess only 50 bu (17.6 hL) of in-shell scallops. This measure is included because scallop vessel owners and operators testified that it often takes more than 50 bu (17.6 hL) of in-shell scallops to yield 400 lb (181.4 kg) of scallop meats. NMFS noted in the proposed rule that similar increases were not specified by the Council for the NGOM possession limits of 200 lb (90.7 kg) of shucked or 25 bu (8.8 hL) in-shell scallops, or the 40 lb (18.1 kg) of shucked or 5 bu (1.76 hL) of in-shell scallops. However, given the rationale for the increased possession limit, NMFS noted that would be inconsistent to apply the increased possession limit for only one LAGC scallop permit category or declared fishing activity. Under its authority granted by section 305(d) of the Magnuson-Stevens Act (16 U.S.C. § 1855(d)), NMFS specified that vessels fishing for scallops up to 200 lb (90.7 kg) or 25 bu (8.8 hL), or up to 40 lb (18.1 kg) or 5 bu (1.76 hL), could possess up to 50 bu (17.6 hL) or 10 bu (3.52 hL), respectively, seaward of the VMS Demarcation Line. The Council reviewed this issue in the proposed rule and concluded that NMFS's interpretation was correct.

Finally, this final rule clarifies the ownership cap restriction on current limited access vessels specified at § 648.4(a)(2)(i)(M). The ownership cap restriction was implemented through Amendment 4 (59 FR 2757, January 19, 1994). Currently, the regulation states that an individual may not own, or have an ownership interest in, more than 5 percent of limited access scallop vessels. The provision in Amendment 4 is as follows: "No entity or individual may have ownership interest in more than 5 percent of the total number of scallop permits issued at implementation and through the appeals process." However, the regulations were not clear whether this cap applies to CPHs. Provisions for CPH were implemented in 1995 (60 FR 62224, December 5, 1995), after the 5-percent cap provision in Amendment 4 was implemented. The regulations did not mention CPHs, which represent sunken or destroyed vessels, or vessels that were sold without fishing and permit history, that are eligible for limited access scallop permits. In terms of future ownership, a CPH is equivalent to a limited access permit. Since it is clear that the Council intended the ownership cap to restrict an owner to having an ownership interest in no more than 5 percent of all limited access scallop permits, this final rule clarifies that an individual cannot own more than 5 percent of the limited access permit eligibilities in the form of a limited access permit or CPH. This clarification makes the regulations consistent with the Council's original intent under Amendment 4. This issue was not recommended by the Council as part of Amendment 11. Rather, NMFS proposed the clarification in the Amendment 11 proposed rule as a regulatory amendment. No comments, other than from the Council verifying that the change is appropriate, were received on this proposed measure.

Comments and Responses

A total of 24 relevant comment letters were received from general category scallop vessel owners, industry representatives, and other interested public on Amendment 11 and the proposed rule. Four comments were also received from a general category vessel owner, two industry representatives, and the Council on the proposed rule after the close of the NOA comment period. All but one of these comments addressed the regulatory text included in the proposed rule. Comments on the proposed rule received after the close of the NOA comment period that addressed issues in Amendment 11 are reflected in the comments and responses below. The Council provided comments and recommendations on Amendment 11 based on review by the Council's Scallop Oversight Committee (Committee) and staff through a letter signed by the Executive Director of the Council.

General Comments

Comment 1: Two individuals requested an extension of the comment period on Amendment 11 and the proposed rule.

Response: NMFS has a statutory requirement to approve, partially approve, or disapprove an amendment within 95 days from the date that the amendment has been officially transmitted to NMFS; otherwise, the amendment is automatically approved. The day by which NMFS had to make the decision for Amendment 11 was February 28, 2008. In order to ensure that NMFS considers public comments within that statutory time period, it must limit comment periods to 60 days for the amendment NOA and 45 days for the proposed rule (the Magnuson-Stevens Act requires 15 to 60 days for the proposed rule comment period, but NMFS typically allows 45 days). If the comment period on the proposed rule ends after the NOA comment period, those comments received on the proposed rule but after the end of the NOA comment period may be excluded from NMFS's consideration relative to the decision on the amendment. Therefore, NMFS cannot extend the comment period on an amendment NOA, and prefers to keep the proposed rule comment period consistent with the NOA comment period. Moreover, given that Amendment 11 has been in development in the public arena by the Council for approximately 2 years, NMFS considers the public comment period to be adequate.

Comment 2: One commenter appeared to oppose Amendment 11, but urged overall management changes to protect the oceans for future generations. The commenter stated that "* * * total take should be banned * * *" and that "* * * a moratorium on all catch of this should be in effect for 5 years for species regeneration * * *." The same individual commented that the total overall quota should be cut by 50 percent this year, and by 10 percent each year thereafter, to let all species recover. The commenter provided no additional details or suggestions on the relevance of the comments to Amendment 11.

Response: NMFS approved Amendment 11 because it is consistent with the Magnuson-Stevens Act and promotes a sustainable scallop fishery. Banning or reducing scallop catch as suggested by the commenter would be inconsistent with NMFS's responsibilities under the Magnuson-Stevens Act.

Comment 3: One individual addressed several issues relative to the historical development of the general category fishery and the differences between the limited access and general category fleets. Another commenter stated that the continuation of a directed, full-time general category fishery is not consistent with the original intent of the general category fleet as a part-time fishery for vessels that did not qualify for, or did not want to participate in, the limited access scallop permits in 1994.

Response: The Council recognized more recent developments in the general category fishery, which resulted in the development of Amendment 11. The general category fishery has changed since its inception in 1994, and the Council considered the recent growth in the general category scallop fishery after the control date to be its primary concern, regardless of whether the fishery was historically a directed scallop fishery or not. Amendment 4 to the FMP did not guarantee that general category scallop vessels would be able to continue fishing without controls on the number of overall participants. Without specific restrictions against it in any FMP action, including and since Amendment 4, the general category scallop fishery was allowed to expand beyond what some believe was the original intent of Amendment 4. Amendment 11 recognizes the expansion while providing general category fishery participants that developed a directed fishery the ability to continue fishing at levels consistent with their recent participation. Amendment 11 also prevents future expansion of the fishery.

Comment 4: Several commenters stated that some parties involved in the development of Amendment 11 made biased decisions based on personal gain or agenda.

Response: There is no evidence to suggest bias of various participants in the development of Amendment 11. The Council's decisions were based on numerous meetings open to the public and on information, comments, and input provided by the public.

Comment 5: Several individuals urged no action on Amendment 11.

Response: The analysis supporting Amendment 11 demonstrates that uncontrolled entry and effort levels in the general category fishery cannot continue. Maintaining a large number of

general category vessels would continue to allow catch levels by this component of the fishery to expand and compromise the ability to effectively manage the scallop fishery overall. Uncontrolled, the general category fishery could contribute to excess fishing mortality on the scallop resource. Although one of the most difficult management programs to implement due to the level of controversy, limited access and the associated measures in Amendment 11 are necessary to ensure a sustainable scallop fishery. Furthermore, the Council could not accurately establish catch limits in the future, now a requirement of the Magnuson-Stevens Act, without controls on the level of catch and effort in this segment of the fishery.

The impacts of Amendment 11 are largely social and economic and will be positive in the long term. The measures will have direct negative economic impacts on vessel owners that do not have a qualifying vessel or that have fished more intensely recently than during the qualifying time period. However, as more fully discussed below, a control date announcing the possibility of a limited access program was published on November 1, 2004. The control date's purpose was to provide fishers with advance notice that they may not qualify for entry into, or full participation in, the general category scallop fishery. The intent of the control date was to deter individuals from unduly investing in or relying on this fishery without full and fair warning of the consequences of future limitation on access to the fishery.

The social and economic impacts on qualified vessels and all of the fishery participants will be positive over time as the general category fishery is better integrated into the management program of the FMP, which strives to maximize yields through Area Rotation Program, effort controls, and restrictions on the general category fleet. Although limited access is one of the most controversial management programs to implement, limited access and the associated measures in Amendment 11 are necessary to ensure a sustainable scallop fishery.

Comment 6: Several commenters stated that Amendment 11 will eliminate the small vessels in the fishery and allow large vessels and large fishing operations to continue. Commenters urged NMFS to allow both small and large vessel operations to continue in the scallop fishery. One commenter believes that Amendment 11 will do irreparable harm to several small fishing businesses that do not deserve to be closed out and believes that many provisions in Amendment 11 may be inconsistent with Federal laws mandating equal treatment of permit holders.

Response: The source of concern that small vessels will be eliminated is not clear. The Council recognized this potential impact, particularly with an IFQ fishery, and designed Amendment 11 consistent with its vision to "* * * maintain a fleet made up of relatively small vessels, with possession limits to maintain the historical character of the fleet * * *." To achieve this, Amendment 11 includes provisions to promote the continued operations of small operations. A vessel may only be allocated up to 2 percent of the TAC allocated to all IFQ vessels combined, and an individual may own only up to 5 percent of the TAC allocated to all IFQ vessels. The 400-lb (181.4-kg) possession limit also remains under Amendment 11. These factors should ensure only minimal shifting to large-scale operations and that the small-vessel character of the fleet is maintained. While some consolidation is possible through the IFQ transfer program, it is unlikely, with the percentage allocation limits, that the fishery will evolve into a large vessel or large-scale operations fishery. Based on these analyses, NMFS determined that Amendment 11 is consistent with all National Standards, including National Standard 4 (which requires management measures to be fair and equitable, but which recognizes that fishing privileges may need to be allocated among fishermen), and National Standard 8 (requiring management measures to minimize adverse economic impacts, to the extent practicable, on fishing communities).

Comment 7: An individual representing fishing vessel owners from New Jersey commented on behalf of the fishermen that they are supportive of the proposed amendment and options implementing a limited access program with IFQs, in trips or pounds, based on a vessel's landings in its best year from 2000 to 2004. The group of fishermen supported measures in Amendment 11, except that they would prefer a qualification landings criterion of 5,000 lb (2,268 kg), rather than 1,000 lb (453.6 kg), because it would allow the IFQs to be better distributed among a smaller number of vessels. The comment urged NMFS to implement IFQs as soon as possible and provided suggestions on how appeals could be handled to expedite the process during the transition period. Other suggestions on alternatives were also provided in the comment letter.

Response: NMFS agrees with the comments supporting Amendment 11 measures and approved Amendment 11. However, under the Magnuson-Stevens Act, NMFS cannot implement substantial measures that were not adopted by the Council or that are inconsistent with Amendment 11. NMFS may only approve, disapprove, or partially approve an amendment submitted by the Council. NMFS will ensure that the IFQ program is implemented as soon as possible. NMFS intends that the IFQ program will be implemented on March 1, 2009, as intended in Amendment 11.

Comment 8: One individual commented that some scallop permit holders are not aware of how Amendment 11 will impact them.

Response: Amendment 11 was developed over the course of approximately 2 years through a public process, including 35 meetings open to the public. The Council's development was well publicized by the Council and general and industry-focused media. Therefore, it is not clear how any individual with a stake in the fishery could have been completely unaware of Amendment 11 and its impacts. Once adopted by the Council, NMFS published a proposed rule and made the FSEIS available for public review. The FSEIS described and analyzed the impacts of all of the measures and alternatives and has been available in its final form since November 2007. In such a highly regulated fishery, it is a vessel owner's responsibility to understand current and upcoming regulations and the impacts that the proposed regulations may have on the vessel's ability to continue fishing.

Comment 9: One individual commented that Amendment 11 does not address problems that it will create in terms of loss of jobs.

Response: NMFS acknowledges that Amendment 11 will have some negative impacts, particularly on owners of vessels that do not qualify for the limited access general category scallop permit. However, NMFS concluded that the limited access program, including the use of the November 1, 2004, control date as a cutoff for eligibility, is a necessary component of a comprehensive management approach to control capacity and fishing mortality in the general category scallop fishery. NMFS considered all of the impacts relative to the sustainability of the scallop fishery and the FMP's objective to maximize scallop yield, as well as the impacts on fishery participants. The analysis supporting Amendment 11 demonstrates that uncontrolled entry and effort levels in the general category

fishery cannot continue. Without controls on access to the fishery, a large number of vessels would continue to exceed estimated catch levels and compromise our ability to effectively manage the scallop fishery overall. Also, without the constraints in Amendment 11, the general category fishery could contribute to excess fishing mortality on the scallop resource. Amendment 11 concludes that the long-term economic and social impacts would be negative if open access continues in the general category fishery. Based on these analyses, NMFS determined that Amendment 11 is consistent with National Standard 4, regarding fairness and equity, and National Standard 8, requiring measures to minimize adverse impacts, to the extent practicable, on fishing communities.

Comment 10: One individual commented that the general category fishery has less environmental impact on the ocean than the limited access component of the fishery and that Amendment 11 is therefore not necessary.

Response: An FSEIS, describing and analyzing the environmental impacts of the proposed and alternative measures, was completed for this action. Although reduced fishing time associated with the relatively low 400-lb (181.4-kg) possession limit has less environmental impact compared to higher catches associated with DAS vessels, the general category fishery as a whole contributes to the environmental impacts of the fishery, both in terms of effects on essential fish habitat (EFH) and bycatch. While it may be true that a general category vessel may not have as much impact on the environment as a DAS vessel, the commenter's argument is not valid in the context of Amendment 11. The effects of Amendment 11 are cumulative, in particular if participation and effort expand under an open access fishery.

Comment 11: One individual commented that analyses in Amendment 11 are flawed; specifically those that conclude that general category vessels are less efficient and can fish more days per year than limited access vessels, that Amendment 11 would provide benefits to the nation, and positive impacts on general category vessels overall.

Response: Amendment 11 includes thorough descriptions of the scallop fishery and participating vessels, and analyses of the impacts. Analytical models predict the economic benefits and costs of all of the alternatives considered in Amendment 11. The analyses and models are based on information gathered throughout the development of Amendment 11. These analyses were revised and perfected throughout the development process and were available for public review during the public meetings held on Amendment 11.

Comment 12: One commenter stated that controls on the general category fishery were considered by the Council initially out of concern over a large increase in active vessels, but not as a result of overfishing caused by the general category fleet.

Response: The relatively rapid and large increase in the size of the active general category fleet concerned both NMFS and the Council and resulted in the development of Amendment 11. The reason that such an increase was a concern is that the level of general category fishing continually exceeded the estimated level of fishing that was incorporated into annual management measures that were designed to achieve target fishing mortality rates. By exceeding the estimated catch, the unconstrained general category fishery was a threat to meeting the fishing mortality targets and the Magnuson-Stevens Act requirement to prevent overfishing. Therefore, while overfishing may not have been caused only by the general category fleet, the unconstrained expansion and effort in the fishery, combined with full utilization of effort and trips by the limited access fleet, contributed to overfishing in the years when overfishing was occurring.

Comment 13: One individual stated that Amendment 11 allows an inequity to continue by maintaining more restrictive gear size restrictions in the Southern New England (SNE), Gulf of Maine, and Great South Channel sea scallop exemption areas that do not apply west of 72°20′ N. lat. In addition, the commenter stated that there are differences in bycatch in these areas that were not addressed in Amendment 11. The commenter believes that the perceived inequity will do serious harm to many vessels in the northern half of the general category scallop fishery.

Response: The scallop dredge exemption areas referenced in the comment have been implemented under the Northeast Multispecies Fishery Management Plan (NE Multispecies FMP) to ensure that bycatch of regulated multispecies in the scallop dredge fishery does not compromise rebuilding efforts in the NE Multispecies FMP. Other than the dredge size restriction in the NGOM Scallop Management Area, Amendment 11 does not have different gear restrictions for different areas. However, Amendment 11 does recognize that the NE Multispecies FMP has restricted when and where general category scallop vessels can fish in terms of the description of the fishery and by incorporating data from the fishery overall. Nevertheless, modifying gear restrictions that have been implemented under the NE Multispecies FMP is outside of the scope of Amendment 11.

Comment 14: Several comments suggested that Amendment 11 is not necessary because the scallop resource is in good condition. Many references were made to the 45th Stock Assessment Workshop and Stock Assessment Review Committee report (June 2007) (SAW 45), which concluded that the scallop fishery was not overfished in 2006 and overfishing was not occurring that year. Commenters stated that, based on the conclusions of SAW 45, the measures in Amendment 11 are not necessary because the general category fishery is not causing overfishing. One individual commented that, with general category landings only equal to about 12 percent of the catch, the adverse impacts of these vessels are unclear.

Response: Amendment 11 does not state that the general category fishery caused overfishing historically. Until Amendment 11, an estimated amount of fishing effort and fishing mortality from the general category fleet was calculated into estimated catch levels and effort allocations for the limited access scallop fleet. Amendment 11 recognizes that, without controls on the number of participants, the general category fleet can expand, especially when the resource conditions are very good. In these instances, the effort and catch in the general category fishery would likely be underestimated and could contribute to overfishing if combined with full utilization of limited access effort. Other types of controls, such as an overall TAC, were considered in Amendment 11 and prior FMP actions (Framework 18 and Amendment 10, specifically), but rejected because, without a limit on the number of participants, the general category fleet would have the capacity to rapidly harvest the TAC. This would not maximize yield, would promote derby and unsafe fishing conditions, and would be inconsistent with the FMP.

Comment 15: Several individuals commented that general category vessel caught scallops are fresher and are more in demand than scallops from limited access boats that are at sea for several days at a time. Commenters were concerned that Amendment 11 would eliminate this higher quality product from the markets.

Response: The FMP does not manage the scallop resource relative to condition of the scallops for sale to the seafood market. While other Federal programs are focused on ensuring seafood quality, the role of the FMP is to maximize yield from the resource while maintaining a sustainable fishery. Landings of scallops from both the limited access and general category fleets command a high market price, and high product quality is sought in all markets. The relative quality of the landings between the general category and limited access fleets is not a factor in the decision on Amendment 11.

Comment 16: One commenter stated that scallop trip boats have control over the scallop fishery, which creates hardship on general category scallop vessel owners and families who depend on this for their livelihood.

Response: It is not clear from the comment how the limited access fleet and fishery creates hardships on the general category fleet and the vessel owners' families. Since the implementation of limited access in 1994, vessels with limited access scallop permits have historically landed as much as 98 percent of the scallop catch, and about 85 percent of the catch, more recently. The limited access scallop fleet, therefore, does control, and has the most impact on, many aspects of the fishery, including market price, fishing mortality, and overall impacts. However, the general category fishery is an important component of the scallop fishery that contributes to overall fishing mortality and conditions in the fishery that the Council and NMFS must address. Amendment 11 achieves this goal, while allowing both the limited access and general category fleets to harvest the portion of the catch that reflects historical average shares (with a slight increase in the general category share and decrease in average limited access share).

Comment 17: One individual commented that flexibility in fishing practices is necessary for small vessel owners to continue to make a living fishing. The commenter stated that, if a fishery becomes difficult or impossible to pursue, the small vessel must shift to another fishery, but that Amendment 11 would take away the opportunity to shift between fisheries.

Response: NMFS must manage the scallop fishery to ensure that the fishery remains sustainable. While NMFS understands that fishing opportunities are becoming more limited, it cannot compromise the sustainability of one fishery in order to allow vessel owners to enter another fishery.

Control Date and Limited Access

Comment 18: Several commenters supported the inclusion of the control date as a qualification criterion for the general category fishery.

Response: NMFS has approved the limited access program based on the November 1, 2004, control date.

Comment 19: Two individuals commented that, because they were not aware of the November 1, 2004, control date, they purchased vessels and/or scallop fishing equipment, investing substantial amounts of money into the fishery. These comments indicated that NMFS's Federal fishery permit application packages should have included information about the control date to warn applicants. They expressed concern that Amendment 11 would eliminate them from the fishery because they entered after the control date and asked that NMFS not use the control date or qualification criteria to qualify vessels.

Response: Not including the control date information on permit application packages does not invalidate the control date, nor does it warrant expansion of the limited access qualification criteria to include the period after the control date. The control date was published in the **Federal Register** on November 1, 2004, announced to all permit holders, and posted on the NMFS Northeast Region's Web site. It was also announced and discussed in various fisheries publications throughout the region (e.g., Commercial Fisheries News and National Fisherman, two of the most widely known publications for fisheries in the region and nationwide). Individuals that are engaged in a Federal fishery should be aware of the highly regulated nature of the industry. While there is no legal requirement to establish a control date, the control date's purpose was to provide fishers with advance notice that they may not qualify for entry into, or full participation in, the general category scallop fishery, with the intent that individuals would not unduly invest in or rely on this fishing without full and fair warning of the consequences of a limited access fishery. Based on the increase in catch and vessels demonstrated in the Amendment 11 FSEIS, it appears that even the period after the control date was viewed as an opportunity to fish for scallops and accrue income, even if temporary. Despite their knowledge of the control date, a large number of vessel owners entered the fishery because of the short-term profits that could be accrued. This post-control date expansion of the fishery was a primary concern of the Council during development of Amendment 11.

Comment 20: One individual commented that NMFS should have stopped issuing general category permits in 2004.

Response: NMFS cannot implement a moratorium on permits (*i.e.*, a limited access permit program) without the approval of the majority of the voting members of the Council, as specified in section 304(c)(3) of the Magnuson-Stevens Act. After publication of the control date, NMFS encouraged the Council to develop management measures to control the general category fishery with consideration of the control date.

Comment 21: One commenter suggested that vessels in the SNE region be allowed to appeal for a lower qualification amount based on investment in the fishery and some unspecified amount of landings, since an area in SNE was opened to general category scallop vessels in May 2004. The commenter stated that allowing such vessels to qualify through expanded qualification criteria or through the appeals process would not add many vessels, but could help a few vessels that depend on the scallop fishery for some of the year. The commenter believes that additional effort from these vessels would be minimal, and that the NGOM should not be treated differently than other areas.

Response: The reasons that area-specific management and qualification criteria were not considered, with the exception of the NGOM Scallop Management Area, are described in the responses to Comments 12 and 42.

Comment 22: A general category vessel owner expressed concern that Amendment 11 does not evaluate the number of qualifying vessels that have been inactive since the 2000 through 2004 qualification period, and does not consider the impact on the fishery or current participants.

Response: Amendment 11 enables vessels that have not been active since the qualification period to qualify for an LAGC permit based on their fishing history prior to the control date. The Amendment 11 FSEIS fully analyzes the impacts on qualifying vessels, which the FSEIS evaluates based on fishing history during the qualification period. During NMFS's review of permit applications, some vessels may emerge that have not been recently active, but the Amendment 11 FSEIS has evaluated the impacts on the resource, the fishery, the participants, and the environment relative to the vessels that meet the qualification criteria, which includes

vessels that have not been active after the control date.

Comment 23: Two general category scallop vessel owners expressed concern about the lack of broad appeals criteria in Amendment 11 that would allow appeals outside of simple discrepancies between dealer and owner records, and to address circumstances relative to re-rigging and new construction, which would protect fishermen who were in the re-rigging process when the control date was implemented. The commenters question the exclusion of such a provision when the scallop resource is in good condition, whereas it was adopted in Amendment 4 to the FMP when the resource was in one of its worst historical conditions. The commenters raised concern about the decisions of managers involved in the process, relative to the qualification and appeals process.

Response: This issue was discussed during the Council's development of Amendment 11 and the final Amendment 11 document did not include a re-rigging provision. The Council determined that it would be difficult to consider legitimate re-rigging for scallops, given the ease of converting a vessel to be a scallop vessel. In addition, the Council was concerned about the large influx of vessels and increased landings in 2005, which presumably included vessels that re-rigged for scalloping in 2004. The Council was concerned that, if a re-rigging clause were included, and vessel owners could show landings in 2005, it would be easy for someone to claim that they were re-rigging their vessel prior to the control date. The high landings in 2005 would result in more qualifiers and less ability to allocate IFQ consistent with qualifiers' historical levels of landings. Although re-rigging provisions were considered in other limited access programs, the Council had no obligation to include such a provision in Amendment 11, and provided a valid reason for excluding the provision in Amendment 11.

Comment 24: An individual commented that VTR data should be able to distinguish between a vessel's state and Federal waters landings to avoid qualifying vessels, or setting their IFQs, based on landings from state waters.

Response: It is not clear why qualifying a vessel that had state waters landings of scallops while it held a Federal general category scallop permit is inconsistent with the goals of Amendment 11. If a vessel was issued a Federal scallop permit, all landings would have been considered for determinations of fishing mortality for the scallop resource overall.

Comment 25: One individual commented that limited access scallop vessels should not be allowed to continue to fish with a general category permit or under general category rules under Amendment 11. The commenter believes that the issue was not sufficiently considered by the Council.

Response: Amendment 11 was the second action in which the Council considered restrictions on limited access vessels fishing under general category rules. Under Amendment 10 to the FMP, the Council recommended that the limited access fleet be prohibited from landing scallops outside of DAS or access area trips. However, the Council recommended this measure as a way to prevent overfishing despite information showing that the limited access fleet harvested less than one half of a percent of the scallop catch while fishing outside of DAS. NMFS disapproved the measure because the reason the Council provided for including the measure was not supported by the information in Amendment 10. Amendment 11 recognizes that some limited access vessels, including part-time and occasional scallop vessels, have relied on this portion of their catch historically. Therefore, maintaining the allowance for limited access vessels to harvest scallops with an LAGC scallop permit is consistent with Amendment 11's goal to preserve the historical participants in the general category scallop fishery.

Comment 26: One individual commented that he has fished for scallops for approximately 30 years and will not qualify for an LAGC permit. The commenter expressed concern that Amendment 11 does not allow appeals based on hardships.

Response: NMFS has opposed "hardship" grounds for appeal unless the Council recommends objective criteria for determining what qualifies as "hardship." Without such criteria, NMFS would be forced to determine which vessels qualify and which do not by exercising its discretion in a very subjective way. This would lead to unpredictable numbers of qualifying vessels, which would make it difficult, if not impossible, to predict the efficacy of the limited access system achieving its objectives. NMFS believes that this kind of decision should be made and recommended by the Council, consistent with the Magnuson-Stevens Act. Because "hardship" is very difficult to define in advance and apply in one case to another, the Council has not been able, or willing, to develop such appeal criteria. Therefore, Amendment 11 contains only objective appeal criteria, allowing appeals to be based only on the grounds that the denial of the application for an LAGC scallop permit was based on incorrect information.

Comment 27: One individual commented that the control date caused the increase in fishing effort in the general category fishery after it was announced.

Response: NMFS and the Council acknowledge that fishing effort and participation in the general category fishery increased substantially after the control date, although one of the express purposes of the control date was to curtail speculative entry into the fishery. Based on the increase in catch and active general category vessels identified in the Amendment 11 FSEIS, it appears that even the period after the control date was viewed as an opportunity to fish for scallops and accrue income, even if temporary. Despite the knowledge of the control date, and the fair warning they received concerning the potential ineligibility to fish, a large number of vessel owners entered the fishery to reap the short-term profits that could be accrued. This post-control date expansion of the fishery was a primary concern of the Council during development of Amendment 11 and guided it, in part, in choosing management measures. Allocation between IFQ scallop vessels and limited access scallop vessels.

Comment 28: An individual commented that Amendment 11 violates National Standard 4 because limited access vessels receive a disproportionately high allocation and that, under Amendment 11, one individual limited access boat owner will be allowed to harvest more than the entire general category fleet combined. Another commenter was concerned that the allocation of 5 percent to the general category fleet is disproportionately high.

Response: Amendment 11 developed an allocation for the general category fleet that is consistent with the historical average catch while allowing some expansion to account for the growth in the fishery. Limited access vessels have been allocated the majority of the scallop catch through DAS and access area trips. To allocate substantially more scallop catch than the historical average to the general category fleet would not be equitable because it would not be consistent with catch in the limited access fishery or the general category fishery. Amendment 11 allocates 5 percent of the total scallop catch to general category vessels based on the historical average landings. While that average is about 2.5 percent,

Amendment 11 allocates 5 percent in recognition of the changes that the general category fishery has experienced, and to allow some expansion from the historical average. This rationale is entirely consistent with National Standard 4 guidelines, which allow allocating fishing privileges to some, at the expense of others, in order to achieve biological objectives; and it is consistent with section 303(b)(6) of the Magnuson-Stevens Act, which allows establishment of a limited access system after taking into account such factors as historical fishing practices, present participation, and economics of the fishery.

Comment 29: One commenter opposed an allocation of scallop TAC to the general category fishery, including the quarterly TAC during the transition period, and supported a target TAC that would be maintained through continuation of the 400-lb (181.4-kg) possession limit. The commenter believes that it is inappropriate to establish a TAC for the general category fishery until inequities involving vessels that fished more recently in the SNE scallop dredge exemption area. The commenter stated that the quarterly TAC during the transition would result in southern states rapidly harvesting the TAC, thus disadvantaging vessels from New England.

Response: Without an overall TAC, the general category fishery would continue to be unconstrained. Furthermore, new Magnuson-Stevens Reauthorization Act provisions for annual catch limits require that all catch from fisheries managed by FMPs be accounted for, and that measures to prevent exceeding that catch level must be implemented. Although these new requirements must be implemented by 2011 for the FMP, including provisions to meet the new requirement in Amendment 11 reduces the amount of issues the Council will need to consider in a future action to bring the FMP into compliance with the new requirement.

Comment 30: One commenter opposed the cost recovery program included in Amendment 11 because the commenter does not believe that general category vessel owners should be required to pay to go to work. The commenter questioned why the general category fishery would be the first fishery that would be subject to the requirement, when fuel and insurance costs are increasing.

Response: The Magnuson-Stevens Act requires NMFS to implement a cost recovery program to collect up to 3 percent of the ex-vessel value of IFQ landed scallops to help recover costs directly related to the management, data collection, and enforcement of the IFQ program. The cost recovery program in the IFQ general category scallop fishery will be one of the first cost recovery programs in the Northeast Region; cost recovery programs are also in development for the surfclam and ocean quahog ITQ program and a tilefish ITQ program being developed by the Mid-Atlantic Fishery Management Council. Similar programs have already been implemented in the Alaska and Southeast Regions.

Comment 31: A general category scallop vessel owner commented that the allocation of 5 percent to the general category fleet under Amendment 11 only recognizes bycatch of scallops in other fisheries and does not represent an equitable allocation to vessels that direct fishing on scallops.

Response: Amendment 11 analyzed a range of allocations from 2 to 11 percent of the total scallop catch and recommended a level that fairly reflects past and current landings. These values were based on historical landings by the general category fleet, and as such, included directed trips and trips on which scallops were caught as incidental catch. Although an allocation of 5 percent of the catch is less than the catch by the general category fishery in recent years, it is higher than the historical average of 2.5 percent and allows for some expansion from historical fishing levels.

Comment 32: One individual commented that the Council should have used recent years and future projections to determine the general category share of the scallop catch, rather than basing the catch on a level consistent with a depleted resource.

Response: Amendment 11 included a range of allocation for the general category scallop fishery, from 2 to 11 percent, based on historical amount of catch, including more recent levels. The Council determined that 5 percent would best reflect the historical level of general category catch while accommodating some expansion from the historical level. The Council determined that the higher level of catch would not reflect the historical average catch of the fishery.

Comment 33: An industry representative commented that Amendment 11 included a 10-percent allocation to the general category fleet while the fishery is in transition to the IFQ program for the 2008 fishing year only. The industry representative commented that the Council authorized up to a 2 fishing year transitional 10-percent allocation in Amendment 11, but recommended a 1-year transitional 10-percent allocation in Framework 19.

Response: NMFS disagrees that the transitional period was intended to be in place only for the 2008 fishing year. The Amendment 11 document is clear in Section 3.1.2.8 that the transition period, regardless of length, would have the same allocation strategy. While the Council and NMFS do not expect the IFQ program to be delayed beyond the 2009 fishing year, NMFS cannot predict the amount of time that it will actually take to determine all of the qualified IFQ scallop vessels and cannot therefore confirm that the IFQ program can be implemented in the 2010 fishing year at the latest. Because the Amendment 11 document does not specify that transition measures would be different after 2009 fishing year, the final rule specifies that the 10-percent allocation, divided into quarterly TACs, would remain in effect for the duration of the transition period, regardless of when the transition period ends. The Council's decisions relative to allocations in Framework 19 presumed that the IFQ program would be in place, but do not supersede the decision in Amendment 11 to have consistent management measures in place for the duration of the transitional period.

Comment 34: An industry representative commented that the appeals process during the transition should not result in a delay of the IFQ program. The commenter believes that all categories of appeal should be able to be addressed relatively quickly by NMFS and questions whether the 10-percent allocation during the transition to accommodate appealing vessels is justified, since the majority of appellants would be appealing to make the minimal qualification amount of 1,000 lb (453.6 kg).

Response: In order to allocate IFQs with the formula adopted by the Council, NMFS must know every qualifying IFQ vessel, since each vessel's IFQ is based, in part, on every other vessel's contribution to the overall scallop landings. For a period of time after implementation, NMFS will be conducting appeals and issuing new permits to vessels as appeals are approved. Appeals can be difficult to complete quickly, regardless of the reason. NMFS cannot predict how long the process of determining every qualified IFQ vessel will take. Based on previous limited access programs implemented by NMFS, it is possible that finalizing appeals will take more than 1 year. NMFS will attempt to resolve appeals in time to implement the IFQ program on March 1, 2009. The Council also provided no mechanism to allow the IFQ to be implemented mid-year.

IFQ

Comment 35: One individual commented that the IFQ referendum required under the reauthorized Magnuson-Stevens Act should have been completed, despite the fact that the Council approved Amendment 11 before the referendum was required.

Response: The referendum was not required for any IFQ program for which final action had been taken by the Council before July 11, 2007, 6 months after the Magnuson-Stevens Act was reauthorized. This delay allowed,the Council to continue considering an IFQ program, which it had included in Amendment 11 well before the Magnuson-Stevens Act was reauthorized, without having to be concerned about how a referendum would be handled and what the impacts might be.

Comment 36: One comment, endorsed by 31 general category and limited access scallop vessel owners, stated that Amendment 11 would result in a reduction in catch of about 40 percent or more to a fisherman that is 100-percent dependent on the fishery.

Response: A vessel's IFQ will be based on its best year during the qualification period, indexed by a factor based on the number of years the vessel was active during the qualification period. Because landings have increased in the years since the control date, including overall landings and landings by vessel, it is likely that some vessels may not be allocated catch that is consistent with recent landings. However, such reductions are necessary to ensure that all IFQ vessels are allocated a fair share of the TAC allocated to the IFQ fleet, and that TAC objectives are met. Amendment 11 fully analyzed the impacts of these measures on fishing fleets.

Comment 37: One individual commented that IFQs are an attempt to try to hide overfishing that is presently occurring in the scallop fishery.

Response: The measures in Amendment 11, including the limited access and IFQ programs, are intended to prevent overfishing. It is not clear why an IFQ program would "hide" overfishing.

Comment 38: One commenter preferred that IFQ could be stacked on a vessel up to 2.5 percent of the TAC, rather than the 2 percent proposed. The commenter stated that allowing 2.5 percent of the TAC to be combined on one vessel would make the general category fishery more efficient, more manageable, and more sustainable, and would result in fewer vessels in the fishery, less paperwork, and would make the fishery more fuel efficient. The comment stated that there should not be a limit on the number of permits that can be stacked to achieve the 2.5-percent limit in order to allow fishermen that depend on the fishery to achieve a higher share or stake in the fishery if they decide to. The commenter stated that this would give back to the general category dependant fisherman more of his/her historical participation. The comment was endorsed by 31 general category and limited access scallop vessel owners.

Response: Although the Council did not specifically consider an alternative that would allow stacking up to 2.5 percent, it did consider a sufficient range of levels and NMFS approved the level selected. Under the Magnuson-Stevens Act, NMFS cannot implement an alternative as part of Amendment 11 that was not recommended by the Council. The Council did consider a cap of 60,000 lb (27,216 kg) or 150 trips per vessel, but determined that, if the overall TAC was very low in a particular year, setting the cap in pounds or trips could result in excessive (or insufficient) consolidation on one vessel. The cap in terms of percent of overall TAC allowed the value of the cap to adjust consistent with the TAC.

Comment 39: A general category vessel owner preferred a 10-percent index value for best year and stated that a vessel that has fished multiple years and is being rated by its best year should not be given a baseline number that is more than that of a vessel that has fished only 1 year, if a weighted average must be chosen.

Response: These types of concerns and different alternatives were weighed and considered by the Council in developing Amendment 11 and by NMFS in approving the amendment. Amendment 11 recognizes that some vessels relied more on the scallop fishery than others and provides those vessels with more weight in their IFQ determination based on the importance of the fishery to the vessel. The approved index values result in IFQ allocations that give more weight to vessels that depended on the fishery for more time during the qualification period.

Comment 40: One commenter opposed the IFQ contribution factor because of inequities between various regions of the fishery (particular focus on the SNE scallop fishery), and suggested that there should be a SNE exemption to alleviate the problems. The commenter stated that allocation should be one-to-one, presumably meaning that the amount caught during the historical period would be the amount allocated. The commenter stated that, with the contribution factor based on best year and years active, SNE vessels should be exempt with a one-to-one allocation. Another general category scallop vessel owner echoed this comment, stating that the reason that such vessels should be exempted from the contribution factor is that the SNE exemption was only open for 6 months prior to the control date.

Response: These types of concerns and alternatives were weighed and considered by the Council in developing Amendment 11 and by NMFS in approving the amendment. Some of the reasons that area-specific management and qualification criteria were not selected, with the exception of the NGOM Scallop Management Area, are described in the responses to Comments 12 and 42. Amendment 11 includes an index factor based on the years a vessel was active during the qualification period to adjust a vessel's contribution to the IFQ. This adjustment provides additional contribution for vessels that were active in, and relied more on, the scallop fishery for a longer period of time. A one-to-one contribution may not represent a fair allocation. As an example, a one-to-one contribution factor would make a vessel with only 1 year active in the scallop fishery equal to a vessel with the same best year landings but that was active for 5 years during the qualification period.

Comment 41: An industry representative commented that the qualification criteria and individual allocation in pounds would help ensure that more active participants will achieve more significant allocations while scaling back general category effort overall. The industry representative commented that the scale-back of effort is appropriate, given the reductions in effort for the limited access fleet. The industry representative also commented that individual allocations and the IFQ transfer provisions accommodate general category vessel owners' concerns about maintaining participation in the fishery.

Response: NMFS agrees that the qualification criteria and allocations provide for appropriate distribution of the IFQ scallop fishery TAC to qualifiers and that the TAC represents an appropriate reduction of catch relative to more recent years in the general category scallop fishery. NMFS also agrees that the IFQ provisions, including the IFQ transfer provisions, provide IFQ scallop vessel owners with sustainable fishing opportunities under Amendment 11.

Sectors

Comment 42: Several commenters supported sectors, but one individual expressed concern that NMFS and fishermen are not prepared for their complexity for management and enforcement.

Response: NMFS is concerned about the potential for increased volume in sector proposals from both the scallop and multispecies industry. However, NMFS has approved the sector mechanism under Amendment 11 because it can result in effective and cooperative management of the IFQ scallop fishery. NMFS is preparing for the expansion of sector management through its Amendment 11 implementation strategy, combined with efforts to improve review and coordination of sector proposals and plans in the Northeast Regional Office.

Comment 43: An industry representative supports the prohibition on exemptions under the sector provisions.

Response: Although the Council could consider exemptions under the sector provisions consistent with its sector guidelines, it chose not to include exemptions in order to preserve the characteristics of the historical general category scallop fishery while allowing sector management.

NGOM Scallop Management Area

Comment 44: A fishing industry representative urged NMFS to disapprove the NGOM Scallop Management Area because it would have disproportionate and negative impacts on vessels that qualify for an IFQ scallop permit that also have a history of fishing in the NGOM area. The representative states that, for IFQ scallop vessels, the lower possession limit in the NGOM area disadvantages IFQ scallop vessels because it is inconsistent with the higher (400-lb (181.4-kg)) possession limit in the rest of the general category scallop fishery. The commenter was concerned because the proposed rule implied that a vessel qualified for an IFQ scallop permit could opt for an incidental scallop permit instead, allowing the vessel to take "unlimited" trips at 40 lb (18.1 kg) each, although this would not apply to the NGOM where the fishery would be closed to all scallop harvest once the TAC is harvested.

Response: The comment implies that vessels that qualify for IFQ scallop permits that have fished in the NGOM are confined to fishing within that area and there are no other alternatives for such vessels. To the contrary, the IFQ scallop permit allows maximum fishing flexibility within the general category scallop fishery under Amendment 11. Not only can IFQ scallop vessels fish under their IFQ in any area open to scallop fishing, but if an owner chooses, he/she can transfer the IFQ to another IFQ scallop vessel. This provides an owner the option of fishing in other areas, or negotiating a business agreement to transfer the IFQ. On the other hand, vessels that do not qualify for the IFQ scallop permit have only the option of fishing in the NGOM or under the Incidental scallop permit. Further, the FSEIS for Amendment 11 demonstrates that the reliance on the Gulf of Maine for a scallop fishery during the qualification period, and more recently, has been extremely low. The majority of scallop landings originate from more southern areas of the Gulf of Maine, and from Georges Bank, SNE, and Mid-Atlantic general category scallop fisheries. In addition, Amendment 11 estimates that 70 vessels from Maine and 148 vessels from Massachusetts and New Hampshire would qualify for an IFQ scallop permit, with the majority of landings by those vessels coming from outside the boundaries of the NGOM scallop management area. To disapprove the NGOM for the advantage of the minority of the IFQ scallop fleet would result in no additional protective measures in the NGOM, where the fishery is distinct. This would be ineffective and would not meet the goal of the NGOM scallop management area to preserve the fishery in the area for any future fisheries that may occur. NMFS has therefore determined that the measures for the NGOM scallop management area are necessary and appropriate for the management of the scallop fishery. With respect to the implication that Incidental scallop vessels can take unlimited number of 40-lb (18.1 kg) trips, NMFS will clarify that would not be possible in the NGOM scallop management area because incidental catch is counted against the TAC and the possession of scallops in the NGOM scallop management area after the TAC has been reached is prohibited.

Comment 45: An individual commented that the NGOM Scallop Management Area was created solely for residents of Maine, and that the NGOM Scallop Management Area is inconsistent with National Standard 4 of the Magnuson-Stevens Act.

Response: National Standard 4 states that measures shall not discriminate between residents of different states. The NGOM Scallop Management Area does not base any measures on being a resident of the State of Maine. Although the area is adjacent to the entire coast of Maine and may attract more Maine fishers, it also includes waters off of Massachusetts and New Hampshire. Furthermore, any LAGC vessel could fish in the NGOM Scallop Management Area under Amendment 11. The area is a special management area, similar to the Sea Scallop Access Areas, which aims to prevent overharvest of a unique portion of the scallop resource and was designed to allow additional fishers to qualify to fish in the area that may not have qualified for the IFQ scallop permit. The NGOM Scallop Management Area measures are therefore consistent with National Standard 4.

Comment 46: The State of Maine commented on the proposed NGOM TAC specification. Although the comment is specific to the actual TAC recommended by the Council under Framework 19, the comment appears to take issue with the foundation of the TAC, in that it excludes landings from state waters. The comment provides details regarding how the State of Maine would prefer that the TAC be established, primarily by including landings by federally permitted vessels in state waters and landings by limited access vessels fishing in the NGOM area. Maine believes that, by including these sources of landings, the TAC should be 126,000 lb (57,153 kg) as opposed to the 70,000 lb (31,751 kg) TAC proposed by the Council under Framework 19. A fishing industry representative commented that the TAC in the NGOM cannot be calculated without an assessment of the biomass and appropriate fishing mortality rate in the area.

Response: The value of the TAC is not specified in Amendment 11, but is instead proposed in Framework 19. The Council deliberated this issue at length for both Amendment 11 and Framework 19. Proponents argued, and Amendment 11 explains, that the NGOM Scallop Management Area is necessary as a placeholder for future scallop fishing Federal waters in the event that a large amount of harvestable scallops return to the Gulf of Maine. Based on this rationale, the Council determined that the TAC for the NGOM Scallop Management Area would be based on the "Federal portion of the resource only," meaning that landings from state waters would be excluded. Furthermore, landings by limited access vessels fishing under DAS were excluded because they are not a component of the general category landings or TAC.

Comment 47: One commenter stated that the NGOM measures are useless in Amendment 11 because there are no scallops in the NGOM to be fished.

Response: The NGOM Scallop Management Area would provide for limited fishing opportunities for vessels that do not qualify for IFQ scallop permits. It was also designed to be a placeholder for a future Federal waters fishery in the area, should the scallop resource become more abundant in the area. Although not currently surveyed by NMFS or other entities, the Gulf of Maine contains scallops and has supported a small fishery in recent years.

Comment 48: One commenter supported the creation of the NGOM scallop management area but believes that the SNE area also deserves the same exemption status, with a 400-lb (181.4-kg) possession limit, because the area was closed to scallop fishing from 1996 through May 2004.

Response: The SNE exemption was implemented under the NE Multispecies FMP in May 2004. The NGOM Scallop Management Area appears to have highlighted the SNE exemption because the Council adopted area-specific measures only for the NGOM but excluded qualification criteria specific to the area or for vessels that fished in the area. The NGOM Scallop Management Area was developed because the fishery in the area is different from the rest of the fishery (it is patchy and sporadic). Although the SNE exemption area was not opened to scalloping until 2004, there are no noteable differences in the fishery in that area that would warrant special management measures. The fishery in the NGOM is not integrated into the overall scallop fishery to the extent other areas, including the SNE, are. In addition, the NGOM area is not fished as actively and consistently as the SNE area has been recently. In addition, there would be no fair or equitable way to allow more lenient qualification criteria for vessels that fished within the SNE exemption area. Vessels that fished only in the SNE exemption area for scallops would have relied on the scallop fishery only between May and November, when the area was opened and the vessels first began to fish for scallops. Excluding a provision specific to these vessels is consistent with Amendment 11's goal to limit the fishery and allocation to vessels that had a reliance on the scallop fishery prior to the control date.

Other Measures

Comment 49: One commenter agrees that VMS should be required, but expressed concern about the cost of operating VMS units.

Response: VMS are necessary in the general category fishery to track landings and activity relative to IFQs, the NGOM Scallop Management Area, and access areas. Most LAGC vessels are already operating a VMS under existing FMP requirements, or requirements under the NE Multispecies FMP (for vessels that do not qualify for an IFQ scallop permit). NMFS has estimated the cost of all new trip declarations and catch reports for all IFQ vessels combined to be approximately $15,000 annually (or about $42 per vessel annually, assuming 369 qualified IFQ scallop vessels). The increase in VMS operating costs would therefore be just over $3.00 per month, which NMFS considers a reasonable cost. A detailed description of the costs for new information collection requirements is included in the Final Regulatory Flexibility Analysis (FRFA).

Comment 50: An industry representative supported continuation of the 400-lb (181.4-kg) possession limit to prevent against consolidation of general category effort and capitalization of a new offshore scallop vessel fleet.

Response: NMFS agrees that the 400-lb (181.4-kg) possession limit is necessary to prevent capitalization of a new type of general category scallop fishery that is inconsistent with the Council's vision to maintain the small-scale characteristics of the general category fishery.

Comment 51: An industry representative supports the 40-lb (18.1-kg) possession limit for Incidental scallop vessels to allow for incidental catch in other fisheries while discouraging directed fishing with the low limit.

Response: NMFS agrees that the 40-lb (18.1-kg) possession limit for Incidental Catch scallop vessels is important to ensure that this sector of the general category fishery continues to focus on incidental catch and does not expand into a directed fishery.

Comments on Proposed Measures and Regulations

1. Vessel Permits

Comment 52: An industry representative suggested a revision to § 648.4(a)(2)(i)(I) to clarify that a limited access scallop vessel could also be issued an LAGC scallop permit because, as written, the industry representative believed that the regulation prohibited a limited access vessel from also being issued an LAGC scallop permit.

Response: NMFS recognizes this ambiguity in the proposed rule and has revised the regulation to allow a limited access scallop vessel to be issued an LAGC scallop permit as well.

Comment 53: An industry representative commented that in § 648.4, paragraph (a)(2)(i)(P) should be redesignated as paragraph (a)(2)(i)(R), because paragraphs (a)(2)(i)(P) and (Q) already are designated.

Response: NMFS disagrees. In § 648.4, paragraph (a)(2)(i)(O) was the final paragraph, and is now followed by paragraph (a)(2)(i)(P).

Comment 54: An industry representative recommended that, in § 648.4, paragraph (a)(2)(ii) should be reworded to more clearly convey the intent.

Response: NMFS agrees and has reworded the regulation to be more clear.

Comment 55: An industry representative commented that, in § 648.4, paragraph (a)(2)(ii)(E) contains an incorrect reference to best year and years active regulations in § 648.53.

Response: NMFS agrees and has corrected the references.

Comment 56: The Council commented that it is not clear in § 648.4(a)(2)(ii)(F) that a vessel that qualifies for an IFQ permit can choose not to apply for an IFQ scallop permit and instead qualify for a NGOM or Incidental Catch scallop permit. The Council stated that Amendment 11 specifies that an NGOM and Incidental Catch scallop permit requires a vessel to have a general category scallop permit as of November 1, 2004, but a vessel that qualifies for an IFQ scallop permit may not meet that criterion if it had a permit prior to, but not on, the control date. The Council confirmed that, since the qualification for the NGOM and Incidental Catch scallop permits are intended to be less restrictive, a vessel that qualifies for an IFQ permit can choose to apply for an NGOM or Incidental Catch scallop permit and would qualify for the less restrictive permit. The Council recommended that the regulation reflect this intent.

Response: NMFS has revised regulatory text in § 648.4(a)(2)(ii) to clarify that a vessel that qualifies for an IFQ scallop permit could be issued an NGOM or Incidental Catch scallop permit instead, even if the vessel did not have a permit as of the November 1, 2004, control date.

Comment 57: The Council agreed with NMFS's interpretation in the proposed rule that limited access permit provisions would apply to all LAGC scallop permits.

Response: The regulations reflect this comment and no change to the regulations is necessary.

Comment 58: The Council suggested that the regulations pertaining to landings qualification for the IFQ

scallop permit be explicit that landings must have occurred as of the November 1, 2004, control date and not beyond in the 2004 fishing year.

Response: NMFS has revised the regulations to be clear that all landings must have occurred as of the November 1, 2004, control date for qualification, best year, and years active determinations.

Comment 59: The Council commented that the proposed rule preamble should not have stated that a vessel's IFQ scallop permit would be invalidated for failure to pay cost recovery fees, but rather that the permit would not be renewed for the subsequent fishing year.

Response: NMFS has clarified the regulations. However, these provisions were more specifically discussed under the Council's development of Framework 19 to the FMP. Proposed regulations for Framework 19 describe in detail the process and consequences for non-payment of IFQ cost recovery fees.

2. Transition to IFQ

Comment 60: The Council commented that regulations at § 648.53(a)(2) and (3) in the proposed rule do not clearly present the transition measures that would apply in 2009. The Council also commented that the regulations should indicate that the 10-percent allocation to general category fleet during the transition to IFQ should be in effect no longer than through the 2009 fishing year. After 2009, the general category fleet would be allocated 5 percent of the scallop catch. The Council commented that it never intended the transition to extend longer than 2 years. An industry representative also commented that the regulations pertaining to allocations for the 2008 and 2009 fishing years, particularly with respect to the transition to IFQ, are inconsistent with the Council's intent to allow transition to IFQs for no more than 2 years. The industry representative stated that NMFS does not have the authority to extend the transition measures beyond 2 years because such measures were not adopted by the Council.

Response: NMFS has clarified the allocations and transition measures for the 2009 fishing years consistent with the Council's intent. However, as justified in the response to Comment 33, NMFS has clarified in this final rule that the 10-percent allocation divided by quarter would remain in place for the duration of the transition period, even if the transition period extends beyond the 2009 fishing year. Despite the comments and recommendations by the Council and industry representative, the Amendment 11 document and discussion clearly supports the continuation of the transition period allocation of 10 percent to the general category fishery for any period after 2009 that remains under transition. Although it is clear that the Council expects the transition period to last up to 2 years, there are no specifications in Amendment 11 for measures beyond the 2009 fishing year if the transition period continues. NMFS is not extending the transition period through the measures in this final rule, but rather is specifying that the Council's approved transition period measures would remain in place if the IFQ program cannot be implemented after the 2009 fishing year. Although NMFS does not expect the IFQ program to be delayed beyond the 2009 fishing year, it cannot predict how long it will take to identify the universe of IFQ scallop vessels in order to implement the IFQ program.

3. IFQ

Comment 61: The Council agreed with NMFS's interpretation in the proposed rule that a CPH would be issued IFQ and that the IFQ associated with a CPH could be transferred.

Response: The regulations reflect this comment and no change to the regulations is necessary.

Comment 62: An industry representative commented that, in § 648.53(h)(4), NMFS incorrectly characterized the cost recovery requirement of the Magnuson-Stevens Act by stating that "The owner of a vessel issued an IFQ scallop permit and subject to the IFQ program specified in * * * this section must pay a portion of the proceeds from scallop fishing to NMFS to help NMFS recover up to 3 percent of the cost of administering and enforcing the IFQ program." The industry representative pointed out that this is inconsistent with the Magnuson-Stevens Act and the proposed rule preamble, which provide that industry may be charged up to 3 percent of the value of the landed product to cover actual costs related to the IFQ program and its enforcement.

Response: NMFS agrees and has clarified this statement in this final rule.

4. NGOM

Comment 63: The Council and an industry representative commented that the proposed rule does not consistently and properly state that the NGOM TAC is separate from the rest of the scallop fishery's overall TAC.

Response: NMFS agrees and has clarified in this final rule that the NGOM Scallop Management Area TAC is separate from the TACs for the rest of the general category scallop fishery.

Comment 64: The Council and an industry representative commented that the area definition for the NGOM must be corrected to include the area north of 42°20′ N. Lat. and within the Gulf of Maine Scallop Dredge Exemption Area, as approved by the Council.

Response: NMFS agrees that the NGOM Scallop Management Area should be confined to the area north of 42°20′ N Lat. and within the Gulf of Maine Scallop Dredge Exemption Area and has made that change in the final rule.

Comment 65: The Council commented that scallop catch by Incidental Catch scallop vessels should count against the NGOM TAC, consistent with the proposed rule.

Response: The regulations reflect this comment and no change to the regulations is necessary.

5. Sectors

Comment 66: An industry representative commented that, in § 648.63(b)(6), a phrase prohibiting the exemption from the 400-lb (181.4 kg) possession limit should be included to provide "absolute clarity that no vessel operating in a sector is exempt from the 400-lb possession limit."

Response: This revision is not necessary. The paragraph is clear that no exemption can be granted to sectors under the FMP except for relief of a vessel's own limitation of its IFQ. Singling out one provision for which an exemption cannot be issued would be confusing, since one could question why other provisions are not equally emphasized.

6. Other Measures

Comment 67: An industry representative commented that, in § 648.9, the use of the phrase "general scallop permit" is inconsistent with the use of "LAGC scallop permit" in all other sections of the proposed rule.

Response: NMFS agrees and has changed "general scallop permit" to "LAGC scallop permit."

Comment 68: An industry representative commented that the use of "general category scallop fishery" in § 648.10 is unclear and questioned whether the phrase has utility in light of changes in the proposed rule to LAGC and other new references to the limited access general category scallop fishery.

Response: NMFS has not modified the regulations based on this comment. The "general category fishery" describes the fishery that is conducted by LAGC scallop vessels.

Comment 69: An industry representative questioned the elimination of the regulation in § 648.10 requiring the use of VMS by small dredge category scallop vessels.

Response: While NMFS has eliminated the specific regulation at § 648.10(b)(1)(iii) in the Amendment 11 final rule, § 648.10(b)(1)(i) requires that all scallop vessels, except occasional scallop vessels that do not fish in access areas, must operate VMS units. No change is therefore necessary.

Comment 70: An industry representative commented that, in § 648.14, paragraph (a)(57)(iii)(D) appears to allow an IFQ scallop vessel that also holds a limited access scallop permit to possess more than 400 lb (181.4 kg) of scallops while fishing under the IFQ scallop permit and outside of scallop DAS or the Area Access Program. The industry representative suggested deleting the paragraph.

Response: NMFS agrees and has removed the paragraph and re-designated paragraph (a)(57)(iii)(E) as (a)(57)(iii)(D).

Comment 71: An industry representative commented that, in § 648.55(a), the scallop regulations should no longer refer to "the adequacy of management measures to achieve the stock-rebuilding objectives."

Response: NMFS agrees that references to rebuilding the scallop resource may be misleading since the scallop resource is currently rebuilt. NMFS has revised this section of the regulation to be more generic to the conservation objectives of the FMP.

Comment 72: An industry representative suggested that, in § 648.55, paragraph (e)(1) should be revised to read "Target total allowable catch and DAS changes."

Response: NMFS disagrees that this change is necessary. By changing the regulation to allow changes to target TACs and DAS, the Council would be precluded from establishing the hard TACs for the general category fleet through the framework process, since no other framework provision listed in § 648.55(e) would allow such specification. NMFS concludes that "Total allowable catch" can be either a target or hard TAC.

Comment 73: The Council agreed with NMFS's interpretation that the increase of the possession limit of in-shell scallops seaward of the VMS demarcation line should apply to all LAGC scallop permitted vessels rather than just the IFQ scallop vessels.

Response: The regulations reflect this comment and no change to the regulations is necessary.

Comment 74: The Council commented that, while it did not recall specific discussion of the change in the ownership cap, as proposed by NMFS in the proposed rule, it agrees with the regulatory change so that the regulations are consistent with the original provision in Amendment 4.

Response: NMFS brought this issue to the attention of the Scallop Committee and the Council during the final development of Amendment 11. NMFS used the Amendment 11 proposed rule as a mechanism to propose, under its authority granted by section 305(d) of the Magnuson-Stevens Act (16 U.S.C. § 1855(d)), the regulatory amendment to make the ownership cap and CPH regulations consistent with the intent of Amendment 4 to the FMP. As a regulatory amendment promulgated under the authority of the Secretary, the Council need not deem the regulation necessary and appropriate. NMFS generally confines regulatory amendments to those issues that are clarifications of existing regulations to improve consistency with an FMP's provisions or original intent of a measure that was inadvertently misrepresented in the final regulations implementing the measure.

Changes From Proposed Rule to Final Rule

In § 648.4, paragraph (a)(2)(i)(O) is revised to correct the reference to the vessel replacement provisions in paragraph (a)(1)(i)(E) of that section.

In § 648.4, paragraph (a)(2)(ii) is revised to clarify that all vessels fishing for scallops must have an LAGC scallop permit, or a limited access scallop permit.

In § 648.4, paragraph (a)(2)(ii)(B) is revised to clarify the requirement that NGOM scallop vessels must fish within the NGOM scallop management area boundaries defined in § 648.62.

In § 648.4, paragraph (a)(2)(ii)(D)(*2*) is revised to clarify that scallop landings must have occurred on or before November 1, 2004, and to specify the conversion rates for in-shell scallops to meat-weight.

In § 648.4, paragraph (a)(2)(ii)(E) is revised to correct references to § 648.53(h) for IFQ calculations.

In § 648.4, paragraph (a)(2)(ii)(F) is revised to clarify the requirement to have a general category scallop permit as of November 1, 2004, and that a vessel that qualifies for an IFQ scallop permit automatically qualifies for an NGOM or Incidental scallop permit if the owner of the IFQ scallop vessel elects instead to be issued an NGOM or Incidental scallop permit.

In § 648.4, paragraph (a)(2)(ii)(G)(*3*) is revised to clarify the restriction on permit splitting prior to the effective date of Amendment 11.

In § 648.4, paragraph (a)(2)(ii)(N) is revised to clarify the permit splitting restriction.

In § 648.4, paragraph (a)(2)(ii)(O)(4) is revised to clarify the provision allowing vessels to fish under a temporary letter of authorization while an appeal is pending.

In § 648.9(c)(2)(D), "general category scallop permit" is replaced with "LAGC scallop permit."

In § 648.10, paragraph (b)(4)(iv) is revised to clarify the requirement for daily catch reports through VMS by vessels fishing in the Area Access Program.

In § 648.14, paragraph (a)(56) reference to the trip declaration is deleted to avoid requiring Incidental scallop vessels from declaring a general category scallop trip.

In § 648.14, the text in paragraph (a)(57)(iii)(D) is replaced with the text of paragraph (a)(57)(iii)(E), and paragraph (a)(57)(iii)(E) is removed. Paragraph (a)(57)(iii)(D) is revised by deleting the trip declaration requirement to avoid requiring Incidental scallop vessels from declaring a general category scallop trip.

In § 648.14, the revision of paragraph (h)(19) has been re-designated as a revisions to paragraph (h)(20).

In § 648.14, paragraph (i)(1)(ii) is revised to prohibit a vessel from landing scallops more than once per calendar day, rather than from fishing for, possessing, or landing scallops more than once per calendar day.

In § 648.14, paragraph (i)(1)(iv) is revised to clarify that declaration requirements do not apply to Incidental scallop vessels.

In § 648.14, paragraph (i)(2)(xiii) is revised by eliminating the term "sub-lease" since "lease" is not used elsewhere in the scallop regulations pertaining to IFQ transfers.

In § 648.52, paragraphs (a), (b), and (c) are revised to restrict a vessel to landing scallops only once per calendar day, rather than fishing for, possessing, or landing scallops only once per calendar day.

In § 648.53, paragraph (a) is revised in its entirety to clarify the TAC allocations and the transition measures to IFQ.

In § 648.53, paragraph (a)(9) is added to specify the incidental catch TAC.

In § 648.53, paragraphs (h)(2)(ii)(A) and (B) are revised to clarify that landings of scallops for "best year" and "years active" determinations must have occurred on or before November 1, 2004.

In § 648.53, paragraph (h)(3)(i) is revised to specify that a vessel can exceed the 2-percent IFQ limit if its contribution percentage specified during the initial application process results in the vessel's allocation exceeding 2 percent.

In § 648.53, paragraph (h)(3)(i) is revised to specify that a vessel owner can exceed the 5-percent ownership cap if the total IFQ for all of the vessels combined upon initial application/issuance of the IFQ scallop permit results in the owner having an ownership interest in more than 5 percent of the TAC allocated to the IFQ scallop fleet.

In § 648.53, paragraph (h)(4) is revised to clarify that the cost recovery fee is equal to 3 percent of the value of landed scallops, not 3 percent of the cost of administering the IFQ program. In addition, this paragraph clarifies the general requirements for IFQ vessel owners involved in a temporary transfer of IFQ to pay cost recovery fees.

In § 648.53, paragraph (h)(5)(ii) is revised to specify that a permanent transfer cannot be limited in duration.

In § 648.53, the term "lease" has been removed from the heading of paragraph (h)(5)(iv)(C) to be consistent with terminology for the IFQ transfer program throughout the scallop regulations.

In § 648.55, paragraph (a) is revised by replacing "rebuilding objectives" with "scallop resource conservation objectives."

In § 648.59, paragraphs (b)(5)(i), (c)(5)(i), (d)(5)(i), and (e)(6)(i) are revised to include a provision to specify the TACs for each access area that would be used to determine the number of limited access trips per area and for each category of limited access scallop trips.

In § 648.59, paragraphs (b)(5)(ii)(B), (c)(5)(ii)(B), and (d)(5)(ii)(B) are revised to reflect the 2008 fishing year specifications.

In § 648.59, paragraph (e)(6)(i) and (ii) are re-designated as paragraphs (e)(4)(i) and (ii). Paragraph (e)(6) is no longer included in § 648.59.

In § 648.62, paragraph (a) is revised to clarify that the NGOM scallop management area is defined as the area north of 42°20′ N. lat. and within the Gulf of Maine Scallop Dredge Exemption Area.

In § 648.62, paragraph (b)(2) is revised to clarify the reference to the NGOM scallop management area definition.

In § 648.63, paragraph (c)(1)(L) is added to require submission of other necessary and appropriate information as part of the Sector operations plan.

In § 648.63, paragraph (d)(3) is revised to reflect current timing requirements for submission of annual operations plans by Sectors. The December 1 date specified in the proposed rule would not provide NMFS with sufficient time to complete all associated review requirements for Sector operations plan submissions. This change is consistent with current provisions accepted for the NE Multispecies FMP Sector policy and operating provisions.

Classification

NMFS has determined that the amendment this final rule implements is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, has taken into account the data, views, and comments received during the comment period.

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

The Council prepared an FSEIS for Amendment 11; an NOA was published on October 19, 2007. The FSEIS describes the impacts of the proposed Amendment 11 measures on the environment. Since most of the measures would determine whether or not fishers can continue fishing for scallops, and at what level in the future, the majority of the impacts are social and economic. Although the impacts may be negative in the short term, particularly at an individual fisher level, the long-term benefits of a sustainable scallop fishery would be positive. Elimination of the open access fishery is expected to have positive impacts on the biological and physical environment.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0529. Public reporting burden for these collections of information are estimated to average as follows:

Add PRA Approval Number to Req's—Need OMB Approval First

1. Initial application for an IFQ scallop permit, OMB #0648–0491—30 min per response;
2. Initial application for an NGOM or Incidental scallop permit, OMB #0648–0491—15 min per response;
3. Completion of ownership cap form for IFQ scallop vessel owners, OMB #0648–0491—5 min per response;
4. Appeal for an LAGC scallop permit and IFQ scallop vessel contribution factor, OMB #0648–0491—2 hr per response;
5. Application for a vessel replacement or confirmation of permit history OMB #0648–0491—3 hr per response;
6. Purchase and installation of a VMS unit for general category scallop vessels, OMB #0648–0491—2 hr per response;
7. IFQ scallop vessel VMS trip notification requirements, OMB #0648–0491—2 min per response;
8. NGOM scallop fishery VMS trip notification requirements, OMB #0648–0491—2 min per response;
9. Incidental catch vessel VMS trip notification requirements, OMB #0648–0491—2 min per response;
10. Pre-landings VMS notification requirements, OMB #0648–0491—5 min per response;
11. Application for an IFQ transfer, OMB #0648–0491—10 min per response;
12. Electronic payment of cost recovery payment, OMB #0648–0491—2 hr per response;
13. LAGC scallop fishery sector applications, OMB #0648–0491—150 hr per response; and
14. Sector operations plans, OMB #0648–0491—100 hr per response.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), has prepared a FRFA in support of Amendment 11. The FRFA describes the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities.

The FRFA incorporates the economic impacts and analysis summarized in the IRFA for the proposed rule to implement Amendment 11, the comments and responses in this final rule, and the corresponding economic analyses prepared for Amendment 11 (e.g., the FSEIS and the RIR). The contents of these incorporated documents are not repeated in detail here. A copy of the IRFA, the RIR, and the FSEIS are available upon request (see **ADDRESSES**). A description of the reasons for this action, the objectives of

the action, and the legal basis for this final rule are found in Amendment 11 and the preamble to the proposed and final rules.

Statement of Need for This Action

The purpose of this action is to improve the management of the general category scallop fishery and the scallop fishery overall.

A Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA, a Summary of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

Fishing privileges will be assigned based on a vessel's fishing history and vessels that do not meet the qualification requirements for an LAGC scallop permit will no longer be eligible to fish for scallops unless the vessel replaces a vessel that is qualified for on the of the LAGC scallop permits. The allocation of scallop catch to the general category fleets will further restrict the amount of revenues derived from scallop landings by the general category fleet while ensuring that fishing mortality objectives of the FMP are achieved. The impacts of Amendment 11 are therefore largely social and economic. The measures will have direct negative economic impacts on vessel owners that do not have a qualifying vessel or that have fished more intensely recently than during the qualifying time period. As a result, the majority of comments opposing Amendment 11 that are described in the "Comments and Responses" section of the preamble of this final rule addressed issues relative to the IRFA in that commenters expressed concern directly and indirectly about the economic impacts of the measures and the impacts on small-scale vessel operations. NMFS's assessment of the issues raised in comments and responses is provided in the "Comments and Responses" section of the preamble of this final rule and are not repeated here. After taking all public comments into consideration, NMFS approved Amendment 11 on February 27, 2008.

Description and Estimate of Number of Small Entities To Which the Rule Would Apply

All vessels in the Atlantic sea scallop fishery are considered small business entities because all of them grossed less than $4.5 million according to dealer data for the 2004 and 2005 fishing years. Therefore, there are no disproportionate impacts on small entities. According to this information, annual total revenue averaged about $940,065 per limited access vessel in 2004, and over $1 million per limited access vessel in 2005. Total revenues per vessel, including revenues from species other than scallops, exceeded these amounts, but were less than $4.5 million per vessel. Average scallop revenue per general category vessel was $35,090 in fishing year (FY) 2004 and $88,702 in FY 2005. Average total revenue per general category vessel was higher, exceeding $240,000 in FY's 2004 and 2005. According to the preliminary estimates, average revenues per vessel were lower in the first 11 months of 2006 for all permit categories, because of lower scallop landings and prices.

The measures proposed in Amendment 11 would affect vessels with limited access scallop and general category permits. Section 4.4 (Fishery-related businesses and communities) of the Amendment 11 document provides extensive information on the number and size of vessels and small businesses that will be affected by the regulations, by port and state. These affected entities are the owners of 318 vessels that were issued full-time permits in 2006 (including 55 small-dredge and 14 scallop trawl permits; 32 part-time; and 1 occasional limited access permit). In addition, 2,501 permits were issued to vessels in the open access General Category, and more than 500 of these vessels landed scallops during the last 2 years.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action contains several new collection-of-information, reporting, and recordkeeping requirements. The following describes these requirements.

1. Application Process

NMFS estimates that there will be 500 applicants for an IFQ scallop permit, 200 applicants for a NGOM scallop permit, and 500 applicants for an Incidental scallop permit. Each IFQ scallop permit application will take approximately 30 min per application, while each NGOM and Incidental scallop permit application will take approximately 15 min to process. Consequently, the total time burden for the initial applications will be approximately 425 hr. Amendment 11 estimates that 370 IFQ scallop permit, 190 NGOM scallop permit, and 465 Incidental scallop vessels are expected to qualify and consequently renew their application each year. Permit renewal is estimated to take 15 min per application, on average, for a total burden of approximately 256 hr per year. The 3-year average total public time burden for IFQ, NGOM, and Incidental scallop permit initial applications, and permits renewals is expected to be approximately 312 hr. The labor cost, at an hourly rate of $15, will to be $4,680.

To implement the 5-percent IFQ ownership cap, vessel owners will be required to submit an ownership form with each permit renewal. Since there will be an estimated 370 IFQ permits, there will be about 370 ownership forms each year. NMFS estimates that it will take 5 min to complete each ownership form; therefore, the annual reporting burden will be about 31 hr, or 21 hr, averaged over the first 3 years. At an hourly rate of $15, the annualized time burden will be approximately $315.

About 80 applicants are expected to appeal the denial of their permit application over the course of the 3-month application period. The appeals process is estimated to take 2 hr per appeal, on average, for a total burden of 160 hr. The burden of this one-time appeal, annualized over 3 years, will be about 54 hr. At an hourly rate of $15, the time burden will be approximately $810.

2. Vessel Replacement, Upgrade, and Permit History Applications

A standard form for vessel replacements, upgrades, and permit history applications (RUPH application) will be used for LAGC scallop permits, although vessel upgrades will not apply for LAGC scallop vessels unless the vessel is issued other limited access fishery permits that have upgrade restrictions. With the exception of upgrade restrictions, LAGC scallop vessels will be subject to similar replacement and permit history restrictions as other Northeast Region limited access fisheries. Completion of an RUPH application requires an estimated 3 hr per response. It is estimated that 100 RUPH applications will be received annually. The resultant burden will be up to 300 hr. At an hourly rate of $15 per hour, the total public cost burden for RUPH applications will be about $4,500 per year.

3. New VMS Requirements

This action will require vessels issued any of the LAGC scallop permits to install VMS. Most vessels that qualify for an IFQ scallop permit have been participating in the directed general category scallop fishery, which already had VMS requirements prior to the implementation of Amendment 11. Therefore, it is likely that most vessels that will qualify for an IFQ permit

already have VMS. Vessels that qualify for an Incidental or NGOM scallop permit will not likely be participating in the directed general category scallop fishery. However, vessels that qualify for an Incidental or NGOM scallop permit may already have VMS reporting requirements through other fisheries, particularly the NE multispecies fishery. It is possible that some new permit holders will decide to purchase and install new VMS units in order to participate in one of these fisheries. Therefore, NMFS estimates that up to 10 vessels will purchase and install VMS units as a result of Amendment 11. NMFS estimates that it will take 2 hr to purchase each unit, for a total time burden of 20 hr; annualized over 3 years, the burden will be about 7 hr per year. NMFS anticipates that a vessel owner will hire a VMS technician to install the VMS unit; therefore there will be no installation time burden for the vessel owner. At an hourly rate of $15 per hour, the total public cost burden for VMS purchases will be $105 per unit. Since position polling is automated, there is no associated time burden with this reporting requirement.

4. Trip Notification Requirements

Each time a LAGC scallop vessel leaves port or is moved from the dock or mooring, the operator must submit a VMS trip declaration code to notify NMFS of the vessel's fishing activity.

According to 2007 VMS trip declaration data for 1B scallop vessels, approximately 40 percent of the time general category 1B vessels declare a general category scallop trip; the remainder are codes for other activities (if a vessel leaves port, general category regulations require it to declare a trip, regardless of the fishing activity). The 2008 scallop harvest specifications have not yet been finalized, but the proposed IFQ quota is 2.5 million lb (1,134 mt). Assuming each trip harvests the 400-lb (181.4-kg) possession limit, there will be an estimated 6,250 IFQ trip declarations per year, with an additional 9,375 trip declarations for some activity other than scallop fishing, for a total of 15,625 trip declarations per year. NMFS assumes that the vessel operator will submit a power-down code to reduce polling costs and conserve battery power following each trip. NMFS estimates that it takes approximately 2 min to submit a trip declaration or power-down code. NMFS estimates that the IFQ fleet will submit 31,250 VMS declaration codes (15,625 trip declarations and 15,625 corresponding power-down code submissions); therefore, the annual IFQ trip declaration time burden will be 1,042 hr. At an hourly rate of $15, this burden will be $15,630.

5. NGOM Notification Requirements

The proposed NGOM TAC is expected to be 64,000 to 100,030 lb (29,030 to 45,373 kg) each year. Assuming each trip lands the 200-lb (90.7-kg) possession limit, and using the upper limit of the proposed TAC, it is projected that there will be up to 500 NGOM trip declarations per year. For economic purposes it is unlikely that a vessel owner will incur the cost of a VMS unit solely to have a NGOM permit. Therefore, assuming these vessels already have VMS reporting requirements for other fisheries, VMS declaration reporting requirements for activities other than NGOM activity have already been accounted for in other approved PRA collections. The increased reporting burden resulting from the NGOM permit category will be approximately 500 trip declarations and 500 power-down declarations. Assuming each declaration takes approximately 2 min, the annual NGOM trip declaration time burden will be approximately 34 hr. At an hourly rate of $15, this burden will be $510.

6. Incidental Scallop Vessel VMS Notification Requirements

In 2004 and 2005, dealer data indicated that the percentage of scallops landed in quantities of 40 lb (18.1 kg) or less was 0.02 and 0.06 percent, respectively, of the total scallop landings. The average scallop landings on these trips in FY 2004 and 2005 was 19,363 lb (8,783 kg). Using this average, NMFS estimates that approximately 500 general category trips landed scallops incidental to other fishing. Assuming this rate will remain approximately the same, an estimated 500 Incidental trip declarations will be made annually. As previously noted, for economic purposes it is unlikely that a vessel owner will incur the cost of a VMS unit solely to have an Incidental scallop permit. Therefore, assuming these vessels already have VMS reporting requirements for other fisheries, VMS declaration reporting requirements for activities other than Incidental scallop permit activity have already been accounted for in other approved PRA collections. The increased reporting burden resulting from the Incidental scallop permit category will be approximately 500 trip declarations and 500 power-down declarations. Assuming each trip declaration takes approximately 2 min, the annual Incidental scallop trip declaration time burden will be approximately 34 hr. At an hourly rate of $15, this burden will be $510.

7. Pre-Landing Notification Requirements

VMS pre-landing notification forms will be required for each IFQ and NGOM scallop trip. Therefore, there will be 6,250 IFQ and 500 NGOM scallop vessel pre-landing notification forms submitted annually. NMFS estimates that it will take 5 min for each of the 6,750 reports, for an annual pre-landing notification time burden of 563 hr. At an hourly rate of $15, this burden will be $8,445.

8. State Waters Exemption Program Requirements

The state waters exemption program enrollment form is estimated to take 5 min to submit through the VMS—the same amount of time as it has taken to enroll through interactive voice response system currently used. State waters exemption program trip declaration requirements are already accounted for in an approved collection under OMB Control No. 0648–0202. Therefore, this burden will not increase the cost to vessel owners declaring into the state waters exemption program.

9. IFQ Transfers

IFQ transfers will apply to IFQ scallop vessels, except that current limited access scallop vessels that also have been issued an IFQ scallop permit will not be permitted to transfer IFQ. Using the Northeast Region's Northeast Multispecies DAS leasing program (OMB Control No. 0648–0475) as a proxy for the response rate for the IFQ transfer program, NMFS anticipates that there will be approximately 75 temporary transfers annually. Each application will include information from both parties involved in the temporary transfer; therefore there will be two responses per application. NMFS estimates that it will take 5 min per response, or 10 min per temporary IFQ transfer application. Therefore, the total estimated annual burden will be 13 hr. At an hourly rate of $15/hour, the total public cost burden for temporary IFQ transfer applications will be $195 per year.

The Northeast Multispecies DAS Permanent Transfer Program cannot be easily correlated with the general category permanent transfer program because the Northeast Multispecies Program has a 20-percent conservation tax on all transfers, while there will be no conservation tax on scallop IFQ transfers. Although NMFS anticipates that there will be more IFQ transfers than DAS transfers, IFQ transfers will be

restricted by the requirement that no IFQ vessel owner could have an ownership interest in more than 5 percent of the total TAC for IFQ scallop vessels, and no vessel could have more than 2 percent of the total TAC for IFQ scallop vessels at any time. NMFS anticipates that there will be approximately 10 permanent IFQ transfers per year. Each application will include information from both parties involved in the transfer; therefore there will be two responses per application. It is estimated that it will take 5 min per response, or 10 min per permanent transfer application. Therefore, the estimated permanent IFQ transfer burden will be 2 hr per year. At an hourly rate of $15 per hour, the total public cost burden for permanent quota transfer applications will be $30 per year.

10. Cost Recovery

Since cost recovery for the scallop IFQ program is new, and there are no other current cost recovery programs in Northeast Region fisheries, the burden per response used by the Alaska Region's Alaska Individual Fishing Quota Cost-Recovery Program Requirements (OMB Control No. 0648–0398) was used as a proxy for the scallop IFQ program. Each IFQ permit holder will be required to submit a cost recovery payment once annually, which will take 2 hr per response. There will be 370 payments (one per qualified IFQ scallop vessel) that will take approximately 740 hr in total. At an hourly rate of $15/hour, the total public cost burden for cost recovery will be $11,100 per year.

11. LAGC Sector Program

NMFS estimates that there could be up to nine sector proposals received over the next 3 years (2008–2009)—five in the first year, two in the second year, and two in the third year. The earliest that the sectors proposed in the 2008 year could be implemented is the 2009 fishing year. Therefore, these sectors will be required to submit operation plans for the 2010 fishing year.

Any person could submit a sector allocation proposal for a group of LAGC scallop vessels to the Council at least 1 year in advance of the anticipated start of a sector program, and request that the sector be implemented through the framework procedure specified at § 648.55. Based upon consultations with the Northeast multispecies sector program, it is estimated it will take 150 hr to prepare and submit a sector proposal. Therefore, the 3-year average annualized time burden for sector proposals will be 450 hr per year. At an hourly rate of $15 per hour, the total public cost burden for sector proposals will be $6,750 per year.

A sector is required to resubmit its operations plan to the Regional Administrator no later than December 1 of each year, whether or not the plan has changed. Based upon consultations with the Northeast multispecies sector program, each operations plan takes approximately 100 hr. The earliest sector operation plans will be submitted in 2010 for the proposals submitted in 2008. Therefore, NMFS estimates it will take 500 hr to submit five operation plans. The 3-year average annualized time burden will be 167 hr per year. At an hourly rate of $15 per hour, the annual time burden cost will be approximately $2,500.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

The following discussion also includes a description of the economic impacts of the proposed action compared to significant non-selected alternatives as required under the RFA for inclusion in the FRFA.

In summary, the proposed limited access program could have negative economic impacts in the short term on the estimated 373 vessels that would not qualify for a LAGC scallop permit, with adverse impacts compared to 2005 scallop revenue estimated to be less than 5 percent for 119 vessels, 5 to 49 percent for 58 vessels, and 50 percent or more for 196 vessels. The measures would also have negative impacts on about 153 out of 369 vessels that are estimated to qualify for the IFQ scallop permit, with adverse impacts compared to 2005 scallop revenue estimated to be less than 5 percent for 26 of these vessels, 5 to 50 percent for 70 vessels, and over 50 percent for 57 vessels. Altogether, approved Amendment 11 measures could reduce total revenues of 381 vessels of more than 5 percent in the short-term. There are several measures in the proposed action, however, to help mitigate and reduce the potential negative impacts on these vessels. Qualifying vessels would be permitted to stack allocation up to 2 percent of the entire general category allocation and to transfer (*i.e.*, lease or buy) IFQ on a permanent or temporary basis. This would enable vessel owners who do not receive an adequate amount of allocation to increase their scallop revenue to mitigate negative impacts. Furthermore, there is a provision to allow the formation of voluntary sectors. It may be beneficial for a group of vessels from a fishing community, for example, to organize and apply for a sector in the general category fishery. Negative impacts on some vessel owners may be mitigated if a vessel would qualify for a NGOM scallop permit that authorizes it to fish for scallops at a reduced level. In addition, many of the vessels that would not qualify for the IFQ scallop permit would qualify for an Incidental scallop permit that would authorize the vessel to land up to 40 lb (18.1 kg) of scallops per trip.

Continuation of the open access fishery under the no action alternative would not guarantee that the affected vessel owners would get more scallop revenue than they could with the proposed limited access program. With continued open access, there would always be the risk of more vessels entering the fishery, with the potential for overcapitalization of the scallop fishery and overfishing of the scallop resource. Overfishing would likely cause a reduction in landings per unit effort, an increase in fishing costs per pound of scallops, and dissipation of the profits for all limited access and general category vessels.

There would also be possible future negative effects on the existing limited access scallop vessels with the continuation of the open access program because the need to prevent an increase in overall fishing mortality would at some point reduce the DAS allocations for the limited access fleet to compensate for projected general category catch. Assuming a scallop harvest of 50 million lb (22,680 mt), an increase in the share of general category landings to 20 percent of the total scallop landings would result in a decline of 17 percent to 21 percent of the net vessel share (as a proxy for profits) for the limited access vessels. Given that, in 2005, the general category landings increased to 14 percent of the total landings from about 5 percent in 2004, a further increase in general category effort could occur without a limited access program.

Because it would prevent further expansion of the general category fishery, the economic impacts of the proposed measures on the 351 existing limited access vessels would be positive both in the short and the long term. Reducing the general category catch from recent levels could increase the

total DAS allocations for those vessels, resulting in approximately a 7-percent increase in their revenues compared to the status quo levels. Similarly, the general category limited access program would benefit the current limited access vessels that qualify for an IFQ permit, although the proposed 0.5-percent allocation of the total scallop TAC could lower their landings compared to recent levels (1.5 percent and 0.75 percent of overall scallop landings in 2005 and 2006, respectively).

The overall economic impacts of the limited entry in the medium to long term are expected to be positive for the sea scallop fishery as a whole, compared to taking no action. The proposed action would restrict the estimated number of participants in the general category fishery to 369 vessels that meet the IFQ permit qualification criteria. The allocation of a 5-percent TAC for the general category would cap the fishing mortality from this component of the fleet. The limited access program would also prevent the profits of the qualifiers and limited access vessels from being dissipated due to an increase in fleet capacity that would likely occur with continued open access.

NMFS evaluated the Council's proposed measures relative to compliance with the Magnuson-Stevens Act, including national standards, required provisions, and the discretionary provision pertaining to limited access programs, as well as with applicable laws and the FMP. NMFS has determined that Amendment 11 is consistent with all National Standards, including National Standard 4 (which requires management measures to be fair and equitable, but which recognizes that fishing privilege may need to be allocated among fishermen), and National Standard 8 (requiring management measures to minimize adverse economic impacts, to the extent practicable, on fishing communities). Without Amendment 11 and the controls on access to the fishery, estimated catch levels would continue to be exceeded, compromising NMFS's ability to effectively manage the scallop fishery overall. Uncontrolled, the general category fishery could contribute to excess fishing mortality on the scallop resource. As a result, the long-term economic and social impacts would be negative for the scallop fishery as a whole. All general category fishermen are small scale fishermen, given the vessels' relatively low level of scallop catch compared to vessels in the limited access fleet. All scallop fishing vessels are small entities as defined by the RFA.

Amendment 11 measures will impact all scallop vessels to varying degrees. General category scallop landings and revenues since the November 1, 2004, control date have been the highest on record. Amendment 11 will curtail this recent ramp-up in effort, thus having a negative impact on revenues of some fishermen. Amendment 11 will have short-term negative economic and social impacts on vessel owners that fished more intensely recently than they did during the qualifying time period. Vessel owners with historical landings and participation similar to current levels will be the least impacted.

Negative impacts on non-qualified vessels (*i.e.*, post-control date entrants) will be most severe, since their revenues from scallop landings will be terminated. Amendment 11 contains no provisions specifically designed to minimize negative impacts on non-qualified vessels, although various alternatives to allow such vessels to continue fishing were considered and rejected by the Council because they were not consistent with the goal of Amendment 11 to reduce capacity and mortality in the general category fishery. These vessels entered the fishery after the November 1, 2004, control date, despite the control date's intent to deter individuals from unduly investing in, or relying on this fishery. In order for the effort reduction to be meaningful, while allowing remaining fishery participants to have reasonable opportunities to fish, some vessels must be eliminated. NMFS has concluded that the historic participants should have the opportunity to continue to fish.

The evaluation of Amendment 11 measures concluded that the suite of measures; in particular the limited access program, the IFQ program, IFQ transfer provisions, and sector provisions; combine to minimize the negative impacts on qualified vessels. Positive impacts on the qualified participants, as well as the existing limited access fleet, are expected as the harvest capacity of, and fishing mortality by the general category fleet is controlled.

A description of significant alternatives to the measures approved as part of Amendment 11 which affect the impact on small entities and the reasons why these other alternatives were not adopted follows.

Landings Criteria

Two alternatives to the proposed landings qualification criteria were considered: Scallop landings on one trip during the qualification period of 100 lb (45.4 kg) or more; and cumulative annual landings of 5,000 lb (2,268 kg). The 100-lb (45.4-kg) landing qualification criteria is estimated to qualify more vessels (548) for limited access and have a lower negative impact on the recent participants than the preferred alternative. On the other hand, by increasing the number of participants, this alternative would result in a lower share of general category TAC for each qualifier and would thus have a negative impact on individual vessels, especially on vessel owners that have a high dependence on scallop revenue as a source of income. For example, the average allocation per vessel would decline from 5,429 lb (2,462 kg) to 3,650 lb (1,656 kg) per vessel if the poundage criterion was set at 100 lb (45.4 kg) instead of at 1,000 lb (454 kg) for a general category TAC of 2 million lb (907 mt). The alternative 5,000-lb (2,268-kg) landings qualification criterion is estimated to qualify only 188 vessels for limited access and, thus, would increase the share of each qualifier in general category TAC. As a result, average allocation per vessel would increase to 10,638 lb (4,825 kg) with a 2-million-lb (907-mt) general category TAC. Although this alternative would have positive economic impacts on the vessels that had a much higher historical dependence on scallops as a source of their income, it would deny eligibility to a much larger number of vessels that historically derived some revenue from scallop fishery. The proposed 1,000-lb (454-kg) alternative would deny eligibility to a large number of vessels that have small landings of scallops (*i.e.*, that landed between 100 and 999 lb (45.4 kg to 453 kg)), while qualifying vessels that depend on scallops to a larger degree.

Qualification Time Period

Eligibility for limited access would require a vessel to have made the required amount of landings in any scallop fishing year during a specified time period. In addition to the proposed March 1, 2000, through November 1, 2004, qualification period, the Council considered two alternative qualification periods: March 1, 1994, through November 1, 2004; and March 1, 2003, through November 1, 2004. The economic impacts of the qualification period, combined with the landing criteria, are analyzed in several sub-sections of Section 5.4 of the Amendment 11 document and are summarized here. The impacts on the general category permit holders and vessels that qualify for limited access are analyzed in Section 5.4.3 of the Amendment 11 document. The impacts on revenues, fishing costs, average net

revenues, crew and vessel shares are analyzed in Section 5.4.5 of the Amendment 11 document, for various levels of general category TAC. The impacts of the proposed 5-yr qualification period and other alternatives on recent participants in the general category fishery are analyzed in Section 5.4.6 of the Amendment 11 document.

The proposed 5-yr qualification period, combined with the 1,000-lb (454-kg) landings criteria, is expected to have positive economic impacts in the short and long term on vessel owners with vessels that qualify for limited access. It would provide access to those general category vessels that were active in the fishery in recent years, as well as to historical participants that were active from March 1, 2000, through November 1, 2004. The proposed 1,000-lb (454-kg) poundage criterion and the 5-yr qualification period would qualify 369 vessels, but would deny eligibility to 90 vessels that meet the 1,000-lb (454-kg) criterion for their activity during FY 1994–1999. The economic impacts on these historic participants would be negative in terms of a loss in future potential revenue from scallops, unless they buy a vessel that qualifies for limited access. The proposed 5-yr qualification period would not have any impact on the current income of most of these vessels, given that most have not been active since 2000; only 10 vessels are estimated to have participated in the fishery after the control date (November 1, 2004). The longer qualification period would cause the general category TAC to be divided among a larger number of vessels, most of which were not recently active in the fishery, and vessels that depend on scallops would receive a smaller share than they would with the proposed 5-yr qualification period. This would have negative economic impacts on the vessels that depend on scallops to a larger degree. There are also some measures included in the proposed action that could mitigate some of these adverse economic impacts on non-qualifiers. If these vessels had a permit before the control date, they could obtain an incidental catch permit and land up to 40 lb (18.1 kg) per trip, and thus still earn some revenue from scallops. Other vessel owners could choose to obtain an NGOM scallop permit and participate in the NGOM fishery, subject to a possession limit of 200 lb (90.7 kg) per trip and a hard TAC.

The 2-yr qualification period alternative would have restricted eligibility to 277 general category vessels that landed 1,000 lb (454 kg) or more of scallops during the period March 1, 2003, through November 1, 2004, instead of 369 vessels under the proposed action. Although this alternative would result in a larger share per vessel qualified for limited access, it was found to be inequitable to participants who did not fish for scallops in 2003–2004, but who did fish in recent years since 2000.

IFQ Vessel Contribution Factor

Under the proposed action, each IFQs vessel's contribution factor would be determined by identifying the year with the highest landings during the qualification time period, and multiplying it by an index that increases as the number of years in which the vessel landed scallops during the qualification time period increases. For example, the index is 0.75 if the vessel landed scallops in 1 year, and 1.25 if the vessel landed scallops in 5 years. Therefore, the proposed action would allocate more pounds to those vessels that were active in the fishery for a longer period of time.

In addition to the proposed measure, the Council considered three alternatives to calculate the contribution factor. One alternative used the vessel's best year of landings during the qualification time period. Another alternative used the vessel's best year multiplied by a lower range of index factor than the proposed action. The third alternative used either the best year of landings during the qualification time period, or the indexed best year of landings during the qualification time period, but capped the contribution at 50,000 lb (22,680 kg) of scallops. The economic impacts of the contribution factor alternatives are analyzed in Section 5.4.7.1 through 5.4.7.2 of the Amendment 11 document.

The alternatives to the proposed option would have distributional economic impacts less favorable to the vessels that were active in the fishery for many years. The alternative that used a lower range of index values (0.9 to 1.10, rather than 0.75 to 1.25) would provide only a slight increase in IFQ share for vessels that were active in the fishery for a long period of time, while only slightly decreasing share for vessels that were in the general category scallop fishery for only 1 year. This would have had more negative impacts on a larger number of vessels that had a longer history in the general category scallop fishery. The alternative allocation based on best year (Section 3.1.2.3.1 of the Amendment 11 document) would have had negative economic impacts on those vessels that had a longer history of participation, since allocation would be determined regardless of years active. For the same reason, this alternative would have had positive economic impacts on those vessels that had a shorter history of participation. The final alternative, which would establish the 50,000-lb (22,680-kg) cap on a vessel's contribution factor, would prevent a vessel from getting a larger share of the fishery even if it had very high historical landings. This alternative would have impacted vessels with higher landings more severely than vessels with lower landings, and was therefore not selected. The proposed alternative using the best-year indexed by the number of years active is intended to help reduce the negative impacts on those participants with an established history and long-term investment in scallop fishing.

Scallop Allocation for LACG Scallop Vessels

The Council considered several ways of allocating IFQ to vessels that qualify for a LAGC scallop permit (excluding NGOM and Incidental scallop vessels). These included: Allocations by vessel in pounds of scallops or number of trips per vessel; allocations to two allocation tiers where every vessel in a tier would receive the same allocation; allocation to three allocation tiers; a fleetwide hard TAC; and a fleetwide hard TAC allocated into either quarters or trimesters. The Council also considered a stand-alone IFQ alternative that would confer eligibility on IFQ vessels based only on past permit issuance, and would use the contribution factor alternative adopted by the Council to allocate a vessel's IFQ. The economic impacts of the allocation alternatives are analyzed in section 5.4.8 of the Amendment 11 document.

Under the proposed action, NMFS would calculate a vessel's IFQ by multiplying the overall general category TAC by the vessel's contribution factor. An example demonstrating the calculation of a vessel's IFQ is provided in the "IFQs for Limited Access General Category Scallop Vessels" section of the preamble of this proposed rule.

The allocation of IFQ would eliminate the derby fishing effect that results from a TAC because an IFQ assures that each vessel can land a given quantity anytime during the fishing year. Vessel owners would have the flexibility to select the time and the area to fish in order to minimize their costs and/or maximize their revenues. Since the fishing effort would be spread over a longer period of time, the price of scallops would be more stable throughout the season. This, combined with the availability of a fresh and/or higher quality scallops over a longer season, would benefit consumers

as well as producers. Therefore, the proposed allocation alternative would have positive economic impacts on the vessels that qualify for limited access general category fishery. Although maintaining the 400-lb (181.4-kg) possession limit would cause some inefficiencies and result in higher costs compared to a higher possession limit (alternative 2,000 lb (907 kg) per trip), this provision is intended to help preserve the historical small-boat character of this fleet.

The non-selected alternative that would have allocated a number of trips to each scallop vessel has an advantage over the IFQ alternative because it is easier to monitor and enforce, but could result in either reduced revenue or increased costs for vessels that catch less than 400 lb (181.4 kg) of scallops on any trip, because the trip would have been considered to be used irrespective of amount landed. Another non-selected alternative would have established two permit tiers to which vessels would be assigned based on the level of historical scallop landings. Vessels that had historical landings of less than 5,000 lb (2,268 kg) would have a possession limit of 200 lb (90.7 kg), while vessels that had historical landings greater than 5,000 lb (2,268 kg) would have a scallop possession limit of 400 lb (181.4 kg) per trip. The alternative did not restrict the number of trips that could be taken or pounds that could be landed by vessels within a tier. This alternative would have negative economic impacts on vessels that landed less than 5,000 lb (2,268 kg) and would be restricted to a 200-lb (90.7-kg) possession limit because it would reduce landings from recent historical levels. The three-tiered allocation alternative would allocate equal pounds or trips to each vessel within one of three tiers based on the vessel's historical level of landings, with the pounds or trips allocated to each tier based on the average amount of scallops landed by vessels in each tier. As a result, this alternative would have negative impacts on a vessel in a tier that landed a higher amount of scallops than the average for the tier. The stand-alone alternative would allocate IFQ to a larger number of vessels, but would have negative distributional impacts on vessels that have had higher recent annual landings of scallops. Instead of individual allocation, the alternative that would establish a hard TAC with limited entry vessel permits could lead to a race to fish and market gluts. This could have negative economic impacts, especially on smaller vessels that fish seasonally and cannot access all areas due to the constraints on their capacity. A fleet-wide hard TAC allocated by trimester or by quarter would extend the fishing season and reduce negative impacts from derby fishing and market gluts, to some extent. These alternatives would have larger negative distributional impacts on some vessels compared to the proposed IFQ program, and other vessel allocation alternatives considered, because the opportunity to fish and land scallops would be dependent upon the level of fishing by other vessels. For example, a vessel may not get the opportunity to fish for scallops at all under a quarterly fleetwide TAC alternative if other general category vessels quickly harvest the entire TAC. If such a vessel had landings of scallops before Amendment 11, the vessel would experience scallop revenue losses compared to alternatives that would allow the vessel to fish for scallops regardless of the scallop fishing activity of other vessels.

Limited Entry Permit Provisions

Amendment 11 includes most of the provisions adopted in other limited access fisheries in the Northeast Region to govern the initial qualification process, future ownership changes, and vessel replacements. For the most part, there is no direct economic impact of these provisions. The nature of a limited access program requires rules for governing the transfer of limited access fishing permits. The procedures have been relatively standard for previous limited access programs, which makes it easier for a vessel owner issued permits for several limited access fisheries to undertake vessel transactions. The standard provisions adopted in Amendment 11 are those governing change in ownership; replacement vessels; CPH; abandonment or voluntary relinquishment of permits; and appeal of denial of permits. In addition, IFQ scallop vessels would be restricted to a cap on the amount of IFQ they could own. This ownership cap restriction is based on a similar ownership cap provision for current limited access vessels. This action would modify some of the other provisions for LAGC scallop vessels. LAGC scallop vessels would not have any vessel size and horsepower upgrade restrictions for vessel modifications or vessel replacements (unless the vessel has other limited access permits). This action would also allow a vessel owner to retain a general category scallop fishing history prior to the implementation of Amendment 11 to be eligible for issuance of the LAGC scallop permit based on the eligibility of the vessel that was sold, even if the vessel was sold with other limited access permits. Amendment 11 allows the general category fishing history to be retained and split from other limited access permits prior to the effective date of Amendment 11. This is a departure from other limited access permit programs that prohibit such histories from being split from other fishing history. Allowing the splitting avoids complicated ownership disputes between individuals that completed vessel sale transactions that effectively split fishing history before and during the development of Amendment 11.

The economic impacts of the limited access permit provisions are analyzed in section 5.4.9 of the Amendment 11 document. Measures allowing vessel owners to appeal limited access permit denials would indirectly benefit all participants by ensuring that only those vessels that provide verification of permit and landings history would qualify and receive allocation based on accurate records. The proposed regulations regarding qualification with retained vessel histories would have positive economic impacts for participants that sold their vessel to another but retained the fishing history. The proposed action would allow a vessel owner to modify a LAGC scallop vessel's size or horsepower without any upgrade restriction, provided that there are no other limited access permits issued to the vessel. This would provide flexibility for the vessel owners to adjust their fishing power under changing fishery conditions. Flexibility with a vessel's size and horsepower could also improve safety at sea. Since the vessels would be allocated individual pounds, this is not expected to impact the total scallop landings or provide an unfair advantage to larger vessels.

Amendment 11 would allow a vessel owner to obtain permanent or temporary transfers of IFQ, up to 2 percent of the total general category allocation per vessel. This would help vessel owners to maintain an economically viable operation if the allocations for separate vessels are too low to generate revenue to cover variable and fixed expenses. It could also allow a vessel owner to sell or lease a small IFQ to another vessel owner, which would generate income from the IFQ without operating costs. This measure, combined with a restriction that an individual could not have an ownership interest in more than 5 percent of the overall TAC, would also prevent a few individuals or corporations from dominating the fishery and would help to redistribute gains from the limited access more equitably among more fishermen. Non-preferred alternatives considered other ways to limit the accumulation of IFQ. One would have allowed two

allocations only to be combined, and the other set a cap of 60,000 lb (27,216 kg) total allocation. The selected alternative provided more flexibility while maintaining an overall limit on the amount of IFQ that could be held by a single vessel.

Non-preferred alternatives would have prohibited IFQ transfers, would have maintained vessel size and horsepower upgrade restrictions consistent with other limited access permits (allowed upgrades up to 10 percent in length, and gross and net tonnage, and 20 percent in horsepower), and would have prohibited IFQ transfers, providing less flexibility for vessel owners and reduced economic benefits.

Sectors

Amendment 11 proposes to allow participants in the IFQ scallop fishery to organize voluntary fishing sectors. Amendment 11 specifies sector requirements and the process through which proposals would be submitted to the Council and NMFS. Amendment 11 does not establish sectors—just the process under which future sectors could be proposed. The proposed sector process would provide an opportunity for fishermen to benefit from an economically viable operation when the allocations of individual vessels are too small to make scallop fishing profitable. In comparison, the only alternative to the proposed action would not allow the formation of sectors, decreasing flexibility and eliminating any possible future economic benefits of forming sectors.

Measures for Transition to the IFQ Program

Amendment 11 specifies measures that would be implemented for at least 1 year, while the eligibility process for IFQ scallop permits is underway to establish the fleet of IFQ scallop vessels. The economic impacts of the transition period alternatives are analyzed in section 5.4.12 of the Amendment 11 document. The proposed interim alternative would establish the following measures. These would help to prevent a short-term increase in overfishing of the scallop resource by limiting the general category landings to 10 percent of the total scallop landings through specification of a TAC. The proposed action would prevent further expansion in the general category catch and benefit the participants of the general category fishery by providing some adjustment time for general category vessels until the transition period is over. The allocation amounts for many IFQ scallop vessels are likely to be lower with the proposed 5-percent TAC for the IFQ fishery than their recent landings. Although management of the general category fishery by a fleetwide TAC during the transition period would create some derby fishing, the allocation of the total TAC into quarters would reduce derby effects to some extent, and lessen the negative economic impacts associated with derby fishing. A 10-percent fleetwide TAC may not constitute a significant constraint on recent landings, given that only those vessels that qualify for an IFQ permit, or that are under appeal for an IFQ permit, would be authorized to fish during the transition period. General category scallop landings by those vessels that had a permit before the control date were approximately 11 percent of total landings in 2005.

An alternative was considered that would have established an annual fleetwide TAC. It was not selected because the Council believed it would increase the derby effect, with potential negative economic and safety implications. It would increase the likelihood that a vessel would not have the opportunity to fish for scallops because other vessels could rapidly harvest the TAC. Another alternative proposed that the transition year would have no TAC. It would eliminate the incentives for derby style fishing and the economic impacts of this alternative compared to the status quo would be negligible, provided participation by general category vessels that had a permit before the control date does not increase significantly above the recent levels. On the other hand, it is possible for the number of appeals to be greater than the number of vessels that fished during the recent years, resulting in more vessels participating in the fishery. If this were to happen, and the general category scallop landings increase above 10 percent of total scallop harvest, there could be short-term unexpected increase in fishing mortality on the scallop resource.

NGOM Scallop Management Area

Amendment 11 includes management measures specific to the NGOM scallop management area intended to allow a level of scallop fishing activity to occur outside of the constraints of the IFQ program and some other Amendment 11 provisions for general category vessels. Measures include the establishment of a TAC for the area derived from the Federal portion of the resource; a 200-lb (90.7-kg) possession limit for NGOM and IFQ scallop vessels; a restriction on dredge size; a restriction that catch by IFQ scallop vessels fishing in the area would be deducted from the IFQ scallop vessel's IFQ and from the NGOM TAC; trip declaration requirements; and a closure of the NGOM to all scallop vessels (including current limited access scallop vessels and Incidental scallop vessels) when the NGOM TAC is reached. The economic impacts of the NGOM Scallop Management Area are analyzed in section 5.4.14.4 of the Amendment 11 document. The proposed NGOM Scallop Management Area alternative would have positive economic impacts on a large number of vessels that are not estimated to qualify for the IFQ permit but that are estimated to qualify for an NGOM permit. These vessels would have an opportunity to land scallops in this area when the resource conditions are favorable. It would reduce the possession limit for NGOM and IFQ scallop vessels to 200 lb (90.7 kg) per trip to reduce incentives for larger vessels targeting scallops in this area. Although reducing the possession limit would have negative economic impacts on some vessels, the majority of the active vessels that would qualify for the NGOM permit general category permit landed 200 lb (90.7 kg) or less of scallops from any one trip, therefore would not be negatively impacted from 200 lb (90.7 kg) possession limit. In comparison, the no action alternative would have had negative economic impacts for vessels that could not qualify for the IFQ scallop permit.

Under one alternative, Amendment 11 provisions would not have applied to NGOM and the general category vessels would have retained the opportunity to fish for scallops in NGOM and land up to 400 lb (181.4 kg) per trip. The lack of a TAC to limit landings, and the higher possession limit, would have had positive economic impacts on these vessels compared to the proposed alternative. On the other hand, because this alternative would let any vessel obtain a permit to fish in the area, it could lead to an influx of vessels from other areas to participate in the open access fishery in the NGOM. This would have negative impacts on the resource that made it unacceptable.

Another alternative proposed that, to qualify for an NGOM scallop permit, a vessel would have to have landed 100 lb (45.4 kg) of scallops during the period March 1, 1994, through November 1, 2004. The NGOM TAC under this alternative would be based on all landings of scallops from the NGOM area (not exclusively the Federal portion of the resource, as in the proposed action). This alternative also would have allowed vessels to continue fishing for up to 40 lb (18.1 kg) of scallops after harvest of the NGOM TAC. This

alternative would also provide an advantage to IFQ scallop vessels by allowing them to land 400 lb (181.4 kg) per trip from this area, whereas NGOM scallop vessels could possess and land only up to 200 lb (90.7 kg) per trip. This alternative was not adopted because the qualification criteria would have had very little restriction on participation, would have had excessive administrative costs, and would not promote conservation of the scallop resource within the Gulf of Maine or overall. While it would have qualified more vessels than the proposed measure, the economic opportunity for those vessels would have been diluted by a very large number of qualified vessels fishing for a relatively small TAC.

The no action alternative for the NGOM Scallop Management Area would not distinguish this area from other areas, and all Amendment 11 measures would apply equally throughout the range of the scallop resource. It was not selected because it would have negative impacts on vessels that traditionally fish in the NGOM and that could not qualify for the IFQ permit.

Monitoring Provisions

The economic impacts of monitoring provisions proposed in Amendment 11 are analyzed in section 5.4.15 of the Amendment 11 document. Since general category vessels that land over 40 lb (18.1 kg) of scallops are already required to have a VMS onboard, the compliance costs of this action are not expected to be significant. Vessels operating in the Northeast multispecies fishery are also required to have operational VMS units. Some of these vessel also have general category scallop permits and would be expected to qualify for one of the LAGC scallop permits. The majority of general category scallop vessels currently operate VMS as required either by the scallop regulations or the Northeast multispecies fishery regulations. The non-selected IVR alternative does not have a distinct advantage compared to reporting through VMS. The no action alternative would not have the associated costs of reporting landings, but reporting of scallop catch for each trip is essential to monitor and enforce the IFQ and NGOM scallop fishery measures.

Limited Access Vessels Fishing Under General Category Rules

Amendment 11 provides the opportunity for current limited access vessels (*i.e.*, full-time, part-time, or occasional limited access scallop vessels) to also be issued a LAGC scallop permit, if the vessel meets the qualification criteria. The economic impacts of allowing limited access vessels to continue to fish under general category rules are analyzed in section 5.4.16.1 of the Amendment 11 document. The proposed action would have positive economic impacts on 57 limited access vessels (38 full-time, and 19 part-time and occasional) that Amendment 11 estimates would qualify for an IFQ scallop permit. One non-selected alternative would prevent any limited access vessel from having a general category permit and another would prevent current full-time limited access scallop vessels from fishing under general category rules. This would result in negative economic impacts compared to the proposed alternative for those vessels noted above that have a historical level of participation in the general category fishery while fishing outside of scallop DAS.

Under the proposed allocation to LAGC scallop vessels, 0.5 percent of the overall scallop TAC would be allocated to vessels with IFQ scallop permits that also have been issued a full-time, part-time, or occasional limited access scallop permit. IFQs for these vessels would be determined from the 0.5-percent TAC allocation. Under the transition measure before the IFQ program is implemented, IFQ scallop vessels that have also been issued a full-time, part-time, or occasional limited access scallop permit would fish under the 10-percent TAC allocated to the general category fleet. The proposed action would have positive economic impacts on those vessels. The 0.5-percent TAC for the limited access qualifiers is less than the percentage share of these vessels in total general category scallop landings in recent years, but almost equal to what was reported in FY 2004. Under one alternative, scallops landed by limited access vessels under general category rules would be deducted from the 5-percent TAC allocated to the IFQ vessels, negatively impacting the general category vessels that qualify for limited access, with small positive economic impacts on the limited access scallop fleet. This alternative was therefore not selected, and the separate 0.5-percent TAC is proposed.

Allocation Between Limited Access and General Category Fisheries

The Council considered alternative values for the TAC that would be allocated to IFQ scallop vessels (excluding IFQ scallop vessels also issued a full-time, part-time, or occasional limited access scallop permit), equal to 2.5, 5.0, 7.0, 10.0, and 11.0 percent of the overall projected scallop catch. The economic impacts of the various levels of TAC allocation between the limited access and LAGC fishery are analyzed in section 5.4.17 of the Amendment 11 document and have different distributional impacts. The proposed 5-percent general category TAC would have negative economic impacts on many general category vessels compared to status quo management because the fishery landed twice that level in both FY 2005 and FY 2006. On the other hand, the 5-percent TAC is higher than the long-term average percentage share of total scallop landings for the general category scallop fishery, which is 2.5 percent of overall scallop landings. The 5-percent allocation corresponds to the highest level reached by the general category fishery before the control date. Therefore, this allocation is consistent with the Council's decision in 2004 to implement a control date, recognizing that the substantial increase in general category fishing effort could lead to overfishing of the scallop resource and reduce economic benefits for everyone in the fishery. The short-term and long-term economic impacts of the 5-percent TAC, combined with the limited entry program, compared to other alternative allocation amounts are discussed extensively above and are not repeated here.

The proposed action includes several measures that could mitigate some of the adverse economic impacts of the limited access program for general category, including the 5-percent TAC. The separate limited entry program for the NGOM is expected to provide an opportunity for owners of vessels that would not qualify for the IFQ scallop permit, but who have historically participated in the NGOM scallop fishery, to fish for scallops at a reduced scale (at a lower possession limit of 200 lb (90.7 kg) per trip) when the resource conditions in this area become favorable. The incidental catch permit would provide opportunity for the vessels that land scallops occasionally up to 40 lb (18.1 kg) per trip, including some vessels that qualify for limited access but that received allocations lower than what they could land annually with the incidental permit. Furthermore, Amendment 11 includes a provision to allow vessel owners to combine IFQ allocations through the IFQ transfer program, up to 2 percent of the TAC allocated to the IFQ scallop fishery, so that vessel owners can buy or lease additional IFQ. Similarly, the

proposed action to establish a process for sectors in the general category fishery would provide an opportunity for fishermen to benefit from an economically viable operation when the allocations of individual vessels are too small to make scallop fishing profitable.

A lower TAC for general category would have larger negative proportional impacts on general category vessels while potentially increasing the revenues of the limited access fishery by a small percentage. A higher percentage TAC would reduce the negative impacts on general category vessels, but would lower the positive economic impacts on the current limited access.

Incidental Catch Permit

The economic impacts of the proposed Incidental catch permit are analyzed in section 5.4.18 of the Amendment 11 document. The proposed action would create an incidental catch permit for vessels to retain and sell up to 40 lb (18.1 kg) of scallop meats per trip, provided they had been issued a general category scallop permit as of November 1, 2004. The economic impacts of this alternative would be positive on vessels that do not qualify for the IFQ permit because it would allow them to still earn some income from scallops under the incidental catch permit. This measure could also benefit some vessels that qualify for the IFQ permit with low allocations. The owner of such a vessel might elect the Incidental scallop permit because the vessel could land more total pounds of scallops on several 40-lb (18.1-kg) trips than it could under its IFQ.

The only other alternative considered was no action, which would allow vessels to possess and land, but not sell, an incidental catch of scallops. This alternative would not provide any source of revenue for vessels that do not qualify for the IFQ or NGOM scallop permit. It also would complicate the Council's and NMFS's ability to determine the overall level of scallop catch from a fleet of vessels without scallop permits because none of the reporting and compliance measures would apply to non-permitted vessels. This could result in more cautious management measures in the future, with possible negative economic impacts on all vessels issued scallop permits.

Changing of the Issuance Date of General Category Permits

Amendment 11 proposes to change the permit issuance date for general category scallop permits from May 1 to March 1, to better align the general category scallop fishery with the scallop fishing year of March 1 through February 28/29. The economic impacts of changing the date that general category permits are issued are analyzed in section 5.4.19 of the Amendment 11 document. Changing the general category permit to March 1 is an administrative change and procedural adjustment for owners accustomed to a May 1 permit renewal. The proposed measure would allow, however, better estimation of the number of participants, the level of effort in the fishery and allocation of TAC by aligning the issuance date with date for the limited access fishery. As a result, the proposed action would have indirect positive economic impacts on the sea scallop fishery.

The Council considered revising the start of the fishing year to May 1 or August 1. This would have had some positive impacts over the long term by better aligning the fishing year with the scallop survey, resulting in updated information on which to base the following year's management. This would increase the confidence in the effectiveness of scallop fishery management measures relative to the scallop fishing mortality goals of the FMP. On the other hand, these alternatives were strongly opposed by the scallop industry because it would require a change in the business plans of the scallop vessel owners.

Other Measures Included in Amendment 11

Amendment 11 proposes two changes to scallop regulations, including a clarification that the maximum sweep length for trawl gear under the FMP would not apply to vessels fishing for Northeast multispecies or monkfish, and an allowance for general category vessels to possess up to 100 bu (35.2 hL) of in-shell scallops seaward of the VMS demarcation line. The economic impacts of these measures are analyzed in sections 5.4.20 and 5.4.21 of the Amendment 11 document. Clarification of trawl gear restriction for vessels fishing under a multispecies or monkfish DAS would have positive economic impacts on those general category vessels that catch scallops only incidentally, compared to no action. Setting the possession limit at 100 bu (35.2 hL) seaward of the demarcation line would have positive economic impacts on the general category vessels when they catch scallops with lower meat yield. The only alternative to both of these measures is the no action alternative, which does not provide the benefits of the proposed action noted above.

Change to Ownership Cap Restriction To Account for CPHs

This final rule includes a change to the ownership cap restriction for current limited access scallop vessels to clarify that the regulation was intended to apply to limited access scallop permits and CPHs. Currently, if a vessel owner has been issued a CPH, that owner cannot activate that CPH on a vessel if he/she already owns 5 percent of the limited access scallop permits. That owner would therefore have to sell a vessel to activate the CPH. This clarification of the ownership cap to include CPH's does not change this, or the economic impacts of the ownership cap restrictions. There are no alternatives to clarifying the regulation, since the result would be that the scallop regulations would continue to be inconsistent with the intent of the original ownership cap restrictions included in the FMP.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared. The guide will be sent to all holders of permits issued for the Atlantic scallop fishery. In addition, copies of this final rule and guide (*i.e.*, permit holder letter) are available from the Regional Administrator and are also available from NMFS, Northeast Region (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 7, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.2, definitions for "limited access general category (LAGC) scallop vessel" and "limited access scallop vessel" are added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Limited access general category (LAGC) scallop vessel means a vessel that has been issued an individual fishing quota (IFQ), Northern Gulf of Maine (NGOM), or incidental catch LAGC scallop permit pursuant to § 648.4(a)(2)(ii). An LAGC scallop vessel may also be issued a limited access scallop permit.

* * * * *

Limited access scallop vessel means a vessel that has been issued a limited access full-time, part-time, or occasional scallop permit pursuant to § 648.4(a)(2)(i). A limited access scallop vessel may also be issued an LAGC scallop permit.

* * * * *

■ 3. In § 648.4, paragraphs (a)(1)(i)(I)(*3*), (a)(2) introductory text, (a)(2)(i) introductory text, (a)(2)(i)(M)(*1*), (a)(2)(i)(M)(*2*), (a)(2)(i)(O), (a)(2)(ii), and (e)(iv) are revised, and paragraph (a)(2)(i)(P) is added to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(1) * * *

(i) * * *

(I) * * *

(*3*) With the exception of combination vessels, a vessel issued a limited access sea scallop dredge permit pursuant to paragraph (a)(2)(i) of this section is not eligible for limited access multispecies permits. This restriction is not applicable to vessels issued an LAGC scallop permit pursuant to paragraph (a)(2)(ii) of this section, unless such vessel has also been issued a limited access scallop permit pursuant to paragraph (a)(2)(i) of this section.

* * * * *

(2) *Atlantic sea scallop vessels*—Any vessel of the United States that fishes for, possesses, or lands Atlantic sea scallops, except vessels that fish exclusively in state waters for scallops, must have been issued and carry on board a valid scallop vessel permit pursuant to this section.

(i) *Limited access scallop permits.* Any vessel of the United States that possesses or lands more than 400 lb (181.4 kg) of shucked scallops, or 50 bu (17.6 hL) of in-shell scallops per trip, or possesses more than 100 bu (35.2 hL) seaward of the VMS Demarcation Line, except vessels that fish exclusively in state waters for scallops, must have been issued and carry on board a valid limited access scallop permit.

* * * * *

(M) * * *

(*1*) For any vessel acquired after March 1, 1994, a vessel owner is not eligible to be issued a limited access scallop permit for the vessel, and/or a confirmation of permit history, if, as a result of the issuance of the permit and/or confirmation of permit history, the vessel owner, or any other person who is a shareholder or partner of the vessel owner, will have an ownership interest in a total number of limited access scallop vessels and limited access scallop confirmations of permit history in excess of 5 percent of the number of all limited access scallop vessels and confirmations of permit history at the time of permit application.

(*2*) Vessel owners who were initially issued a 1994 limited access scallop permit or confirmation of permit history, or who were issued or renewed a limited access scallop permit or confirmation of permit history for a vessel in 1995 and thereafter, in compliance with the ownership restrictions in paragraph (a)(2)(i)(*M*)(1) of this section, are eligible to renew such permits(s) and/or confirmation(s) of permit history, regardless of whether the renewal of the permits or confirmations of permit history will result in the 5-percent ownership restriction being exceeded.

* * * * *

(O) *Replacement vessels.* See paragraph (a)(1)(i)(E) of this section.

(P) *VMS requirement.* A vessel issued a limited access scallop permit, as specified in paragraph (a)(2)(i) of this section, except a vessel issued an occasional scallop permit that is not fishing in a sea scallop access area, must have an operational VMS installed. Prior to issuance of a limited access scallop permit, NMFS must receive a signed VMS certification from the vessel owner and be notified by the VMS vendor that the unit has been installed and is operational.

(ii) *LAGC scallop permits.* Any vessel of the United States that has not been issued a limited access scallop permit pursuant to paragraph (a)(2)(i) of this section, and any vessel issued a limited access scallop permit that fishes for scallops outside of the scallop DAS program described in § 648.53(b) or the Area Access program described in § 648.60, that possesses, retains, or lands scallops in or from Federal waters, must be issued an LAGC scallop permit and must comply with the permit requirements described in paragraphs (a)(2)(ii)(A), (B), or (C) of this section. To be issued an LAGC scallop permit, a vessel owner must meet the qualification criteria specified in paragraphs (a)(2)(ii)(D) or (F) of this section and must comply with the application procedures specified in paragraph (a)(2)(ii)(H) of this section.

(A) *Individual fishing quota LAGC permit.* To possess or land up to 400 lb (181.4 kg) of shucked meats, or 50 bu (17.6 hL) of in-shell scallops per trip, or possess up to 100 bu (35.2 hL) of in-shell scallops seaward of the VMS demarcation line, a vessel must have been issued an individual fishing quota LAGC scallop permit (IFQ scallop permit). Issuance of an initial IFQ scallop permit is contingent upon the vessel owner submitting the required application and other information that demonstrates that the vessel meets the eligibility criteria specified in paragraph (a)(2)(ii)(D) of this section.

(B) *Northern Gulf of Maine LAGC permit.* To possess or land up to 200 lb (90.7 kg) of shucked or 25 bu (8.81 hL) in-shell scallops per trip, or to possess up to 50 bu (17.6 hL) seaward of the VMS demarcation line in the NGOM Scallop Management Area, a vessel must have been issued a Northern Gulf of Maine LAGC scallop permit (NGOM scallop permit). A vessel issued a NGOM scallop permit may not fish for scallops outside of the NGOM Scallop Management Area as defined in § 648.62, and may not possess or land more than 200 lb (90.7 kg) of shucked or 25 bu (8.81 hL) of in-shell scallops at any time, except the vessel may possess up to 50 bu (17.6 hL) of in-shell scallops seaward of the VMS demarcation line. Issuance of an initial NGOM scallop permit is contingent upon the vessel owner submitting the required application and other information that demonstrates that the vessel meets the eligibility criteria specified in paragraph (a)(2)(ii)(F) of this section.

(C) *Incidental catch LAGC permit.* To possess or land up to 40 lb (18.1 kg) of shucked or 5 bu (1.76 hL) in-shell scallops per trip, or possess up to 10 bu (3.52 hL) in-shell scallops per trip seaward of the VMS demarcation line, but not more than these amounts per trip, a vessel must have been issued an incidental catch general category scallop permit (Incidental scallop permit). A vessel issued an incidental catch general scallop permit may not possess or land more than 40 lb (18.1 kg) of shucked or 5 bu (1.76 hL) of in-shell scallops at any time, except the vessel may possess up to 10 bu (3.52 hL) of in-shell scallops seaward of the VMS demarcation line. Issuance of an initial incidental catch category scallop permit is contingent upon the vessel owner submitting the

required application and other information that demonstrates that the vessel meets the eligibility criteria specified in paragraph (a)(2)(ii)(G) of this section.

(D) *Eligibility for an IFQ scallop permit.* A vessel is eligible for and may be issued an IFQ scallop permit if it meets both eligibility criteria specified in paragraphs (a)(2)(ii)(D)(*1*) and (*2*) of this section, or is replacing a vessel that meets both the eligibility criteria specified in paragraphs (a)(2)(ii)(D)(*1*) and (*2*) of this section. A vessel owner may appeal NMFS's determination that a vessel does not meet the requirements specified in paragraphs (a)(2)(ii)(D)(*1*) and (*2*) of this section by complying with the appeal process, as specified in paragraph (a)(2)(ii)(O) of this section.

(*1*) *Permit criterion.* A vessel must have been issued a general category scallop permit in at least one scallop fishing year, as defined in § 648.2, between March 1, 2000, and November 1, 2004.

(*2*) *Landings criterion.* A vessel must have landed at least 1,000 lb (454 kg) of shucked scallops in any one year when the vessel also held a general category scallop permit as specified in paragraph (a)(2)(ii)(D)(*1*) of this section. To qualify, scallop landings in the 2004 fishing year must have occurred on or before November 1, 2004. NMFS dealer data shall be used to make the initial determination of vessel eligibility. If a dealer reported more than 400 lb (181.4 kg) of scallops on a trip, only 400 lb (181.4 kg) will be credited toward the landings criteria. For dealer reports that indicate that the landings were bushels of in-shell scallops, a conversion of 8 lb (3.63 kg) of scallop meats per bushel will be used to calculate meat-weight, up to the maximum of 400 lb (181.4 kg) per trip. For dealer reports that indicate that the landings were reported in pounds of in-shell scallops are converted to meat-weight using the formula of 8.33 lb (3.78 kg) of scallop meats for each pound of in-shell scallops, up to the maximum of 400 lb (181.4 kg) per trip, for qualification purposes.

(E) *Contribution factor for determining a vessel's IFQ.* An eligible IFQ scallop vessel's best year of scallop landings during the qualification period of March 1, 2000, through November 1, 2004, as specified in § 648.53(h)(2)(ii)(a), and the vessel's number of years active, as specified in § 648.53(h)(2)(ii)(B), shall be used to calculate a vessel's contribution factor, as specified in § 648.53(h)(2)(ii)(C). A vessel owner that has applied for an IFQ scallop permit will be notified of the vessel's contribution factor at the time of issuance of the IFQ scallop permit, consistent with confidentiality restrictions of the Magnuson-Stevens Act specified at 16 U.S.C. 1881a. A vessel owner may appeal NMFS's determination of the IFQ scallop vessel's contribution factor by complying with the appeal process as specified in paragraph (a)(2)(ii)(O) of this section.

(F) *Eligibility for NGOM or Incidental scallop permit.* A vessel that is not eligible for, or for which the vessel's owner chooses not to apply for, an IFQ scallop permit, may be issued either a NGOM scallop permit or an Incidental scallop permit if the vessel was issued a general category scallop permit as of November 1, 2004, or if the vessel is replacing a vessel that was issued a general category scallop permit as of November 1, 2004. A vessel owner may appeal NMFS's determination that a vessel does not meet this criterion by complying with the appeal process as specified in paragraph (a)(2)(ii)(O) of this section. A vessel that qualifies for an IFQ scallop permit automatically qualifies for an NGOM or Incidental scallop permit if the vessel's owner chooses to be issued an NGOM or Incidental scallop permit instead of the IFQ scallop permit.

(G) *LAGC permit restrictions*—(*1*) *Change of permit category.*—(*i*) *IFQ scallop permit.* A vessel issued an IFQ scallop permit may not change its general category scallop permit category at any time without voluntarily relinquishing its IFQ scallop permit eligibility as specified in paragraph (a)(2)(ii)(M) of this section. If the vessel owner has elected to relinquish the vessel's IFQ permit and instead be issued an NGOM or Incidental scallop permit, the IFQ permit shall be permanently relinquished.

(*ii*) *NGOM and Incidental scallop permit.* A vessel may be issued either an NGOM or Incidental scallop permit for each fishing year, and a vessel owner may not change his/her LAGC scallop permit category during the fishing year, except as specified in this paragraph, (a)(2)(ii)(G)(*1*)(*ii*). The owners of a vessel issued an NOGM or Incidental scallop permit must elect a permit category in the vessel's permit application and shall have one opportunity each fishing year to request a change in its permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit. After that date, the vessel must remain in that permit category for the duration of the fishing year.

(*2*) *VMS requirement.* A vessel issued a LAGC permit must have an operational VMS installed. Issuance of an Atlantic sea scallop permit requires the vessel owner to submit a copy of the vendor's installation receipt or provide verification of vendor activation from a NMFS-approved VMS vendor as described in § 648.9.

(H) *Application/renewal restrictions.* See paragraph (a)(1)(i)(B) of this section. Applications for an LAGC permit described in paragraph (a)(2)(ii) of this section must be postmarked no later than August 30, 2008. Applications for LAGC permits that are not postmarked on or before August 30, 2008, may be denied and returned to the sender with a letter explaining the denial. Such denials may not be appealed and shall be the final decision of the Department of Commerce.

(I) *Qualification restriction.* (*1*) See paragraph (a)(1)(i)(C) of this section for restrictions applicable to limited access scallop permits.

(*2*) Notwithstanding paragraph (a)(1)(i)(L) of this section, scallop landings history generated by separate owners of a single vessel at different times during the qualification period for LAGC scallop permits may be used to qualify more than one vessel, provided that each owner applying for an LAGC scallop permit demonstrates that he/she created distinct fishing histories, that such histories have been retained, and if the vessel was sold, that each applicant's eligibility and fishing history is distinct.

(*3*) Notwithstanding paragraph (a)(1)(i)(L) of this section, a vessel owner applying for a LAGC permit who sold or transferred a vessel with non-scallop limited access permits, as specified in paragraph (a)(1)(i)(D) of this section, and retained only the general category scallop history of such vessel as specified in paragraph (a)(1)(i)(D) of this section, before April 14, 2008, may use the general category scallop history to qualify a different vessel for the initial IFQ scallop permit, regardless of whether the history from the sold or transferred vessel was used to qualify another vessel for another limited access permit.

(J) *Change in ownership.* See paragraph (a)(1)(i)(D) of this section.

(K) *Replacement vessels.* A vessel owner may apply to replace a qualified LAGC vessel with another vessel that he/she owns. There are no size or horsepower restrictions on replacing general LAGC vessels, unless the qualified vessel that will be replaced is subject to such restriction because of other limited access permits issued pursuant to § 648.4. In order for a LAGC that also has other limited access permits issued pursuant to § 648.4 to be replaced by a vessel that does not meet

the replacement and upgrade restrictions specified for those other limited access permits, the other limited access permits must be permanently relinquished, as specified in paragraph (a)(1)(i)(K) of this section.

(L) *Confirmation of Permit History.* See paragraph (a)(1)(i)(J) of this section.

(M) *Abandonment or voluntary relinquishment of permits.* See paragraph (a)(1)(i)(K) of this section.

(N) *Restriction on permit splitting.* Except as provided in paragraphs (a)(2)(ii)(I)(*2*) and (*3*) of this section, paragraph (a)(1)(i)(L) of this section applies.

(O) *Appeal of denial of permit—*(*1*) *Eligibility.* Any applicant eligible to apply for an LAGC scallop permit who is denied such permit may appeal the denial to the Regional Administrator within 30 days of the notice of denial. Any such appeal may only be based on the grounds that the information used by the Regional Administrator was incorrect. The appeal must be in writing, must state the specific grounds for the appeal, and must include information to support the appeal.

(*2*) *Contribution factor appeals.* Any applicant eligible to apply for a IFQ scallop permit who disputes NMFS's determination of the vessel's contribution factor specified in paragraph (a)(2)(ii)(E) of this section may appeal NMFS's determination to the Regional Administrator within 30 days of the notification of the vessel's best year and years active. Any such appeal may only be based on the grounds that the information used by the Regional Administrator was incorrect. The appeal must be in writing, must state the specific grounds for the appeal, and must include information to support the appeal. A vessel owner may appeal both the eligibility criteria and the contribution factor and must submit the appeal for both at the same time. An appeal of contribution factor determinations shall be reviewed concurrently with an eligibility appeal, if applicable.

(*3*) *Appeal review.* The Regional Administrator shall appoint a designee who shall make the initial decision on the appeal. The appellant may request a review of the initial decision by the Regional Administrator by so requesting in writing within 30 days of the notice of the initial decision. If the appellant does not request a review of the initial decision within 30 days, the initial decision is the final administrative action of the Department of Commerce. Such review will be conducted by a hearing officer appointed by the Regional Administrator. The hearing officer shall make findings and a recommendation to the Regional Administrator, which shall be advisory only. Upon receiving the findings and the recommendation, the Regional Administrator shall issue a final decision on the appeal. The Regional Administrator's decision is the final administrative action of the Department of Commerce.

(*4*) *Status of vessels pending appeal.* A vessel denied an LAGC scallop permit may fish while under appeal, provided that the denial has been appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator temporarily authorizing the vessel to fish under the limited access general category permit. The Regional Administrator shall issue such a letter that shall be effective only during the pendency of any appeal. The temporary letter of authorization must be carried on board the vessel and all requirements of the permit category for which the appeal has been made shall apply. If the appeal is finally denied, the Regional Administrator shall send a notice of final denial to the vessel owner; the temporary authorizing letter becomes invalid 5 days after receipt of the notice of denial, but no later than 10 days from the date of the letter of denial, regardless of the date of the owner's receipt of the denial.

* * * * *

(e) * * *

(1) * * *

(iv) An applicant for a limited access multispecies combination vessel or individual DAS permit, a limited access scallop permit (except an occasional scallop permit), an LAGC scallop permit, or electing to use a VMS, has failed to meet all of the VMS requirements specified in §§ 648.9 and 648.10; or

* * * * *

■ 4. In § 648.5, paragraph (a) is revised to read as follows:

§ 648.5 Operator permits.

(a) *General.* Any operator of a vessel fishing for or possessing: Atlantic sea scallops, NE multispecies, spiny dogfish, monkfish, Atlantic herring, Atlantic surfclam, ocean quahog, Atlantic mackerel, squid, butterfish, scup, black sea bass, or Atlantic bluefish, harvested in or from the EEZ; tilefish harvested in or from the EEZ portion of the Tilefish Management Unit; skates harvested in or from the EEZ portion of the Skate Management Unit; or Atlantic deep-sea red crab harvested in or from the EEZ portion of the Red Crab Management Unit, issued a permit, including carrier and processing permits, for these species under this part, must have been issued under this section, and carry on board, a valid operator permit. An operator's permit issued pursuant to part 622 or part 697 of this chapter satisfies the permitting requirement of this section. This requirement does not apply to operators of recreational vessels.

* * * * *

■ 5. In § 648.9, paragraphs (c)(1)(iii) and (c)(2)(i)(D) are revised to read as follows:

§ 648.9 VMS requirements.

* * * * *

(c) * * *

(1) * * *

(iii) At least twice per hour, 24 hrs. a day, throughout the year, for vessels issued a scallop permit and subject to the requirements of § 648.4(a)(2)(ii)(B).

(2) * * *

(i) * * *

(D) The vessel has been issued an LAGC scallop permit, is not in possession of any scallops onboard the vessel, is tied to a permanent dock or mooring, the vessel operator has notified NMFS through VMS by transmitting the appropriate VMS power-down code that the VMS will be powered down, and the vessel is not required by other permit requirements for other fisheries to transmit the vessel's location at all times. Such a vessel must repower the VMS and submit a valid VMS activity declaration prior to moving from the fixed dock or mooring. VMS codes and instructions are available from the Regional Administrator upon request.

* * * * *

■ 6. In § 648.10, paragraphs (b)(1)(i), and (c) introductory text are revised; paragraphs (b)(1)(iii) and (iv) are removed and reserved; and paragraphs (b)(2)(i), and (ii), and (b)(4)(i) through (iv) are added to read as follows:

§ 648.10 DAS and VMS notification requirements.

* * * * *

(b) * * *

(1) * * *

(i) A scallop vessel issued a Full-time or Part-time limited access scallop permit or an LAGC scallop permit;

* * * * *

(iii)–(iv) [Reserved]

* * * * *

(2) * * *

(i) A vessel subject to the VMS requirements of § 648.9 and this paragraph (b) that has crossed the VMS Demarcation Line specified under paragraph (a) of this section is deemed to be fishing under the DAS program, the general category scallop fishery, or other fishery requiring the operation of

VMS as applicable, unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop, NE multispecies, or monkfish fishery, as applicable, for a specific time period by notifying NMFS by transmitting the appropriate VMS code through the VMS, or unless the vessel's owner or authorized representative declares the vessel will be fishing in the Eastern U.S./Canada Area as described in § 648.85(a)(3)(ii) under the provisions of that program.

(ii) Notification that the vessel is not fishing under the DAS program, the general category scallop fishery, or other fishery requiring the operation of VMS, must be received prior to the vessel leaving port. A vessel may not change its status after the vessel leaves port or before it returns to port on any fishing trip.

* * * * *

(4) * * *

(i) *IFQ scallop vessels.* An IFQ scallop vessel that has crossed the VMS Demarcation Line specified under paragraph (a) of this section is deemed to be fishing under the IFQ program, unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery (*i.e.*, the vessel will not possess, retain, or land scallops) for a specific time period by notifying the Regional Administrator through the VMS. An IFQ scallop vessel that is fishing north of 42°20′ N. lat. is deemed to be fishing under the NGOM scallop fishery unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery as specified in paragraphs (b)(2)(i) and (ii) of this section, and the vessel does not possess, retain, or land scallops.

(ii) *NGOM scallop fishery.* An NGOM scallop vessel is deemed to be fishing under the NGOM scallop fishery unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of all fisheries as specified in paragraphs (b)(2)(i) and (ii) of this section, and the vessel does not possess, retain, or land scallops.

(iii) *Incidental scallop fishery.* An Incidental scallop vessel that has crossed the demarcation line on any declared fishing trip for any species is deemed to be fishing under the Incidental scallop fishery unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of all fisheries as specified in paragraphs (b)(2)(i) and (ii) of this section, and the vessel does not possess, retain, or land scallops.

(iv) *Catch reports.* All scallop vessels fishing in the Sea Scallop Area Access Program as described in § 648.60 are required to submit a daily report through VMS of scallops kept and yellowtail flounder caught (including discarded yellowtail flounder) on each Access Area trip. The VMS catch reporting requirements are specified in § 648.60(a)(9). A vessel issued an IFQ or NGOM scallop permit must report through VMS the amount of scallops kept on each trip declared as a scallop trip or on trips that are not declared through VMS as a scallop trip, but on which scallops are caught incidentally. VMS catch reports by IFQ and NGOM scallop vessels must be sent prior to crossing the VMS demarcation line on the way into port at the end of the trip and must include the amount of scallop meats to be landed, the estimated time of arrival in port, the port at which the scallops will be landed, and the vessel trip report serial number recorded from that trip's vessel trip report.

* * * * *

(c) *Call-in notification.* The owner of a vessel issued a limited access monkfish or red crab permit who is participating in a DAS program and who is not required to provide notification using a VMS, and a scallop vessel qualifying for a DAS allocation under the occasional category that has not elected to fish under the VMS notification requirements of paragraph (b) of this section and is not participating in the Sea Scallop Area Access program as specified in § 648.60, and any vessel that may be required by the Regional Administrator to use the call-in program under paragraph (d) of this section, are subject to the following requirements:

* * * * *

■ 7. In § 648.14, paragraphs (a)(56), (a)(57), (a)(61), (f), (h)(1), (h)(6), (h)(9), (h)(20), (h)(27), (i), and (s) are revised, and paragraphs (a)(180) and (h)(28) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(56) Fish for, possess, or land, scallops without the vessel having been issued and carrying onboard a valid scallop permit in accordance with § 648.4(a)(2), unless the scallops were harvested by a vessel that has not been issued a Federal scallop permit and fishes for scallops exclusively in state waters;

(57) Fish for or land per trip, or possess at any time prior to a transfer to another person for a commercial purpose, other than solely for transport:

(i) In excess of 40 lb (18.1 kg) shucked scallops at any time, 5 bu (1.76 hl) in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line, unless:

(A) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters;

(B) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit issued pursuant to § 648.4(a)(2)(ii)(A) and is properly declared into the IFQ scallop fishery;

(C) The scallops were harvested by a vessel that has been issued and carries on board an NGOM scallop permit issued pursuant to § 648.4(a)(2)(ii)(B), and is properly declared into the NGOM scallop management area, and the NGOM TAC specified in § 648.62 has not been harvested; or

(D) The scallops were harvested by a vessel that has been issued and carries on board an Incidental scallop permit allowing up to 40 lb (18.1 kg) of shucked or 5 bu (1.76 hL) of in-shell scallops, is carrying an at-sea observer, and is authorized by the Regional Administrator to have an increased possession limit to compensate for the cost of carrying the observer.

(ii) In excess of 200 lb (90.7 kg) shucked scallops at any time, 25 bu (8.8 hl) in-shell scallops inside the VMS Demarcation Line, or 50 bu (17.6 hL) of in-shell scallops seaward of the VMS Demarcation Line, unless:

(A) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters;

(B) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit and is properly declared into the scallop DAS or Area Access program;

(C) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit issued pursuant to § 648.4(a)(2)(ii)(A), is fishing outside of the NGOM scallop management area, and is properly declared into the general category scallop fishery;

(D) The scallops were harvested by a vessel that has been issued and carries on board a scallop permit and the vessel is fishing in accordance with the provisions of the state waters exemption program specified in § 648.54; or

(E) The scallops were harvested by a vessel that has been issued and carries on board an NGOM scallop permit allowing up to 200 lb (90.7 kg) of shucked or 25 bu (8.8 hL) of in-shell scallops, is carrying an at-sea observer,

and is authorized by the Regional Administrator to have an increased possession limit to compensate for the cost of carrying the observer.

(iii) In excess of 400 lb (181.4 kg) shucked scallops at any time, 50 bu (17.6 hl) in-shell scallops shoreward of the VMS Demarcation Line, or 100 bu (35.2 hL) in-shell scallops seaward of the VMS Demarcation Line, unless:

(A) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(B) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit issued pursuant to § 648.4(a)(2)(i) and is properly declared into the scallop DAS or Area Access program;

(C) The scallops were harvested by a vessel that has been issued and carries on board a scallop permit and the vessel is fishing in accordance with the provisions of the state waters exemption program specified in § 648.54; or

(D) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit, is carrying an at-sea observer, and is authorized by the Regional Administrator to have an increased possession limit to compensate for the cost of carrying the observer.

* * * * *

(61) Sell, barter or trade, or otherwise transfer, or attempt to sell, barter or trade, or otherwise transfer, for a commercial purpose, scallops, unless the vessel has been issued a valid scallop permit pursuant to § 648.4(a)(2), or the scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

* * * * *

(180) Fail to comply with the requirements and restrictions for general category scallop sectors specified in § 648.63.

* * * * *

(f) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, it is unlawful for any person owning or operating a vessel issued a scallop permit under § 648.4(a)(2) to land, or possess at or after landing, in-shell scallops smaller than the minimum shell height specified in § 648.50(a).

* * * * *

(h) * * *

(1) Fish for, possess, or land scallops after using up the vessel's annual DAS allocation and Access Area trip allocations, or when not properly declared into the DAS or Area Access program pursuant to § 648.10, unless the vessel has been issued an LAGC scallop permit pursuant to § 648.4(a)(2)(ii), has properly declared into a general category scallop fishery, and does not exceed the allowed possession limit for the LAGC scallop permit issued to the vessel as specified in § 648.52, or unless exempted from DAS allocations as provided in § 648.54.

* * * * *

(6) Have an ownership interest in more than 5 percent of the total number of vessels issued limited access scallop permits and confirmations of permit history, except as provided in § 648.4(a)(2)(i)(M).

* * * * *

(9) Possess more than 40 lb (18.1 kg) of shucked, or 5 bu (1.76 hL) of in-shell scallops, or participate in the scallop DAS or Area Access programs, while in the possession of trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the net, except as specified in § 648.51(a)(1), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program.

* * * * *

(20) Fail to comply with any requirement for participating in the State Waters Exemption Program specified in § 648.54.

* * * * *

(27) Possess more than 50 bu (17.6 hL) of in-shell scallops, as specified in § 648.52(f), outside the boundaries of the Elephant Trunk Access Area specified in § 648.59(e) by a vessel that is properly declared into the Elephant Trunk Access Area under the Area Access Program as specified in § 648.60.

(28) Fish for or land per trip, or possess at any time, scallops in the NGOM scallop management area after notification in the **Federal Register** that the NGOM scallop management area TAC has been harvested, as specified in § 648.62, unless the vessel possesses or lands scallops that were harvested south of 42°20′ N. lat., the vessel is transiting the NGOM scallop management area, and the vessel's fishing gear is properly stowed and unavailable for immediate use in accordance with § 648.23.

(i) *LAGC scallop vessels.* (1) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a), (f), and (g) of this section, it is unlawful for any person owning or operating a vessel issued an LAGC scallop permit to do any of the following:

(i) Fail to comply with the LAGC scallop permit restrictions as specified in § 648.4(a)(2)(ii)(G) through (O);

(ii) Land scallops on more than one trip per calendar day;

(iii) Possess in-shell scallops while in possession of the maximum allowed amount of shucked scallops specified for each LAGC scallop permit category in § 648.62;

(iv) Fish for, possess, or land scallops on a vessel that is declared out of scallop fishing unless the vessel has been issued an Incidental scallop permit;

(v) Possess or use trawl gear that does not comply with any of the provisions or specifications in § 648.51(a), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program;

(vi) Possess or use dredge gear that does not comply with any of the provisions or specifications in § 648.51(b);

(vii) Refuse, or fail, to carry an observer after being requested to carry an observer by the Regional Administrator or designee;

(viii) Fail to provide an observer with required food, accommodations, access, and assistance, as specified in § 648.11;

(ix) Fail to comply with the notification requirements specified in § 648.11(g)(2) or refuse or fail to carry an observer after being requested to carry an observer by the Regional Administrator or Regional Administrator's designee;

(x) Fail to comply with any of the VMS requirements specified in §§ 648.10 and 648.60;

(xi) Fail to comply with any requirement for declaring in or out of the general category scallop fishery or other notification requirements specified in § 648.10(b);

(xii) Fail to comply with any of the requirements specified in § 648.60;

(xiii) Declare into or leave port for an area specified in § 648.59(b) through (d) after the effective date of the notification published in the **Federal Register** stating that the general category scallop TAC has been harvested as specified in § 648.60;

(xiv) Declare into, or leave port for, an area specified in § 648.59(b) through (d) after the effective date of the notification published in the **Federal Register** stating that the number of general category trips have been taken as specified in § 648.60;

(xv) Declare into, or leave port for, an area specified in § 648.59(b) through (d) after the effective date of the notification published in the **Federal Register** stating that the yellowtail flounder TAC has been harvested as specified in § 648.85(c);

(xvi) Declare into, or leave port for, the NGOM scallop management area specified in § 648.62 after the effective

date of the notification published in the **Federal Register** stating that the general category scallop TAC has been harvested as specified in § 648.62;

(xvii) Fish for, possess, or land scallops in or from the NGOM scallop management area after the effective date of the notification published in the **Federal Register** that the NGOM scallop management area TAC has been harvested, as specified in § 648.62, unless the vessel possesses or lands scallops that were harvested south of 42° 20′ N. Lat., the vessel is transiting the NGOM scallop management area, and the vessel's fishing gear is properly stowed and unavailable for immediate use in accordance with § 648.23;

(xviii) Fail to comply with any of the requirements and restrictions for general category sectors and harvesting cooperatives specified in § 648.63; or

(xix) Fish for, land, or possess scallops at any time after 10 days from being notified that his or her appeal for an LAGC scallop permit has been denied and that the denial is the final decision of the Department of Commerce.

(2) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a), (f), and (g) of this section, it is unlawful for any person owning or operating a vessel issued an IFQ scallop permit to do any of the following:

(i) Fish for or land per trip, or possess at any time, in excess of 400 lb (181.4 kg) of shucked, or 50 bu (17.6 hL) of in-shell scallops, unless the vessel is participating in the Area Access Program specified in § 648.60, is carrying an observer as specified in § 648.11, and an increase in the possession limit is authorized as specified in § 648.60(d)(2);

(ii) Fish for or land per trip, or possess at any time, in excess of 200 lb (90.7 kg) of shucked or 25 bu (8.8 hl) of in-shell scallops in the NGOM scallop management area, unless the vessel is seaward of the VMS Demarcation Line and in possession of no more than 50 bu (17.6 hL) in-shell scallops, when not declared into the NGOM scallop management area, or is transiting the NGOM scallop management area with gear properly stowed and unavailable for immediate use in accordance with § 648.23;

(iii) Possess more than 100 bu (35.2 hL) of in-shell scallops seaward of the VMS demarcation line, or possess, or land per trip, more than 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS demarcation line, unless exempted from DAS allocations as provided in § 648.54;

(iv) Possess more than 50 bu (17.6 hL) of in-shell scallops, as specified in § 648.52(d), outside the boundaries of the Elephant Trunk Access Area specified in § 648.59(e) by a vessel that is properly declared into the Elephant Trunk Access Area under the Area Access Program as specified in § 648.60;

(v) Fish for, possess, or land scallops after the effective date of the notification in the **Federal Register** that the quarterly TAC specified in § 648.53(a)(8) has been harvested;

(vi) Fish for, possess, or land scallops in excess of a vessel's IFQ;

(vii) Have an ownership interest in vessels that collectively is more than 5 percent of the total IFQ scallop TAC specified in accordance with § 648.53(a)(5)(ii) and (iii), except as provided in § 648.4(h)(3)(ii);

(viii) Have an IFQ allocation on an IFQ scallop vessel of more than 2 percent of the total IFQ scallop TAC specified in accordance with § 648.53(a)(5)(ii) and (iii), except as provided in § 648.4(h)(3)(i);

(ix) Apply for an IFQ transfer that will result in the transferee having an aggregate ownership interest in more than 5 percent of the total IFQ scallop TAC, except as provided in § 648.53(h)(3)(ii).

(x) Apply for an IFQ transfer that will result in the receiving vessel having an IFQ allocation in excess of 2 percent of the total IFQ scallop TAC, except as provided in § 648.53(h)(3)(i);

(xi) Fish for, possess, or land transferred IFQ prior to approval of the transfer by the Regional Administrator as specified in § 648.53(h)(5)(iv)(B);

(xii) Provide false information in relation to or on an application for an IFQ transfer required under § 648.53(h)(5)(iv);

(xiii) Request to transfer IFQ that has already been temporarily transferred from an IFQ scallop vessel in the same fishing year;

(xiv) Transfer scallop IFQ to another IFQ scallop vessel after the transferring vessel has landed scallops;

(xv) Transfer a portion of a vessel's scallop IFQ; or

(xvi) Transfer scallop IFQ to, or receive scallop IFQ on, a vessel that has not been issued a valid IFQ scallop permit.

(3) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a), (f), and (g) of this section, it is unlawful for any person owning or operating a vessel issued an NGOM scallop permit to do any of the following:

(i) Declare into or leave port for a scallop trip, or fish for or possess scallops outside of the NGOM Scallop Management Area as defined in § 648.62;

(ii) Fish for or land per trip, or possess at any time, in excess of 200 lb (90.7 kg) of shucked or 25 bu (8.81 hl) of in-shell scallops in or from the NGOM scallop management area, except when seaward of the VMS Demarcation Line and in possession of no more than 50 bu (17.6 hL) in-shell scallops; or

(iii) Fish for, possess, or land scallops after the effective date of notification in the **Federal Register** that the NGOM scallop management area TAC has been harvested.

(4) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a), (f), and (g) of this section, it is unlawful for any person owning or operating a vessel issued an Incidental scallop permit to fish for, possess, or retain, more than 40 lb (18.1 kg) of shucked scallops, or 5 bu (1.76 hL) of in-shell scallops, except the vessel may possess up to 10 bu (3.52 hL) of in-shell scallops while seaward of the VMS Demarcation Line.

* * * * *

(s) Any person fishing for, possessing, or landing scallops at or prior to the time when those scallops are received or possessed by a dealer, is subject to all of the scallop prohibitions specified in this section, unless the scallops were harvested by a vessel without a scallop permit that fishes for scallops exclusively in state waters.

* * * * *

■ 8. In § 648.51, paragraphs (a)(1) and (a)(2)(i) are revised to read as follows:

§ 648.51 Gear and crew restrictions.

(a) * * *

(1) *Maximum sweep.* The trawl sweep of nets shall not exceed 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing, unless the net is stowed and not available for immediate use, as specified in § 648.23, or unless the vessel is fishing under the Northeast multispecies or monkfish DAS programs.

(2) * * *

(i) *Minimum mesh size.* Subject to applicable minimum mesh size restrictions for other fisheries as specified under this part, the mesh size for any scallop trawl net in all areas shall not be smaller than 5.5 inches (13.97 cm).

* * * * *

■ 9. Section 648.52 is revised to read as follows:

§ 648.52 Possession and landing limits.

(a) A vessel issued an IFQ scallop permit that is declared into the IFQ

scallop fishery as specified in § 648.10(b), unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 400 lb (181.4 kg) of shucked scallops, or possess more than 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 100 bu (35.2 hl) of in-shell scallops seaward of the VMS demarcation line on a properly declared IFQ scallop trip.

(b) A vessel issued an NGOM scallop permit, or an IFQ scallop permit that is declared into the NGOM scallop fishery as described in § 648.62, unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 200 lb (90.7 kg) of shucked, or 25 bu (8.81 hL) of in-shell scallops. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 50 bu (17.6 hL) of in-shell scallops seaward of the VMS demarcation line on a properly declared NGOM scallop fishery trip.

(c) A vessel issued an Incidental scallop permit, or an IFQ or NGOM scallop permit that is not declared into the IFQ or NGOM scallop fishery as required under § 648.10(b)(4), unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 40 lb (18.1 kg) of shucked, or 5 bu (1.76 hL) of in-shell scallops. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 10 bu (3.52 hL) of in-shell scallops seaward of the VMS demarcation line.

(d) Owners or operators of vessels with a limited access scallop permit that have properly declared into the Sea Scallop Area Access Program as described in § 648.60 are prohibited from fishing for or landing per trip, or possessing at any time, scallops in excess of any sea scallop possession and landing limit set by the Regional Administrator in accordance with § 648.60(a)(5).

(e) Owners or operators of vessels issued limited access permits fishing in or transiting the area south of 42°20′N. lat. at any time during a trip are prohibited from fishing for, possessing, or landing per trip more than 50 bu (17.6 hl) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under § 648.54.

(f) A vessel that is declared into the Elephant Trunk Access Area Sea Scallop Area Access Program as described in § 648.60, may not possess more than 50 bu (17.6 hL) of in-shell scallops outside of the Elephant Trunk Access Area described in § 648.59(e).

■ 10. Section 648.53 is revised to read as follows:

§ 648.53 Total allowable catch, DAS allocations, and Individual Fishing Quotas.

(a) *Target total allowable catch (TAC) for scallop fishery.* The annual target total TAC for the scallop fishery shall be established through the framework adjustment process specified in § 648.55. The annual target TAC shall include the TAC for all scallop vessels fishing in open areas and Sea Scallop Access Areas, but shall exclude the TAC established for the Northern Gulf of Maine Scallop Management Area as specified in § 648.62. After deducting the total estimated incidental catch of scallops, as specified at § 648.53(a)(9), by vessels issued incidental catch general category scallop permits, and limited access and limited access general category scallop vessels not declared into the scallop fishery, the annual target TAC for open and Sea Scallop Access Areas shall each be divided between limited access vessels, limited access vessels that are fishing under a limited access general category permit, and limited access general category vessels as specified in paragraphs (a)(3) through (a)(6) of this section. In the event that a framework adjustment does not implement an annual TAC for a fishing or part of a fishing year, the preceding fishing year's scallop regulations shall apply.

(1) *2008 fishing year target TAC for scallop fishery.* To be determined.

(2) *2009 fishing year target TAC for scallop fishery.* To be determined.

(3) *Access area TAC.* The TAC for each access area specified in § 648.59 shall be determined through the framework adjustment process described in § 648.55 and shall be specified in § 648.59 for each access area. The TAC set-asides for observer coverage and research shall be deducted from the TAC in each Access Area prior to assigning the target TAC and trip allocations for limited access scallop vessels, and prior to allocating TAC to limited access general category vessels. The percentage of the TAC for each Access Area allocated to limited access vessels, limited access general category vessels, and limited access vessels fishing under limited access general category permits shall be specified in accordance with § 648.60 through the framework adjustment process specified in § 648.55.

(4) *Open area target TAC for limited access vessels.*—(i) *2008 fishing year.* For the 2008 fishing year, the target TAC for limited access vessels fishing under the scallop DAS program specified in this section is equal to 90 percent of the target TAC specified in accordance with this paragraph (a), minus the TAC for all access areas specified in accordance with paragraph (a)(3) of this section.

(ii) *2009 fishing year.* Beginning March 1, 2009, unless the implementation of the IFQ program is delayed beyond March 1, 2009, as specified in paragraph (a)(7) of this section, the target TAC for limited access vessels fishing under the scallop DAS program specified in this section is equal to 94.5 percent of the target TAC specified in accordance with this paragraph (a), minus the TAC for all access areas specified in accordance with paragraph (a)(3) of this section. The target TAC for limited access vessels fishing under the DAS program shall be used to determine the DAS allocation for full-time, part-time, and occasional scallop vessels will receive after deducting the DAS set-asides for observer coverage and research.

(5) *Open area TAC for IFQ scallop vessels*—(i) *2008 fishing year.* For the 2008 fishing year, IFQ scallop vessels, and limited access scallop vessels that are fishing under an IFQ scallop permit outside of the scallop DAS and Area Access programs, shall be allocated 10 percent of the annual target TAC specified in accordance with paragraph (a) of this section minus the TAC for all access areas specified in accordance with paragraph (a)(3) of this section.

(ii) *2009 fishing year and beyond for IFQ scallop vessels without a limited access scallop permit.* For the 2009 fishing year, unless the IFQ program is delayed beyond March 1, 2009, as specified in paragraph (a)(7) of this section, the TAC for IFQ scallop vessels without a limited access scallop permit shall be equal to 5 percent of the target TAC specified in accordance with this paragraph (a), minus the TAC for all access areas specified in accordance with paragraph (a)(3) of this section. If the IFQ program implementation is delayed beyond March 1, 2009, the allocation of TAC to IFQ scallop vessels is specified in paragraph (a)(7) of this section.

(iii) *2009 fishing year and beyond for IFQ scallop vessels with a limited access scallop permit.* For the 2009 fishing year, unless the IFQ program is delayed beyond March 1, 2009, as specified in paragraph (a)(7) of this section, limited access scallop vessels that are fishing under an IFQ scallop permit outside of the scallop DAS and Area Access programs shall be allocated 0.5 percent of the annual target TAC specified in accordance with this paragraph (a)

minus the TAC for all access areas specified in accordance with paragraph (a)(3) of this section. If the IFQ program implementation is delayed beyond March 1, 2009, the allocation of TAC to IFQ scallop vessels is specified in paragraph (a)(7) of this section.

(6) *Northern Gulf of Maine Scallop Fishery.* The TAC for the Northern Gulf of Maine Scallop Fishery shall be specified in accordance with § 648.62, through the framework adjustment process specified in § 648.55. The Northern Gulf of Maine Scallop Fishery TAC is specified in § 648.62(b)(1).

(7) *Delay of the IFQ program.* If the IFQ program implementation is delayed beyond March 1, 2009, IFQ scallop vessels, including vessels fishing under temporary letter of authorization while their appeal for an IFQ scallop permit is pending, and limited access scallop vessels that are fishing under an IFQ scallop permit outside of the scallop DAS and Area Access programs, shall be allocated 10 percent of the annual target TAC specified in accordance with paragraph (a) of this section minus the TAC for all access areas specified in accordance with paragraph (a)(3) of this section until the IFQ program is implemented. The distribution of the TAC as specified in paragraph (a)(8) of this section would remain in effect. If the Regional Administrator determines that the IFQ program cannot be implemented by March 1, 2009, NMFS shall inform all scallop vessel owners that the IFQ program shall not take effect.

(8) *Distribution of transition period TAC—(i) Allocation.* For the 2008 fishing year, and 2009 fishing year, and beyond, if the IFQ program is not implemented as specified in paragraph (a)(7) of this section, the TAC for IFQ scallop vessels shall be allocated as specified in paragraphs (a)(5) of this section into quarterly periods. The percentage allocations for each period allocated to the IFQ scallop vessels, including limited access vessels fishing under an IFQ scallop permit and vessels under appeal for an IFQ scallop permit pursuant to § 648.4(a)(2)(ii) shall be specified in the framework adjustment process in § 648.55 and are specified in the following table:

Quarter	Percent	TAC
I. March-May	35	To be determined.
II. June-August	40	To be determined.
III. September-November	15	To be determined.
IV. December-February	10	To be determined.

(ii) *Deductions of landings.* All landings by IFQ scallop vessels and limited access vessels fishing under an IFQ scallop permit shall be deducted from the TAC allocations specified in the table in paragraph (a)(8)(i) of this section.

(iii) *Closure of fishery for the quarter.* No vessel issued an IFQ scallop permit, or vessel issued a temporary letter of authorization to fish for scallops while their appeal for an IFQ scallop permit is pending pursuant to § 648.4(a)(2)(ii), may possess, retain, or land scallops once the Regional Administrator has provided notification in the **Federal Register** that the scallop total allowable catch for the specified quarter, in accordance with this paragraph (a)(8) has been reached.

(iv) *Overages and underages of quarterly TACs.* Any overage or underage of catch during quarter 1 as specified in this paragraph (a)(8) shall be applied to the third quarter TAC as specified in this paragraph (a)(8). Any overage or underage of catch during quarters 2 and 3, as specified in this paragraph (a)(8), shall be applied to the fourth quarter TAC as specified in this paragraph (a)(8).

(9) *Scallop incidental catch target TAC.* To be determined.

(b) *DAS allocations.* (1) Total DAS to be used in all areas other than those specified in § 648.59, shall be specified through the framework adjustment process as specified in § 648.55, using the target total allowable catch for open areas specified in paragraph (a) of this section, and estimated catch per unit effort.

(2) Prior to setting the DAS allocations specified in paragraph (b)(4) of this section, 1 percent of total available DAS will be set aside to help defray the cost of observers, as specified in paragraph (h)(1) of this section. Two percent of total available DAS will be set aside to pay for scallop related research, as outlined in paragraph (h)(2) of this section.

(3) *Assignment to DAS categories.* Subject to the vessel permit application requirements specified in § 648.4, for each fishing year, each vessel issued a limited access scallop permit shall be assigned to the DAS category (full-time, part-time, or occasional) it was assigned to in the preceding year, except as provided under the small dredge program specified in § 648.51(e).

(4) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(2) (Full-time, Part-time, or Occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category. A vessel whose owner/operator has properly declared out of the scallop DAS fishery, pursuant to the provisions of § 648.10, including vessels that have used up their maximum allocated DAS, may leave port without being assessed a DAS, as long as it has made appropriate VMS declaration as specified in § 648.10(b)(4), possesses, fishes for, or retains the amount of scallops allowed by its general category permit, does not possess, fish for, or retain any scallops if the vessel does not have a general category scallop permit, and complies with all other requirements of this part. The annual open area DAS allocations for each category of vessel for the fishing years indicated, after deducting DAS for observer and research DAS set-asides, are as follows:

DAS category	2007	2008
Full-time	51	To be determined.
Part-time	20	To be determined.
Occasional	4	To be determined.

(5) *Additional open area DAS.* If a TAC for yellowtail flounder specified in § 648.85(c) is harvested for an Access Area specified in § 648.59(b) through (d), a scallop vessel with remaining trips in the affected Access Area shall be allocated additional open area DAS according to the calculations specified in paragraphs (b)(5)(i) through (iii) of this section.

(i) For each remaining complete trip in Closed Area I, a vessel may fish an additional 5.5 DAS in open areas during the same fishing year. A complete trip is deemed to be a trip that is not subject to a reduced possession limit under the broken trip provision in § 648.60(c). For example, a full-time scallop vessel with two complete trips remaining in Closed Area I would be allocated 11 additional open area DAS (2 times 5.5 = 11 DAS) if the TAC for yellowtail flounder allocated to the scallop fishery for Closed Area I is harvested in that area. Vessels allocated compensation trips as specified in § 648.60(c) that cannot be made because the yellowtail TAC in Closed Area I allocated to the scallop fishery is harvested shall be allocated 0.458 additional DAS for each unused DAS in Closed Area I. Unused DAS shall be calculated by dividing the compensation trip possession limit by 1,500 lb (680 kg), (the catch rate per DAS). For example, a vessel with a 10,000-lb (4,536-kg) compensation trip remaining in Closed Area I would be allocated 3.05 additional open area DAS in that same fishing year (0.458 times 10,000 lb (4,536 kg)/1,500 lb (680 kg) per day).

(ii) For each remaining complete trip in Closed Area II, a vessel may fish an additional 5.4 DAS in open areas during the same fishing year. A complete trip is deemed to be a trip that is not subject to a reduced possession limit under the broken trip provision in § 648.60(c). For example, a full-time scallop vessel with two complete trips remaining in Closed Area II would be allocated 10.8 additional open area DAS (2 times 5.4 = 10.8 DAS) if the TAC for yellowtail flounder allocated to the scallop fishery in Closed Area II is harvested in that area. Vessels allocated compensation trips as specified in § 648.60(c) that cannot be made because the yellowtail TAC in Closed Area II allocated to the scallop fishery is harvested shall be allocated 0.450 additional DAS for each unused DAS in Closed Area II. Unused DAS shall be calculated by dividing the compensation trip possession limit by 1,500 lb (680 kg) (the catch rate per DAS). For example, a vessel with a 10,000-lb (4,536-kg) compensation trip remaining in Closed Area II would be allocated 3 additional open area DAS in that same fishing year (0.450 times 10,000 lb (4,536 kg)/1,500 lb (680 kg) per day).

(iii) For each remaining complete trip in the Nantucket Lightship Access Area, a vessel may fish an additional 4.9 DAS in open areas during the same fishing year. A complete trip is deemed to be a trip that is not subject to a reduced possession limit under the broken trip provision in § 648.60(c). For example, a full-time scallop vessel with two complete trips remaining in Nantucket Lightship Access Area would be allocated 9.8 additional open area DAS (2 times 4.9 = 9.8 DAS) if the TAC for yellowtail flounder allocated to the scallop fishery in the Nantucket Lightship Access Area is harvested in that area. Vessels allocated compensation trips as specified in § 648.60(c) that cannot be made because the yellowtail TAC in Nantucket Lightship Access Area allocated to the scallop fishery is harvested shall be allocated 0.408 additional DAS for each unused DAS in the Nantucket Lightship Access Area. Unused DAS shall be calculated by dividing the compensation trip possession limit by 1,500 lb (680 kg) (the catch rate per DAS). For example, a vessel with a 10,000-lb (4,536-kg) compensation trip remaining in Nantucket Lightship Access Area would be allocated 2.7 additional open area DAS in that same fishing year (0.408 times 10,000 lb (4,536 kg)/1,500 lb (680 kg) per day).

(6) DAS allocations and other management measures are specified for each scallop fishing year, which begins on March 1 and ends on February 28 (or February 29), unless otherwise noted. For example, the 2006 fishing year refers to the period March 1, 2006, through February 28, 2007.

(c) *Adjustments in annual DAS allocations.* Annual DAS allocations shall be established for 2 fishing years through biennial framework adjustments as specified in § 648.55. If a biennial framework action is not undertaken by the Council and implemented by NMFS, the DAS allocations and Access Area trip allocations from the most recent fishing year shall remain in effect for the next fishing year. The Council may also recommend adjustments to DAS allocations through a framework action at any time.

(d) *End-of-year carry-over for open area DAS.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(1)(i)(J) for the entire fishing year preceding the carry-over year, limited access vessels that have unused Open Area DAS on the last day of February of any year may carry over a maximum of 10 DAS, not to exceed the total Open Area DAS allocation by permit category, into the next year. DAS carried over into the next fishing year may only be used in Open Areas. DAS sanctioned vessels will be credited with unused DAS based on their unused DAS allocation, minus total DAS sanctioned.

(e) *Accrual of DAS.* All DAS fished shall be charged to the nearest minute. A vessel carrying an observer and authorized to be charged fewer DAS in Open Areas based on the total available DAS set aside under paragraph (g)(1) of this section shall be charged at a reduced rate as specified in paragraph (g)(1) of this section.

(f) *Good Samaritan credit.* Limited access vessels fishing under the DAS program and that spend time at sea assisting in a USCG search and rescue operation or assisting the USCG in towing a disabled vessel, and that can document the occurrence through the USCG, will not accrue DAS for the time documented.

(g) *DAS set-asides*—(1) *DAS set-aside for observer coverage.* As specified in paragraph (b)(2) of this section, to help defray the cost of carrying an observer, 1 percent of the total DAS shall be set aside from the total DAS available for allocation, to be used by vessels that are assigned to take an at-sea observer on a trip other than an Area Access Program trip. The DAS set-aside for observer coverage for the 2007 fishing year is 165 DAS. Vessels carrying an observer shall be compensated with reduced DAS accrual rates for each trip on which the vessel carries an observer. For each DAS that a vessel fishes for scallops with an observer on board, the DAS shall be charged at a reduced rate based on an adjustment factor determined by the Regional Administrator on an annual basis, dependent on the cost of observers, catch rates, and amount of available DAS set-aside. The Regional Administrator shall notify vessel owners of the cost of observers and the DAS adjustment factor through a permit holder letter issued prior to the start of each fishing year. The number of DAS that are deducted from each trip based on the adjustment factor shall be deducted from the observer DAS set-aside amount in the applicable fishing year. Utilization of the DAS set-aside shall be on a first-come, first-served basis. When the DAS set-aside for observer coverage has been utilized, vessel owners shall be notified that no additional DAS remain available to offset the cost of carrying observers. The obligation to carry and pay for an observer shall not be waived due to the absence of set-aside DAS allocations.

(2) *DAS set-aside for research.* As specified in paragraph (b)(2) of this section, to help support the activities of vessels participating in certain research, as specified in § 648.56; the DAS set-aside for research for the 2007 fishing year is 330 DAS. Vessels participating in approved research shall be authorized to use additional DAS in the applicable fishing year. Notification of allocated additional DAS shall be provided through a letter of authorization, or Exempted Fishing Permit issued by NMFS, or shall be added to a participating vessel's open area DAS allocation, as appropriate.

(h) *Annual Individual fishing quotas*—(1) *IFQ restriction.* For each fishing year of the IFQ program, a vessel issued an IFQ scallop permit may only harvest and land the total amount of scallop meats allocated in accordance with this subpart. Unless otherwise specified in this part, a vessel allocated scallop IFQ may not exceed the possession limits specified in § 648.52 on any trip.

(2) *Calculation of IFQ.* The total allowable catch allocated to IFQ scallop vessels, and the total allowable catch allocated to limited access scallop vessels issued IFQ scallop permits, as specified in paragraphs (a)(3)(ii) and (iii) of this section, shall be used to determine the IFQ of each vessel issued an IFQ scallop permit. Each fishing year, the Regional Administrator shall provide the owner of a vessel issued an IFQ scallop permit issued pursuant to § 648.4(a)(2)(ii) with the scallop IFQ for the vessel for the upcoming fishing year.

(i) *Individual fishing quota.* The IFQ for an IFQ scallop vessel shall be the vessel's contribution percentage as specified in paragraph (h)(2)(iii) of this section and determined using the steps specified in paragraphs (h)(2)(ii) of this section, multiplied by the TAC allocated to the IFQ scallop fishery, or limited access vessels issued an IFQ scallop permit, as specified in paragraphs (a)(3)(ii) and (iii) of this section.

(ii) *Contribution factor.* An IFQ scallop vessel's contribution factor is calculated using the best year, years active, and index factor as specified in paragraphs (h)(1)(ii)(A) through (C) of this section. A vessel's contribution factor shall be provided to the owner of a qualified limited access general category vessel following initial application for an IFQ scallop permit as specified in § 648.4(a)(2)(ii)(E), consistent with confidentiality restrictions of the Magnuson-Stevens Act specified at 16 U.S.C. 1881a.

(A) *Best year determination.* An eligible IFQ scallop vessel's highest scallop landings in any scallop fishing year that the vessel was issued a general category scallop permit between March 1, 2000, and November 1, 2004, shall be determined using NMFS dealer reports. Scallop landings in the 2004 fishing year must have occurred on or before November 1, 2004. If a dealer reported more than 400 lb (181.4 kg) of scallops landed on a trip, only 400 lb (181.4 kg) will be credited for that trip toward the best year calculation. For dealer reports that indicate clearly that the landings were bushels of in-shell scallops, a conversion of 8.33 lb (3.78 kg) of scallop meats per bushel shall be used to calculate meat-weight, up to a maximum of 400 lb (181.4 kg) per trip.

(B) *Years active.* For each eligible IFQ scallop vessel, the total number of scallop fishing years during the period March 1, 2000, through November 1, 2004, in which the vessel had a general category scallop permit and landed at least 1 lb (0.45 kg) of scallop meats, or in-shell scallops, shall be counted as active years based on NMFS dealer reports. Scallop landings in the 2004 fishing year must have occurred on or before November 1, 2004.

(C) *Index to determine contribution factor.* For each eligible IFQ scallop vessel, the best year as determined pursuant to paragraph (a)(2)(ii)(E)(*1*) of this section shall be multiplied by the appropriate index factor specified in the following table, based on years active as specified in paragraph (a)(2)(ii)(E)(*2*) of this section. The resulting contribution factor shall determine its IFQ for each fishing year based on the allocation to general category scallop vessels as specified in § 648.53(a)(2) and the method of calculating the IFQ provided in § 648.53(h).

Years active	Index factor
1	0.75
2	0.875
3	1.0
4	1.125
5	1.25

(D) *Contribution factor example.* If a vessel landed 48,550 lb (22,022 kg) of scallops in its best year, and was active in the general category scallop fishery for 5 years, the vessel's contribution factor is equal to 60,687 lb (27,527 kg) (48,550 lb (22,022 kg * 1.25).

(iii) *Contribution percentage.* A vessel's contribution percentage will be determined by dividing its contribution factor by the sum of the contribution factors of all vessels issued an IFQ scallop permit. The sum of the contribution factors shall be determined when all IFQ scallop vessels are identified. Continuing the example in paragraph (h)(1)(ii)(D) of this section, the sum of the contribution factors for 380 IFQ scallop vessels is estimated for the purpose of this example to be 4.18 million lb (1,896 mt). The contribution percentage of the above vessel is 1.45 percent (60,687 lb (27,527 kg) /4.18 million lb (1,896 mt) = 1.45 percent).

(iv) *Vessel IFQ Example.* Continuing the example in paragraphs (h)(1)(ii)(D) and (h)(1)(iii) of this section, with a TAC allocated to IFQ scallop vessels estimated for this example to be equal to 2.5 million lb (1,134 mt), the vessel's IFQ would be 36,250 lb (16,443 kg) (1.45 percent * 2.5 million lb (1,134 mt)).

(3) *IFQ ownership restrictions*—(i) *IFQ scallop vessel IFQ cap.* (A) Unless otherwise specified in paragraph (h)(3)(i)(B) and (C) of this section, a vessel issued an IFQ scallop permit or confirmation of permit history shall not be issued more than 2 percent of the TAC allocated to the IFQ scallop vessels as described in paragraphs (a)(3)(ii) and (iii) of this section.

(B) A vessel may be initially issued more than 2 percent of the TAC allocated to the IFQ scallop vessels as described in paragraphs (a)(3)(ii) and (iii) of this section, if the initial determination of its contribution factor specified in accordance with § 648.4(a)(2)(ii)(E) and paragraph (h)(2)(ii) of this section, results in an IFQ that exceeds 2 percent of the TAC allocated to the IFQ scallop vessels as described in paragraphs (a)(3)(ii) and (iii) of this section. A vessel that is allocated an IFQ that exceeds 2 percent of the TAC allocated to the IFQ scallop vessels as described in paragraphs (a)(3)(ii) and (iii) of this section in accordance with this paragraph (h)(3)(i)(B), may not transfer IFQ to that vessel, as specified in paragraph (h)(5) of this section.

(C) A vessel initially issued a 2008 IFQ scallop permit or confirmation of permit history, or issued or renewed a limited access scallop permit or confirmation of permit history for a vessel in 2009 and thereafter, in compliance with the ownership restrictions in paragraph (h)(3)(i)(A) of this section, are eligible to renew such permits(s) and/or confirmation(s) of permit history, regardless of whether the renewal of the permits or confirmations of permit history will result in the 2-percent ownership restriction being exceeded.

(ii) *IFQ ownership cap.* (A) For any vessel acquired after June 1, 2008, a vessel owner is not eligible to be issued an IFQ scallop permit for the vessel, and/or a confirmation of permit history, and is not eligible to transfer IFQ to the vessel, if, as a result of the issuance of

the permit and/or confirmation of permit history, or IFQ transfer, the vessel owner, or any other person who is a shareholder or partner of the vessel owner, will have an ownership interest in more than 5 percent of the TAC allocated to the IFQ scallop vessels as described in paragraphs (a)(3)(ii) and (iii) of this section.

(B) Vessel owners who were initially issued a 2008 IFQ scallop permit or confirmation of permit history, or who were issued or renewed a limited access scallop permit or confirmation of permit history for a vessel in 2009 and thereafter, in compliance with the ownership restrictions in paragraph (h)(3)(ii)(A) of this section, are eligible to renew such permits(s) and/or confirmation(s) of permit history, regardless of whether the renewal of the permits or confirmations of permit history will result in the 5-percent ownership restriction being exceeded.

(C) Having an ownership interest includes, but is not limited to, persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a vessel.

(iii) *Limited access scallop vessels that have been issued an IFQ scallop permit.* The IFQ scallop vessel IFQ cap and IFQ ownership cap specified in this paragraph (h)(3) do not apply to limited access scallop vessels that are also issued a limited access general category scallop permit because such vessels are already subject to an ownership limitation, as specified in § 648.4(a)(2)(i)(M).

(4) *IFQ cost recovery.* NMFS shall collect a fee, not to exceed 3 percent of the ex-vessel value of fish harvested in a fishing year, to recover the costs associated with management, data collection, and enforcement of the IFQ program. Owners of IFQ scallop vessels shall be responsible for paying the fee as required by NMFS. For IFQ scallop vessel owners involved in a temporary transfer of IFQ as specified in paragraph (h)(5) of this section, the transferor and transferee shall be joint and severally responsible for any failure to pay cost recovery fees. By agreeing to and accepting the transfer of IFQ, the transferee waives confidentiality of information associated with landings of the transferred IFQ for the use of the transferor only. The specific cost recovery provisions shall be specified in the first framework implementing the specifications for the IFQ program, including the overall total allowable catch and eligible vessels' IFQs. Payment of cost recovery funds shall be through electronic means unless otherwise notified by the Regional Administrator.

(5) *Transferring IFQ*—(i) *Temporary IFQ transfers.* Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel not issued a limited access scallop permit may temporarily transfer one or more entire IFQs to or from another IFQ scallop vessel. Temporary IFQ transfers shall be effective only for the fishing year in which the temporary transfer is requested and processed. The Regional Administrator has final approval authority for all temporary IFQ transfer requests.

(ii) *Permanent IFQ transfers.* Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel not issued a limited access scallop permit may transfer one or more entire IFQs permanently to or from another IFQ scallop vessel. A vessel permanently transferring its IFQ to another vessel must transfer all of its Federal limited access permits for which it is eligible to the transferee vessel in accordance with the vessel replacement restrictions under § 648.4, or permanently cancel such permits. Any such transfer cannot be limited in duration and is permanent unless the IFQ is subsequently transferred to another IFQ scallop vessel, other than the originating IFQ scallop vessel, in a subsequent fishing year. The Regional Administrator has final approval authority for all IFQ transfer requests.

(iii) *IFQ transfer restrictions.* The owner of an IFQ scallop vessel not issued a limited access scallop permit may transfer entire IFQ allocations only. The owner of an IFQ scallop vessel not issued a limited access scallop permit that has fished under its IFQ in a fishing year may not transfer that vessel's IFQ to another IFQ scallop vessel in the same fishing year. A transfer of an IFQ may not result in the sum of the IFQs on the receiving vessel exceeding 2 percent of the total allowable catch allocated to IFQ scallop vessels. Limited access scallop vessels that are also issued an IFQ scallop permit may not transfer or receive IFQ from another IFQ scallop vessel, either temporarily or permanently. A vessel permanently transferring its IFQ to another vessel must transfer all of its Federal limited access permits for which it is eligible to the transferee vessel in accordance with the vessel replacement restrictions under § 648.4, or permanently cancel such permits.

(iv) *Application for an IFQ transfer.* The owner of vessels applying for a transfer IFQ must submit a completed application form obtained from the Regional Administrator. The application must be signed by both parties (transferor and transferee) involved in the transfer of the IFQ, and must be submitted to the NMFS Northeast Regional Office at least 30 days before the date on which the applicants desire to have the IFQ effective on the receiving vessel. The Regional Administrator shall notify the applicants of any deficiency in the application pursuant to this section. Applications may be submitted at any time during the scallop fishing year, provided the vessel transferring the IFQ to another vessel has not utilized any of its own IFQ in that fishing year. Applications for temporary transfers received 45 days prior to the end of the fishing year may not be processed in time for a vessel to utilize the transferred IFQ prior to the expiration of the fishing year for which the IFQ transfer, if approved, would be effective.

(A) *Application information requirements.* An application to transfer IFQ must contain at least the following information: Transferor's name, vessel name, permit number, and official number or state registration number; transferee's name, vessel name, permit number and official number or state registration number; total price paid for purchased IFQ; signatures of transferor and transferee; and date the form was completed. Information obtained from the transfer application will be held confidential, and will be used only in summarized form for management of the fishery. If applicable, an application for a permanent IFQ transfer must be accompanied by verification, in writing, that the transferor either has requested cancellation of all limited access Federal fishing permits, or has applied for a transfer of all of its limited access permits in accordance with the vessel replacement restrictions under § 648.4.

(B) *Approval of IFQ transfer applications.* Unless an application to transfer IFQ is denied according to paragraph (h)(5)(iii)(C) of this section, the Regional Administrator shall issue confirmation of application approval to both parties involved in the transfer within 45 days of receipt of an application.

(C) *Denial of transfer application.* The Regional Administrator may reject an application to transfer IFQ for the following reasons: The application is incomplete; the transferor or transferee does not possess a valid limited access general category permit; the transferor's or transferee's vessel or IFQ scallop permit has been sanctioned, pursuant to an enforcement proceeding; the transferor's or transferee's vessel is prohibited from fishing; the transfer will result in the transferee's vessel having

an allocation that exceeds 2 percent of the total allowable catch allocated to IFQ scallop vessels; the transfer will result in the transferee having ownership of general category scallop allocation that exceeds 5 percent of the total allowable catch allocated to IFQ scallop vessels; or any other failure to meet the requirements of this subpart. Upon denial of an application to transfer IFQ, the Regional Administrator shall send a letter to the applicants describing the reason(s) for the rejection. The decision by the Regional Administrator is the final agency decision and there is no opportunity to appeal the Regional Administrator's decision.

■ 11. In § 648.54, paragraphs (b), (c)(3), and (f) are revised to read as follows:

§ 648.54 State waters exemption.

* * * * *

(b) *LAGC scallop vessel gear and possession limit restrictions.* Any vessel issued an LAGC scallop permit is exempt from the gear restrictions specified in § 648.51(a), (b), (e)(1), and (e)(2), and the applicable possession limits specified in § 648.52, while fishing exclusively landward of the outer boundary of the waters of a state that has been issued a state waters exemption, provided the vessel complies with paragraphs (d) through (g) of this section.

* * * * *

(c) * * *

(3) Prior to Amendment 11 to the FMP, Maine, New Hampshire, and Massachusetts were determined by the Regional Administrator to have scallop fisheries and scallop conservation programs that do not jeopardize the biomass and fishing mortality/effort limit objectives of the FMP. States must resubmit information describing their scallop fishery conservation programs so that the Regional Administrator can determine if such states continue to have scallop fisheries and scallop conservation programs that do not jeopardize the biomass and fishing mortality/effort limit objectives of the FMP. In addition, these states must immediately notify the Regional Administrator of any changes in their respective scallop conservation program. The Regional Administrator shall review these changes and, if a determination is made that the state's conservation program jeopardizes the biomass and fishing mortality/effort limit objectives of the FMP, or that the state no longer has a scallop fishery, the Regional Administrator shall publish a rule in the **Federal Register**, in accordance with the Administrative Procedure Act, to eliminate the exemption for that state. The Regional Administrator may determine that other states have scallop fisheries and scallop conservation programs that do not jeopardize the biomass and fishing mortality/effort limit objectives of the FMP. In such case, the Regional Administrator shall publish a rule in the **Federal Register**, in accordance with the Administrative Procedure Act, to provide the exemption for such states.

* * * * *

(f) *Duration of exemption.* An exemption expires upon a change in the vessel's name or ownership, or upon notification through VMS by the participating vessel's owner.

* * * * *

■ 12. In § 648.55, paragraphs (a) and (e) are revised to read as follows:

§ 648.55 Framework adjustments to management measures.

(a) Biennially, or upon a request from the Council, the Regional Administrator shall provide the Council with information on the status of the scallop resource. Within 60 days of receipt of that information, the Council PDT shall assess the condition of the scallop resource to determine the adequacy of the management measures to achieve scallop resource conservation objectives. Based on this information, the PDT shall prepare a Stock Assessment and Fishery Evaluation (SAFE) Report that provides the information and analysis needed to evaluate potential management adjustments. Based on this information and analysis, the Council shall initiate a framework adjustment to establish or revise total allowable catch, DAS allocations, rotational area management programs, percentage allocations for limited access general category vessels in Sea Scallop Access Areas, scallop possession limits, or other measures to achieve FMP objectives and limit fishing mortality. The Council's development of an area rotation program shall take into account at least the following factors: General rotation policy; boundaries and distribution of rotational closures; number of closures; minimum closure size; maximum closure extent; enforceability of rotational closed and re-opened areas; monitoring through resource surveys; and re-opening criteria. Rotational Closures should be considered where projected annual change in scallop biomass is greater than 30 percent. Areas should be considered for Sea Scallop Access Areas where the projected annual change in scallop biomass is less than 15 percent.

* * * * *

(e) After considering the PDT's findings and recommendations, or at any other time, if the Council determines that adjustments to, or additional management measures are necessary, it shall develop and analyze appropriate management actions over the span of at least two Council meetings. To address interactions between the scallop fishery and sea turtles and other protected species, such adjustments may include proactive measures including, but not limited to, the timing of Sea Scallop Access Area openings, seasonal closures, gear modifications, increased observer coverage, and additional research. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses, and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures must include measures to prevent overfishing of the available biomass of scallops and ensure that OY is achieved on a continuing basis, and must come from one or more of the following categories:

(1) Total allowable catch and DAS changes;

(2) Shell height;

(3) Offloading window reinstatement;

(4) Effort monitoring;

(5) Data reporting;

(6) Trip limits;

(7) Gear restrictions;

(8) Permitting restrictions;

(9) Crew limits;

(10) Small mesh line;

(11) Onboard observers;

(12) Modifications to the overfishing definition;

(13) VMS Demarcation Line for DAS monitoring;

(14) DAS allocations by gear type;

(15) Temporary leasing of scallop DAS requiring full public hearings;

(16) Scallop size restrictions, except a minimum size or weight of individual scallop meats in the catch;

(17) Aquaculture enhancement measures and closures;

(18) Closed areas to increase the size of scallops caught;

(19) Modifications to the opening dates of closed areas;

(20) Size and configuration of rotational management areas;

(21) Controlled access seasons to minimize bycatch and maximize yield;

(22) Area-specific trip allocations;

(23) TAC specifications and seasons following re-opening;

(24) Limits on number of area closures;

(25) TAC or DAS set-asides for funding research;

(26) Priorities for scallop-related research that is funded by a TAC or DAS set-aside;

(27) Finfish TACs for controlled access areas;

(28) Finfish possession limits;

(29) Sea sampling frequency;

(30) Area-specific gear limits and specifications;

(31) Modifications to provisions associated with observer set-asides; observer coverage; observer deployment; observer service provider; and/or the observer certification regulations;

(32) Specifications for IFQs for limited access general category vessels;

(33) Revisions to the cost recovery program for IFQs;

(34) Development of general category fishing industry sectors and fishing cooperatives;

(35) Adjustments to the Northern Gulf of Maine scallop fishery measures;

(36) VMS requirements; and

(37) Any other management measures currently included in the FMP.

* * * * *

■ 13. Section 648.57 is revised to read as follows:

§ 648.57 Sea scallop area rotation program.

An area rotation program is established for the scallop fishery, which may include areas closed to scallop fishing defined in § 648.58, and/or Sea Scallop Access Areas defined in § 648.59, subject to the Sea Scallop Area Access program requirements specified in § 648.60. Areas not defined as Rotational Closed Areas, Sea Scallop Access Areas, EFH Closed Areas, or areas closed to scallop fishing under other FMPs, are open to scallop fishing as governed by the other management measures and restrictions in this part. The Council's development of area rotation programs is subject to the framework adjustment process specified in § 648.55, including the Area Rotation Program factors included in § 648.55(a). The percentage of the total allowable catch for each Sea Scallop Access Area that is allocated to limited access scallop vessels and limited access general category scallop vessels shall be specified in § 648.59 through the framework adjustment process specified in § 648.55.

■ 14. In § 648.59, paragraphs (b)(5)(i), (b)(5)(ii), (c)(5)(i), (c)(5)(ii), (d)(5)(i), (d)(5)(ii), (e)(4)(i), and (e)(4)(ii) are revised to read as follows:

§ 648.59 Sea Scallop Access Areas.

* * * * *

(b) * * *

(5) * * *

(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area I Access Area as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area I Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area I Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area I Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (b)(5)(i).

(ii) *LAGC scallop vessels.* (A) The percentage of the Closed Area I total allowable catch allocated to LAGC scallop vessels shall be specified in this paragraph (b)(5)(ii) through the framework adjustment process. The resulting total allowable catch allocated to LAGC scallop vessels shall be specified in this paragraph (b)(5)(ii) and shall determine the number of trips specified in paragraph (b)(5)(ii)(B) of this section.

(B) Except as provided in paragraph (b)(5)(ii)(C) of this section, subject to the possession limit specified in §§ 648.52(a) and (b), and 648.60(g), and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, an LAGC scallop vessel may not enter in, or fish for, possess, or land sea scallops in or from the Closed Area I Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), the date on which 216 trips are projected to be taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section. The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken for the 2008 fishing year.

(C) A vessel issued a NE Multispecies permit and a LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (b)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(c) * * *

(5) * * *

(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area II Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area II Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area II Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area II Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (c)(5)(i).

(ii) *LAGC scallop vessels.* (A) The percentage of the Closed Area II total allowable catch allocated to LAGC scallop vessels shall be specified in this paragraph (c)(5)(ii) through the framework adjustment process. The resulting total allowable catch allocated to LAGC scallop vessels shall be specified in this paragraph (c)(5)(ii) and shall determine the number of trips specified in paragraph (c)(5)(ii)(B) of this section.

(B) Except as provided in paragraph (c)(5)(ii)(C) of this section, subject to the possession limits specified in §§ 648.52(a) and (b), and 648.60(g), and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, an LAGC scallop vessel may not enter in, or fish for, possess, or land sea scallops in or from the Closed Area II Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), of the date on which the total number of trips is projected to be taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section. The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken.

(C) A vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (c)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(d) * * *

(5) * * *

(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Nantucket Lightship Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Nantucket Lightship Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Nantucket Lightship Closed Area Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Nantucket Lightship Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (d)(5)(i).

(ii) *LAGC scallop vessels.* (A) The percentage of the Nantucket Lightship Access Area total allowable catch allocated to LAGC scallop vessels shall be specified in this paragraph (d)(5)(ii) through the framework adjustment process. The resulting total allowable catch allocated to LAGC scallop vessels shall be specified in this paragraph (d)(5)(ii) and shall determine the number of trips specified in paragraph (d)(5)(ii)(B) of this section.

(B) Except as provided in paragraph (d)(5)(ii)(C) of this section, subject to the possession limits specified in §§ 648.52(a) and (b), and 648.60(g), an LAGC scallop vessel may not enter in, or fish for, possess, or land sea scallops in or from the Nantucket Lightship Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), of the date on which the total number of trips are projected to be taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section. The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken.

(C) A vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (d)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(e) * * *

(4) * * *

(i) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Elephant Trunk Sea Scallop Access Area, as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains an Elephant Trunk Sea Scallop Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Elephant Trunk Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Elephant Trunk Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (e)(4)(i).

(ii) *LAGC scallop vessels.* (A) The percentage of the Elephant Trunk Access Area total allowable catch allocated to LAGC scallop vessels shall be specified in this paragraph (e)(4)(ii) through the framework adjustment process. The resulting total allowable catch allocated to limited access general category vessels shall be specified in this paragraph (e)(4)(ii) and shall determine the number of trips specified in paragraph (e)(4)(ii)(B) of this section.

(B) Subject to the possession limits specified in §§ 648.52(a) and (b), and 648.60(g), an LAGC scallop vessel may not enter in, or fish for, possess, or land sea scallops in or from the Elephant Trunk Sea Scallop Access Area once the Regional Administrator has provided notification in the **Federal Register**, in accordance with § 648.60(g)(4), of the date on which 865 trips allocated March 1, 2008, are projected to be taken, in total, by all LAGC scallop vessels, unless transiting pursuant to paragraph (f) of this section. The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken.

* * * * *

■ 15. In § 648.60, paragraph (a) introductory text, paragraphs (g)(1) and (2), and paragraph (g)(3) introductory text are revised to read as follows:

§ 648.60 Sea scallop area access program requirements.

(a) A limited access scallop vessel may only fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, when fishing under a scallop DAS, provided the vessel complies with the requirements specified in paragraphs (a)(1) through (a)(9), and (b) through (f) of this section. An LAGC scallop vessel may fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraph (g) of this section.

* * * * *

(g) * * *

(1) An LAGC scallop vessel, except a vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the LAGC Access Area fishery, may only fish in the Closed Area I, Closed Area II, and Nantucket Lightship Sea Scallop Access Areas specified in § 648.59(b) through (d), subject to the seasonal restrictions specified in § 648.59(b)(4), (c)(4), and (d)(4), and subject to the possession limit specified in § 648.52(a), and provided the vessel complies with the requirements specified in paragraphs (a)(1), (a)(2), (a)(6) through (a)(9), (d), (e), (f), and (g) of this section, and § 648.85(c)(3)(ii). A vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the Sea Scallop Area Access program as specified in paragraph (a)(2) of this section is not subject to the restrictions and requirements specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

(2) *Gear restrictions.* An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(b) through (d) must fish with dredge gear only. The combined dredge width in use by, or in possession on board, LAGC scallop vessels fishing in the Access Areas described in § 648.59(b) through (d) may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(3) *Scallop TAC.* An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(b) through (e) may land scallops, subject to the possession limit specified in § 648.52(a), unless the Regional Administrator has issued a notice that the scallop TAC specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii) in the Access Area has been or is projected to be harvested. Upon a determination from the Regional Administrator that the scallop TAC for a specified Access Area, as specified in this paragraph (g)(3), has been, or is projected to be harvested, the Regional Administrator shall publish notification of this determination in the

Federal Register, in accordance with the Administrative Procedure Act. Once this determination has been made, and LAGC scallop vessel may not fish for, possess, or land scallops in or from the specified Access Area.

* * * * *

■ 16. Section 648.62 is added to read as follows:

§ 648.62 Northern Gulf of Maine (NGOM) scallop management area.

(a) The NGOM scallop management area is the area north of 42(20' N. lat. and within the boundaries of the Gulf of Maine Scallop Dredge Exemption Area as specified in § 648.80(a)(11). To fish for or possess scallops in the NGOM scallop management area, a vessel must have been issued a scallop permit as specified in § 648.4(a)(2).

(1) If a vessel has been issued a NGOM scallop permit, the vessel is restricted to fishing for or possessing scallops only in the NGOM scallop management area.

(2) Scallop landings by all vessels issued LAGC scallop permits, including IFQ scallop permits, and fishing in the NGOM scallop management area shall be deducted from the NGOM scallop total allowable catch specified in paragraph (b) of this section. Scallop landings by IFQ scallop vessels fishing in the NGOM scallop management area shall be deducted from their respective scallop IFQs. Landings by limited access scallop vessels fishing under the scallop DAS program shall not be deducted from the NGOM total allowable catch specified in paragraph (b) of this section.

(3) A vessel issued a NGOM or IFQ scallop permit that fishes in the NGOM may fish for, possess, or retain up to 200 lb (90.7 kg) of shucked or 25 bu (8.81 hL) of in-shell scallops, and may possess up to 50 bu (17.6 hL) of in-shell scallops seaward of the VMS Demarcation Line. A vessel issued an incidental catch general category scallop permit that fishes in the NGOM may fish for, possess, or retain only up to 40 lb of shucked or 5 U.S. bu (1.76 hL) of in-shell scallops, and may possess up to 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line.

(b) *Total allowable catch.* The total allowable catch for the NGOM scallop management area shall be specified through the framework adjustment process. The total allowable catch for the NGOM scallop management area shall be based on the Federal portion of the scallop resource in the NGOM. The total allowable catch shall be determined by historical landings until additional information on the NGOM scallop resource is available, for example through an NGOM resource survey and assessment. The total allowable catch and allocations as specified in § 648.53(a) shall not include the total allowable catch for the NGOM scallop management area, and landings from the NGOM scallop management area shall not be counted against the total allowable catch and allocations specified in § 648.53(a).

(1) *NGOM total allowable catch.* To be determined.

(2) Unless a vessel has fished for scallops outside of the NGOM scallop management area and is transiting NGOM scallop management area with all fishing gear stowed in accordance with § 648.23(b), no vessel issued a scallop permit pursuant to § 648.4(a)(2) may possess, retain, or land scallops in the NGOM scallop management area once the Regional Administrator has provided notification in the **Federal Register** that the NGOM scallop total allowable catch in accordance with this paragraph (b) has been reached. A vessel that has not been issued a Federal scallop permit that fishes exclusively in state waters is not subject to the closure of the NGOM scallop management area.

(c) *VMS requirements.* Except scallop vessels issued a limited access scallop permit pursuant to § 648.4(a)(2)(i) that have declared a trip under the scallop DAS program, a vessel issued a scallop permit pursuant to § 648.4(a)(2) that intends to fish for scallops in the NGOM scallop management area or fishes for, possesses, or lands scallops in or from the NGOM scallop management area, must declare a NGOM scallop management area trip and report scallop catch through the vessel's VMS unit, as required in § 648.10.

(d) *Gear restrictions.* Except scallop vessels issued a limited access scallop permit pursuant to § 648.4(a)(2)(i) that have properly declared a trip under the scallop DAS program, the combined dredge width in use by, or in possession on board, LAGC scallop vessels fishing in the NGOM scallop management area may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

■ 17. Section 648.63 is added to read as follows:

§ 648.63 General category Sectors and harvesting cooperatives.

(a) *Procedure for implementing Sector allocation proposals.* (1) Any person may submit a Sector allocation proposal for a group of LAGC scallop vessels to the Council, at least 1 year in advance of the start of the proposed sector, and request that the Sector be implemented through a framework procedure specified at § 648.55, in accordance with the conditions and restrictions of this section.

(2) Upon receipt of a Sector allocation proposal, the Council must decide whether to initiate such framework. Should a framework adjustment to authorize a Sector allocation be initiated, the Council shall follow the framework adjustment provisions of § 648.55. Any framework adjustment developed to implement a Sector allocation proposal must be in compliance with the general requirements specified in paragraphs (b) and (c) of this section. Vessels that do not join a Sector remain subject to the LAGC scallop vessel regulations for non-Sector vessels specified under this part.

(b) *General requirements applicable to all Sector allocations.* All Sectors approved under the provisions of paragraph (a) of this section must submit the documents specified under paragraphs (a)(1) and (c) of this section, and comply with the conditions and restrictions of this paragraph (b).

(1) *Participation.* (i) Only LAGC scallop vessels are eligible to form Sectors, and Sectors may choose which eligible permit holders to include or exclude in the sector, consistent with all applicable law. A Sector may establish additional criteria for determining its membership, provided such criteria are specified in the Sector's operations plan and are consistent with all applicable law. Any interested group that meets the eligibility criteria may submit a proposal for a Sector. To initiate the process of Sector creation, a group (two or more) of permit holders must agree to cooperate and submit a binding plan for management of that Sector's allocation of total allowable catch. Vessels that do not choose to participate in a sector will fish under the IFQ program and remain in the non-sector scallop fishery.

(ii) Participation by incidental catch or NGOM scallop vessels in the Sector is subject to approval by the Council as part of the action that implements the Sector allocation, provided the details of such participation are specified in the Sector's operations plan. A Sector allocation may be harvested by non-Sector members, provided the Sector operations plan specifies that the Sector may authorize non-Sector vessels to harvest the Sector allocation. In this case, if the Sector is approved, the landings history of the participating non-Sector vessels may not be used in the calculation of future Sector shares and may not be used as scallop catch history for such vessels. The operations plan must specify how such participating non-Sector shall be subject to the rules of the Sector.

(iii) Once a vessel operator and/or vessel owner signs a binding contract to have his/her vessel participate in a Sector, that vessel must remain in the Sector for the remainder of the fishing year.

(iv) Vessels that fish in the LAGC scallop fishery outside the Sector allocation in a given fishing year may not participate in a Sector during that same fishing year, unless the Operations Plan provides an acceptable method for accounting for IFQ used, or catch by the vessel, prior to implementation of the Sector.

(v) Once a vessel operator and/or vessel owner has agreed to participate in a Sector as specified in paragraph (b)(1)(iii) of this section, that vessel must remain in the Sector for the entire fishing year. If a permit is transferred by a Sector participant during the fishing year, the new owner must also comply with the Sector regulations for the remainder of the fishing year.

(vi) Vessels and vessel operators and/or vessel owners removed from a Sector for violation of the Sector rules will not be eligible to fish under the scallop regulations for non-Sector vessels specified under this part either for any period specified in the final decision of penalty or sanction.

(vii) If a pre-existing Sector accepts a new member, the percentage share brought to the Sector is based on that vessel's average qualification landings at the time it joins the Sector (*i.e.*, the vessel is treated as a "Sector of one" and a share based on the appropriate adjusted TACs is calculated). This new single-vessel-Sector share is added to the existing Sector. If a vessel leaves a Sector, that Sector's share is reduced by the individual vessel share the exiting vessel had when it joined the Sector.

(viii) A vessel may not be a member of more than one Sector. Once a vessel enters into a Sector, it cannot fish during that fishing year under the regulations that apply to the common pool. Additionally, vessels cannot shift from one Sector to another during a single fishing year. Therefore, if a vessel leaves a Sector for any reason, it cannot participate in the general category scallop fishery during the remainder of that fishing year

(2) *Allocation of TAC to Sectors.* (i) The Sector allocation shall be equal to a percentage share of the TAC allocation for IFQ scallop vessels specified in § 648.53(a), similar to a IFQ scallop vessel's IFQ as specified in § 648.53(h). The Sector's percentage share of the IFQ scallop fishery TAC catch shall not change, but the amount of allocation based on the percentage share will change based on the TAC specified in § 648.53(a).

(ii) *Sector share determination.* When a Sector proposal is submitted, NMFS shall verify the contribution percentage as specified in § 648.53(h)(2)(iii) for each vessel listed as a Sector member. The Sector's share shall be the sum of the participating vessels' contribution percentages.

(iii) A Sector shall not be allocated more than 20 percent of the TAC for IFQ vessels specified in § 648.53(a)(5)(ii) or (iii).

(3) Once a Sector's allocation is projected to be harvested, Sector operations will be terminated for the remainder of the fishing year.

(4) If a Sector's allocation is exceeded in a given fishing year, the Sector, each vessel, and vessel operator and/or vessel owner participating in the Sector may be charged jointly and severally for civil penalties and permit sanction pursuant to 15 CFR part 904. If a Sector exceeds its allocation in more than one fishing year, the Sector's authorization to operate may be withdrawn.

(5) A vessel operator and/or vessel owner participating in a Sector is not subject to the limit on the vessel's catch based on the vessel's own IFQ or contribution percentage as defined in § 648.53(h)(2)(iii), provided the vessel is participating in the Sector and carries on board a Letter of Authorization to participate in the Sector and exempts the vessel from its IFQ limit and any other related measures. The Sector shall determine how the Sector's allocation will be divided between its participating vessels, regardless of whether the catch by a participating vessel exceeds that vessel's own IFQ.

(6) Each vessel operator and/or vessel owner fishing under an approved Sector must comply with all scallop management measures of this part and other applicable law, unless exempted under a Letter of Authorization, as specified in paragraph (b)(11) of this section. Each vessel and vessel operator and/or vessel owner participating in a Sector must also comply with all applicable requirements and conditions of the Operations Plan specified in paragraph (c) of this section and the Letter of Authorization issued pursuant to paragraph (b)(11) of this section. It shall be unlawful to violate any such conditions and requirements and each Sector, vessel, and vessel operator and/or vessel owner participating in the Sector may be charged jointly and severally for civil penalties and permit sanctions pursuant to 15 CFR part 904.

(7) Approved Sectors must submit an annual year-end report to NMFS and the Council, within 60 days of the end of the fishing year, that summarizes the fishing activities of its members, including harvest levels of all federally managed species by Sector vessels, enforcement actions, and other relevant information required to evaluate the performance of the Sector.

(8) It shall be the responsibility of each Sector to track its activity and internally enforce any provisions adopted through procedures established in the operations plan and agreed to through the Sector contract. Sector contracts should describe graduated sanctions, including grounds for expulsion of Sector member vessels. The Sector and participating Sector vessels shall be subject to NMFS enforcement action for violations of the regulations pertaining to Sectors and other regulations under 50 CFR part 648. Vessels operating within a Sector are responsible for judgments against the Sector. Sector operations plans shall specify how a Sector will monitor its landings to assure that Sector landings do not exceed the Sector allocation. At the end of the fishing year, NMFS shall evaluate landings using VMS and any other available information to determine whether a Sector has exceeded any of its allocations based on the list of participating vessels submitted in the operations plan. If a Sector exceeds its TAC, the Sector may have its authorization as a Sector withdrawn by the Regional Administrator, after consultation with the Council, and may be subject to enforcement action.

(9) Permanent or temporary transfers of allocation between Sectors or between Sector and non-Sector participants is prohibited. For purposes of harvesting a Sector allocation only, vessels under contract to a Sector are assumed to be part of that Sector for the duration of that contract.

(10) The Sector allocation proposal must contain an appropriate analysis that assesses the impact of the proposed Sector, in compliance with the National Environmental Policy Act.

(11) If a Sector is approved as specified in paragraph (d)(3) of this section, the Regional Administrator shall issue a Letter of Authorization to each vessel operator and/or owner for the participating Sector vessel. The Letter of Authorization shall authorize participation in the Sector operations and may exempt the participating vessel from the requirement that the vessel cannot exceed its own IFQ and related measures. The Letter of Authorization may include requirements and conditions deemed necessary to ensure effective administration of and compliance with the Sector's operations plan and the Sector's allocation.

(c) *Operations plans.* (1) A group that wants to form a Sector and receive an allocation must submit a legally binding operations plan to the Council and the Regional Administrator. The operations plan must be agreed upon and signed by all members of the Sector and, if approved, shall constitute a contract.

(2) The operations plan among all of the Sector members must have, at a minimum, the following components:

(i) A list of all participants;

(ii) A contract signed by all participants indicating their agreement to abide by the operations plan;

(iii) An entity name, address, phone number, and the name and contact information for a Sector representative (a manager or director) that NMFS can contact regarding Sector management issues;

(iv) A plan explaining how the Sector will harvest its allocation, including methods to inform NMFS of changes in those arrangements over the year;

(v) The original distribution of catch history of vessels in the Sector (maintaining vessel data confidentiality);

(vi) A plan detailing how the Sector will avoid exceeding its allocated TACs, including provisions for monitoring and enforcement of the Sector regulations, and documenting all landings and discards;

(vii) Rules for entry to and exit from the Sector, including sanctions and procedures for removing members who do not comply with the operations plan;

(viii) Procedure for notifying NMFS if a member is no longer part of the Sector and the reason for leaving;

(ix) The process through which the operations plan can be amended by Sector members;

(x) If the Sector plans to authorize non-Sector vessels to harvest scallops allocated to the Sector, details of such arrangements must be described in the operations plan;

(xi) Any documents and analyses necessary to comply with the National Environmental Protection Act must be submitted to NMFS. The development of the analytical document is the responsibility of the applicants.

(xii) Any other information determined to be necessary and appropriate.

(d) *Sector review, approval, and revocation.* (1) A Sector shall submit its operations plan and any NEPA documents to the Regional Administrator and the Council no less than 1 year prior to the date that it wishes to begin operations under the Sector. The Council shall consider this plan in the course of the periodic framework adjustment or specification process and may, if approved, implement it through either of those processes. After Council approval of a Sector, the details of its operation shall be addressed between the Sector and NMFS, although the New England Fishery Management Council may review and provide comment on the proposed details.

(2) The Regional Administrator may withdraw approval of a Sector at any time if he/she, in consultation with the New England Fishery Management Council, determines that Sector participants are not complying with the requirements of an approved operations plan or that the continuation of the operations plan will undermine achievement of fishing mortality objectives of the FMP. Withdrawal of approval of a Sector shall be completed after notice and comment rulemaking, pursuant to the Administrative Procedure Act.

(3) A Sector is required to resubmit its operations plan to the Regional Administrator no later than July 1 of each year, whether or not the plan has changed. Once the submission documents specified under paragraphs (a)(1) and (c)(2) of this section have been determined to comply with the requirements of this section, NMFS may consult with the Council and shall approve or disapprove Sector operations consistent with applicable law.

[FR Doc. E8–7795 Filed 4–11–08; 8:45 am]

BILLING CODE 3510–22–P

Federal Register

Monday,
April 14, 2008

Part III

Department of Veterans Affairs

38 CFR Part 5
VA Benefit Claims; Proposed Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 5

RIN 2900–AM16

VA Benefit Claims

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to reorganize and rewrite in plain language its regulations involving VA benefits claims. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension rules in a logical, claimant-focused, and user-friendly format. The intended effect of the proposed revisions is to assist claimants and VA personnel in locating and understanding these regulations involving VA benefits claims.

DATES: Comments must be received by VA on or before June 13, 2008.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.) Comments should indicate that they are submitted in response to "RIN 2900–AM16–VA Benefit Claims." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: William F. Russo, Director of Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–4902. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Secretary of Veterans Affairs has established an Office of Regulation Policy and Management to provide centralized management and coordination of VA's rulemaking process. One of the major functions of this office is to oversee a Regulation Rewrite Project (the Project) to improve the clarity and consistency of existing VA regulations. The Project responds to a recommendation made in the October 2001 "VA Claims Processing Task Force: Report to the Secretary of Veterans Affairs." The Task Force recommended that the compensation and pension regulations be rewritten and reorganized in order to improve VA's claims adjudication process. Therefore, the Project began its efforts by reviewing, reorganizing, and redrafting the content of the regulations in 38 CFR part 3 governing the compensation and pension program of the Veterans Benefits Administration. These regulations are among the most difficult VA regulations for readers to understand and apply.

Once rewritten, the proposed regulations will be published in several portions for public review and comment. This is one such portion. It includes proposed rules regarding claims. After review and consideration of public comments, final versions of these proposed regulations will ultimately be published in a new part 5 in 38 CFR.

Outline

Overview of New Part 5 Organization

We plan to organize the new part 5 regulations so that most provisions governing a specific benefit are located in the same subpart, with general provisions pertaining to all compensation and pension benefits also grouped together. This organization will allow claimants, beneficiaries, and their representatives, as well as VA adjudicators, to find information relating to a specific benefit more quickly than the organization provided in current part 3.

The first major subdivision would be "Subpart A—General Provisions." It would include information regarding the scope of the regulations in new part 5, general definitions, and general policy provisions for this part. This subpart was published as proposed on March 31, 2006. *See* 71 FR 16464.

"Subpart B—Service Requirements for Veterans" would include information regarding a veteran's military service, including the minimum service requirement, types of service, periods of war, and service evidence requirements. This subpart was published as proposed on January 30, 2004. *See* 69 FR 4820.

"Subpart C—Adjudicative Process, General" would inform readers about claims and benefit application filing procedures, VA's duties, rights and responsibilities of claimants and beneficiaries, general evidence requirements, and general effective dates for new awards, as well as revision of decisions and protection of VA ratings. This subpart will be published as three separate Notices of Proposed Rulemaking (NPRMs) due to its size. The first, concerning the duties of VA and the rights and responsibilities of claimants and beneficiaries, was published as proposed on May 10, 2005. *See* 70 FR 24680. The second NPRM, concerning general evidence requirements, effective dates, revision of decisions, and protection of existing ratings, was published as proposed on May 22, 2007. *See* 72 FR 28770. This document is the third of the three NPRMs that involve regulations concerning VA benefit claims.

"Subpart D—Dependents and Survivors" would inform readers how VA determines whether an individual is a dependent or a survivor for purposes of determining eligibility for VA benefits. It would also provide the evidence requirements for these determinations. This subpart was published as proposed on September 20, 2006. *See* 71 FR 55052.

"Subpart E—Claims for Service Connection and Disability Compensation" would define service-connected disability compensation and service connection, including direct and secondary service connection. This subpart would inform readers how VA determines service connection and entitlement to disability compensation. The subpart would also contain those provisions governing presumptions related to service connection, rating principles, and effective dates, as well as several special ratings. This subpart will be published as three separate NPRMs due to its size. The first,

concerning presumptions related to service connection, was published as proposed on July 27, 2004. *See* 69 FR 44614.

"Subpart F—Nonservice-Connected Disability Pensions and Death Pensions" would include information regarding the three types of nonservice-connected pension: Old-Law Pension, Section 306 Pension, and Improved Pension. This subpart would also include those provisions that state how to establish entitlement to Improved Pension, and the effective dates governing each pension. This subpart was published as two separate NPRMs due to its size. The portion concerning Old-Law Pension, Section 306 Pension, and elections of Improved Pension was published as proposed on December 27, 2004. *See* 69 FR 77578. The portion concerning eligibility and entitlement requirements as well as effective dates for Improved Pension was published as proposed on September 26, 2007. *See* 72 FR 54776.

"Subpart G—Dependency and Indemnity Compensation, Death Compensation, Accrued Benefits, and Special Rules Applicable Upon Death of a Beneficiary" would contain regulations governing claims for dependency and indemnity compensation (DIC); death compensation; accrued benefits; benefits awarded, but unpaid at death; and various special rules that apply to the disposition of VA benefits, or proceeds of VA benefits, when a beneficiary dies. This subpart would also include related definitions, effective date rules, and rate-of-payment rules. This subpart was published as two separate NPRMs due to its size. The portion concerning accrued benefits, death compensation, special rules applicable upon the death of a beneficiary, and several effective date rules, was published as proposed on October 1, 2004. *See* 69 FR 59072. The portion concerning DIC benefits and general provisions relating to proof of death and service-connected cause of death was published as proposed on October 21, 2005. *See* 70 FR 61326.

"Subpart H—Special and Ancillary Benefits for Veterans, Dependents, and Survivors" would pertain to special and ancillary benefits available, including benefits for children with various birth defects. This subpart was published as proposed on March 9, 2007. *See* 72 FR 10860.

"Subpart I—Benefits for Certain Filipino Veterans and Survivors" would pertain to the various benefits available to Filipino veterans and their survivors. This subpart was published as proposed on June 30, 2006. *See* 71 FR 37790.

"Subpart J—Burial Benefits" would pertain to burial allowances.

"Subpart K—Matters Affecting the Receipt of Benefits" would contain provisions regarding bars to benefits, forfeiture of benefits, and renouncement of benefits. This subpart was published as proposed on May 31, 2006. *See* 71 FR 31056.

"Subpart L—Payments and Adjustments to Payments" would include general rate-setting rules, several adjustment and resumption regulations, and election-of-benefit rules. Because of its size, proposed regulations in Subpart L will be published in two separate NPRMs. The first, concerning payments to beneficiaries who are eligible for more than one benefit, was published as proposed on October 2, 2007. *See* 72 FR 56136.

The final subpart, "Subpart M—Apportionments to Dependents and Payments to Fiduciaries and Incarcerated Beneficiaries," would include regulations governing apportionments, benefits for incarcerated beneficiaries, and guardianship.

Some of the regulations in this NPRM cross-reference other compensation and pension regulations. If those regulations have been published in this or earlier NPRMs for the Project, we cite the proposed part 5 section. We also include, in the relevant portion of the **SUPPLEMENTARY INFORMATION**, the **Federal Register** page where a proposed part 5 section published in an earlier NPRM may be found. However, where a regulation proposed in this NPRM would cross-reference a proposed part 5 regulation that has not yet been published, we cite to the current part 3 regulation that deals with the same subject matter. The current part 3 section we cite may differ from its eventual part 5 counterpart in some respects, but we believe this method will assist readers in understanding these proposed regulations where no part 5 counterpart has yet been published. If there is no part 3 counterpart to a proposed part 5 regulation that has not yet been published, we have inserted "[regulation that will be published in a future Notice of Proposed Rulemaking]" where the part 5 regulation citation would be placed.

Because of its large size, proposed part 5 will be published in a number of NPRMs, such as this one. VA will not adopt any portion of part 5 as final until all of the NPRMs have been published for public comment.

In connection with this rulemaking, VA will accept comments relating to a prior rulemaking issued as a part of the Project, if the matter being commented on relates to both rulemakings.

Overview of This Notice of Proposed Rulemaking

This NPRM pertains to VA benefits claims and related procedures. These regulations would be contained in proposed subpart C of new 38 CFR part 5. Although these regulations have been substantially restructured and rewritten for greater clarity and ease of use, most of the basic concepts contained in these proposed regulations are the same as in their existing counterparts in 38 CFR part 3. However, a few substantive differences are proposed.

Table Comparing Proposed Part 5 Rules with Current Part 3 Rules

The following table shows the relationship between the proposed regulations contained in this NPRM and the current regulations in part 3:

Proposed part 5 section or paragraph	Based in whole or in part on 38 CFR part 3 section or paragraph
5.1—Application	New.
5.1—Claim	3.1(p).
5.50	3.150.
5.51	3.151(a).
5.52	3.152.
5.53	3.154.
5.54	3.155.
5.55	3.156(a), 3.400 intro, (q)(2), (r).
5.56	3.157.
5.57(a)	New.
5.57(b)–(g)	3.160.

Readers who use this table to compare the proposed provisions with the existing regulatory provisions, and who observe a substantive difference between them, should consult the text that appears later in this document for an explanation of significant changes in each regulation. Not every paragraph of every current part 3 section regarding the subject matter of this rulemaking is accounted for in the table. In some instances, other portions of the part 3 sections that are addressed in these proposed regulations will appear in subparts of part 5 that are being published separately for public comment. For example, a reader might find a reference to paragraph (a) of a part 3 section in the table, but no reference to paragraph (b) of that section because paragraph (b) will be addressed in a separate NPRM. The table also does not include provisions from part 3 regulations that will not be repeated in part 5. Such provisions are discussed specifically under the appropriate part 5 heading in this preamble. Readers are invited to comment on the proposed

part 5 provisions and also on our proposals to omit those part 3 provisions from part 5.

Content of Proposed Regulations

General Provisions

Section 5.1 General Definitions

We propose to further amend proposed § 5.1 as published in 71 FR 16464, 16473 (Mar. 31, 2006) [RIN 2900–AL87 General Provisions], to add definitions of "application" and "claim" to the general definitions in proposed § 5.1. Current § 3.1(p) and other part 3 regulations use the terms "claim" and "application" interchangeably, which we believe might confuse the user about the intended difference between a claim and an application.

We propose to define the term "application" in part 5 as follows: "*Application* means a specific form required by the Secretary that a claimant must file to apply for a benefit." We propose to use the term "application" only when referring to a specific form that a claimant must file to apply for a benefit VA administers. By statute, a claim must be "in the form prescribed by the Secretary." 38 U.S.C. 5101(a). Specifying that an application is "a form required," rather than "prescribed," should help distinguish an application from a claim. Stating the definition of "application" in § 5.1 would place it among other definitions applied generally to adjudication of entitlement to VA benefits.

The term "claim" in part 5 would have the same meaning it currently has in part 3; no substantive change is intended. We propose to define "claim" as follows: "*Claim* means a formal or informal communication in writing requesting a determination of entitlement, or evidencing a belief in entitlement, to a VA benefit." Stating the definition of "claim" in § 5.1 would place it among other definitions generally applicable to adjudication of entitlement to VA benefits.

VA Benefit Claims

Section 5.50 Applications Furnished by VA

Proposed § 5.50 is based on current § 3.150. It addresses situations where VA will send the appropriate application for VA benefits to a potential recipient of VA benefits. It has been slightly rewritten. The language is more active, and we have added subheadings to improve readability. Instead of referring to an "application form," proposed § 5.50 refers to an "application" because, according to the proposed definition of "application," an application is a form. To refer to an application form would be redundant of the definition of application. Section 3.150 requires VA to provide the appropriate application "upon request made in person or in writing by any person applying for benefits * * *." We propose to use the language of the statute in requiring that VA furnish the appropriate application upon request by any person "claiming or applying for, or expressing an intent to claim or apply for" a benefit VA administers. 38 U.S.C. 5102(a). This is consistent with the law and proposed regulation that provides for informal claims. *Id.*; § 5.54 of this NPRM. The change is clarifying, not substantive.

In paragraph (b), we have inserted the word "death" before the words "compensation" and "pension" in the first sentence for clarification. The term "pension" in this context means "death pension." The term "compensation" in this context means "death compensation."

Paragraph (c) of proposed § 5.50, which is based on 38 CFR 3.150(c), is written to be consistent with proposed § 5.53, which is based on 38 CFR 3.154. The list of circumstances to which 38 U.S.C. 1151 currently applies is accurately stated in § 3.154, while the list in § 3.150(c) is outdated. We have written proposed § 5.50(c) to reflect accurately the scope of current 38 U.S.C. 1151.

Section 5.51 Filing a Claim for Disability Benefits

Proposed § 5.51 is based on current § 3.151(a). (Paragraph (b) of current § 3.151 has been included in § 5.383, which was published as proposed on September 26, 2007. See 72 FR 54776, 54793–94 [RIN 2900–AM04 Improved Pension].) The content of paragraph (a) of § 3.151 is rewritten in plain language, and is split into two paragraphs, with appropriate headings, for improved readability.

Section 5.52 Filing a Claim for Death Benefits

Proposed § 5.52 is based on current § 3.152. In proposed § 5.52(a), we have changed the reference to § 3.153 to proposed § 5.131(a) (published as proposed on May 22, 2007, *see* 72 FR 28770, 28785 [RIN 2900–AM01 General Evidence Requirements, Effective Dates, Revision of Decisions, and Protection of Existing Ratings]), and we have changed the reference to § 3.400(c) to proposed § 5.567 (published as proposed on October 1, 2004, *see* 69 FR 59072, 59089–90 [RIN 2900–AL71 Accrued Benefits, Death Compensation, and Special Rules Applicable Upon Death of a Beneficiary]).

Paragraph (b) of proposed § 5.52 is based on paragraph (b) of current § 3.152 and is slightly rewritten and reorganized so that it is more readable. It addresses when VA will treat a claim for a certain death benefit as a claim for another death benefit as well. For example, VA will treat a claim for death compensation as a claim for death pension as well.

Regarding accrued benefits, current § 3.152(b) includes provisions for treating certain claims for death benefits as claims for accrued benefits as well. These provisions addressing claims for accrued benefits are not included in proposed § 5.52(b) because a similar provision already appears in proposed § 5.552(c), "Claims for accrued benefits or benefits awarded, but unpaid at death," which was published as proposed on October 1, 2004. (*See* 69 FR 59072, 59086 [RIN 2900–AL71 Accrued Benefits, Death Compensation, and Special Rules Applicable Upon Death of a Beneficiary]). Proposed § 5.552(c) provides that any claim filed with VA for death pension, death compensation, or dependency and indemnity compensation will also be accepted as a claim for accrued benefits and, if applicable, for benefits awarded, but unpaid at death. *Id.* Thus, it is not necessary to include similar provisions in proposed § 5.52.

Paragraph (c) of proposed § 5.52 is based on paragraph (c) of current § 3.152 and is rewritten for improved readability. Appropriate subheadings have also been added. The last sentence of current § 3.152(c)(1) states that "[w]here the award to the surviving spouse is terminated by reason of her or his death, a claim for the child will be considered a claim for any accrued benefits which may be payable." For the reasons stated in the preceding paragraph, we propose not to repeat that rule in § 5.52 because it would be redundant of the rule in proposed § 5.552(c).

Current § 3.152(c)(1) cites 38 U.S.C. 5110(e). This citation is as authority for the regulation, not as a cross-reference. In proposed § 5.52(c)(1) and (c)(2), we have moved this citation to the authority citation following § 5.52.

Current § 3.152(c)(1) provides that a child must file a claim for dependency and indemnity compensation under certain circumstances. It has long been VA's practice to implement paragraphs (c)(3) and (c)(4) of that section as exceptions to the claim filing requirement of paragraph (c)(1) of that section.

The exception in § 3.152(c)(3) applies when VA denies DIC to a surviving spouse. The exception in current paragraph (c)(4) applies when VA discontinues payment of death benefits to a surviving spouse because of the death or remarriage of the surviving spouse, or when a child becomes eligible for DIC by turning 18. In the circumstances described in current paragraph (c)(3), VA construes the surviving spouse's claim as the claim of the child named in the surviving spouse's claim. In the circumstances described in current paragraph (c)(4), VA converts the surviving spouse's claim into a claim on behalf of the child named in the surviving spouse's claim. VA construes or converts the surviving spouse's claim in the circumstances described in current paragraphs (c)(3) and (c)(4), respectively, if and only if any necessary evidence is submitted within 1 year after VA requests the evidence. Otherwise each child must file a new claim.

These exceptions are stated explicitly in proposed § 5.52(c)(1) and (c)(2). The exceptions are consistent with 38 U.S.C. § 5110(e), because they construe the surviving spouse's claim as the child's claim in the circumstances described. Construed this way, the surviving spouse's claim satisfies the date of claim requirement of 5110(e).

Current § 3.152 uses the terms "child" and "children" interchangeably. In § 5.52 we propose to use only the term "child", which encompasses both the singular and plural, for consistency. No substantive change is intended.

Section 5.53 Claims for Benefits Under 38 U.S.C. 1151 for Disability or Death Due to VA Treatment or Vocational Rehabilitation

Section 5.53 is based on current § 3.154, pertaining to claims for benefits under 38 U.S.C. 1151 for disability or death due to treatment in a VA facility or due to a VA vocational rehabilitation program. Proposed § 5.53 contains only minor stylistic changes, as well as a change in title. The new title is more accurate and descriptive. The cross-reference in proposed § 5.53 differs from the cross-reference in current § 3.154 in that only those provisions that apply to claims for benefits under 38 U.S.C. 1151 that are received by VA after September 30, 1997, are included. Current §§ 3.358 and 3.800 apply to claims under 38 U.S.C. 1151(a) that VA received before October 1, 1997. Because part 5 will apply only to future claims, we will not repeat the provisions of current §§ 3.358 and 3.800 in part 5.

Section 5.54 Informal Claims

Proposed § 5.54 is based on current § 3.155, pertaining to informal claims. Paragraph (a) of this section refers to an "application" instead of an "application form" to be consistent with the proposed definition of "application." To use plain language, we have changed the Latin expression, "*sui juris*," in the phrase "a claimant who is not *sui juris*" to its English meaning, "a claimant who does not have the capacity to manage his or her own affairs". We intend no substantive change. Further, the references to §§ 3.151 and 3.152 have been changed to their proposed part 5 counterparts, §§ 5.51 and 5.52 of this NPRM, respectively.

In paragraph (b), we have added the word "recognized" before "service organization" and the word "accredited" before "attorney or agent" to be consistent with part 14 of this chapter. We have also made explicit that the recognized service organization or accredited individual submitting an informal claim must be the designated representative of the claimant "as required by § 14.631 of this chapter".

Section 5.55 Claims Based on New and Material Evidence

Proposed § 5.55(a) is based on current § 3.156(a). No changes are proposed to this provision. Paragraphs (b) and (c) of current § 3.156 are not included in proposed § 5.55. They have been included in § 5.153 and § 5.166 respectively, which were published as proposed, in a separate NPRM, on May 22, 2007. *See* 72 FR 28770, 28789, 28791 [RIN 2900–AM01 General Evidence Requirements, Effective Dates, Revision of Decisions, and Protection of Existing Ratings].

Paragraph (b) of proposed § 5.55 consolidates the effective date rules for claims reopened based on new and material evidence. The rules are currently found in the introduction to § 3.400 and in § 3.400(q)(2) and (r). Current § 3.400(q)(2) provides that when new and material evidence is submitted after a claim has been finally disallowed, VA will assign the effective date of an award based on the "[d]ate of receipt of new claim or date entitlement arose, whichever is later." That rule is substantively identical to the general rule governing the effective date for an award based on "a claim reopened after final disallowance" set forth in the introductory text of § 3.400. The same rule is stated a third time in § 3.400(r).

Proposed § 5.55(b) consolidates these provisions into one rule: "[e]xcept as otherwise provided in this chapter, if VA reopens a finally denied claim on the basis of new and material evidence and awards the benefit sought, the award is effective on the date entitlement arose or the date that VA received the claim to reopen, whichever is later." Throughout this proposed rulemaking, we use the terms "deny" or "denied" instead of "disallow" or "disallowed" because we believe the former is easier for the public to understand. No substantive change is intended by this use of terminology.

Section 5.56 Report of Examination or Hospitalization as Claim for Increase or To Reopen

Section 5.56 is based on current § 3.157. It has been slightly reorganized. Proposed paragraph § 5.56(a) is based on the second sentence of current § 3.157(a). The first sentence of current § 3.157(a) has not been repeated, since it is redundant of the general effective date rule in proposed § 5.150. The third sentence of current § 3.157(a), which contains a provision on liberalizing laws or VA issues, is now in a new paragraph (d) of proposed § 5.56. In paragraph (d), the reference to § 3.114 has been changed to the proposed part 5 counterpart, § 5.152, which was published as proposed on May 22, 2007. *See* 72 FR 28770, 28789 [RIN 2900–AM01 General Evidence Requirements, Effective Dates, Revision of Decisions, and Protection of Existing Ratings].

Proposed paragraph (b) is based on the introductory paragraph of current § 3.157(b) and is split into three subparagraphs. Proposed paragraphs (c)(1), (c)(2), and (c)(3) are based on current § 3.157(b)(1), (b)(2), and (b)(3).

The regulation has also been rewritten in plain language and subheadings have been added for greater readability. There are no substantive changes.

Section 5.57 Status of Claims

Proposed § 5.57 is based on current § 3.160, which provides definitions of informal claim, original claim, pending claim, finally adjudicated claim, reopened claim, and claim for increase, respectively.

Proposed § 5.57 includes a new paragraph, (a), defining "formal claim". In proposed paragraph (a) we define "formal claim" as "A claim filed on the application required for a specific benefit." VA has implicitly defined "formal claim" in current § 3.155(a) with the language, "Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the claimant for execution." The term "formal claim" also appears in current §§ 3.154 and 3.157(b). The new definition in § 5.57(a) makes the implicit definition explicit

and clarifies the relationship between a claim and an application, as those terms are defined in proposed § 5.1.

In § 5.57(b) through (g), we propose to use slightly different language in our definitions of "original claim," "pending claim," "finally adjudicated claim," "reopened claim," and "claim for increase" than is used in § 3.160. Because we propose to distinguish an application from a claim, as discussed above under § 5.50, we have modified the language; instead of defining them as "application[s]," we propose to define them as "claim[s]" and describe their distinguishing characteristics. In the definitions of "finally adjudicated claim" and "pending claim" we have not repeated unnecessary language referring to "formal or informal" claims. No substantive changes are proposed.

Endnote Regarding Amendatory Language

We intend to ultimately remove part 3 entirely, but we are not including amendatory language to accomplish that at this time. VA will provide public notice before removing part 3.

Paperwork Reduction Act of 1995

Although this document contains provisions constituting a collection of information, at 38 CFR §§ 5.51, 5.52, 5.54, 5.55, and 5.56, under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or proposed revised collections of information are associated with this proposed rule. The information collection requirements for §§ 5.51, 5.52, 5.54, 5.55, and 5.56 are approved by the Office of Management and Budget (OMB) and have been assigned OMB control numbers 2900–0001, 2900–0003, 2900–0004, 2900–0005, and 2900–0006.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed amendment would not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; 64.115, Veterans Information and Assistance; and 64.127, Monthly Allowance for Children of Vietnam Veterans Born with Spina Bifida.

List of Subjects in 38 CFR Part 5

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: December 26, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to further amend 38 CFR part 5, as proposed to be added at 69 FR 4832, January 30, 2004, and as further proposed to be amended at 70 FR 24680, May 10, 2005; 71 FR 16464, March 31, 2006; and 72 FR 28770, May 22, 2007, as follows:

PART 5—COMPENSATION, PENSION, BURIAL, AND RELATED BENEFITS

Subpart A—General Provisions

1. The authority citation for subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Section 5.1 is amended by adding definitions of "application" and "claim" in alphabetical order to read as follows:

§ 5.1 General definitions.

* * * * *

Application means a specific form required by the Secretary that a claimant must file to apply for a benefit.

(Authority: 38 U.S.C. 501(a))

* * * * *

Claim means a formal or informal communication in writing requesting a determination of entitlement, or evidencing a belief in entitlement, to a VA benefit.

(Authority: 38 U.S.C. 501(a), 5100)

* * * * *

Subpart C—Adjudicative Process, General

3. The authority citation for part 5, subpart C, continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

4. Sections 5.50 through 5.57 and their undesignated center heading are added to subpart C to read as follows:

Subpart C—Adjudicative Process, General

VA Benefit Claims

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

Subpart C—Adjudicative Process, General

VA Benefit Claims

§ 5.50 Applications furnished by VA.

(a) *General.* Upon request in person or in writing, VA will furnish the appropriate application to a person claiming or applying for, or expressing intent to claim or apply for, benefits under the laws administered by VA.

(b) *VA will furnish an application to a dependent upon the death of a veteran.* Upon the receipt of notice of the death of a veteran, VA will forward the appropriate application for execution by or on behalf of any dependent who has apparent entitlement to death compensation, death pension, or dependency and indemnity compensation. If it is not indicated that any person would be entitled to such benefits, but an accrued benefit that has not been paid during the veteran's lifetime is payable, VA will forward the appropriate application to the preferred dependent. VA will include notice of the time limit for filing a claim for accrued benefits in letters accompanying applications for such benefits.

Cross Reference: Extension of time limit. *See* § 3.109(b) of this chapter.

(c) *VA will not forward an application for claims for disability or death due to hospital treatment, medical or surgical treatment, examination, or training.* When disability or death is due to VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy program, VA will not forward an application for benefits under 38 U.S.C. 1151. (*See* § 5.53 for the requirements for filing a claim pursuant to 38 U.S.C. 1151.)

(Authority: 38 U.S.C. 501(a), 5101, 5102)

§ 5.51 Filing a claim for disability benefits.

(a) *A claim must be filed in order for benefits to be paid.* An individual must file a specific claim in the form prescribed by the Secretary in order for disability benefits to be paid under the laws administered by VA.

(b) *Claims for compensation or pension.* VA may consider a claim for compensation as a claim for pension also, and VA may consider a claim for pension as a claim for compensation also. VA will award the greater benefit, unless the claimant specifically elects the lesser benefit.

(Authority: 38 U.S.C. 501(a), 5101(a))

Cross References: Definition of claim. *See* § 5.1. Informal claims. *See* § 5.54.

§ 5.52 Filing a claim for death benefits.

(a) *Form of claim.* An individual must file a specific claim in the form prescribed by the Secretary (or jointly with the Commissioner of Social Security, as prescribed by § 5.131(a)) in order for death benefits to be paid under the laws administered by VA. (*See* §§ 5.431 and 5.567 concerning effective dates of awards of improved death pension and of DIC, respectively.)

(Authority: 38 U.S.C. 501(a), 5101(a))

(b) *VA treats certain claims as claims for more than one benefit.*

(1) A claim by a surviving spouse or child for death compensation will also be considered a claim for death pension.

(2) A claim by a surviving spouse or child for dependency and indemnity compensation (DIC) will also be considered a claim for death pension.

(3) A claim by a surviving spouse or child for death pension will also be considered a claim for DIC and, if the veteran died before January 1, 1957, for death compensation.

(Authority: 38 U.S.C. 501(a), 5101(b)(1))

(c) *Claims for death benefits by, or on behalf of, a child.*

(1) *Child turns 18 years old.* Except as provided in paragraphs (c)(4) and (c)(5) of this section, where a child's entitlement to DIC arises by reason of the child turning 18 years old, a claim will be required.

(2) *Termination of a surviving spouse's right to DIC.* Except as provided in paragraph (c)(5) of this section, when a surviving spouse's right to DIC is terminated, a child's entitlement to DIC in his or her own right arises and a claim is required.

(3) *When a surviving spouse does not have entitlement.* When a claim is filed by a surviving spouse who does not have entitlement, VA will accept the claim as a claim for a child in the surviving spouse's custody, if the child is named in the claim.

(4) *Effective date when a surviving spouse's claim is denied.* If VA denies a claim of a surviving spouse for any reason whatsoever, an award for a child named in the surviving spouse's claim will be made as though the denied claim had been filed solely on the child's behalf, provided that evidence requested from the child in order to determine entitlement is submitted within 1 year after the date of such request. This provision applies regardless whether the evidence was requested before or after VA denied the surviving spouse's claim. If the evidence requested is not submitted within 1 year after the date of VA's request, payments may not be made for the child for any period prior to the date of receipt of a new claim.

(5) *Effective date when a surviving spouse's claim is converted to a claim on behalf of a child.* Where payments of death pension, death compensation, or DIC to a surviving spouse have been discontinued because of remarriage or death, or where a child becomes eligible for DIC by reason of turning 18 years old, and any necessary evidence is submitted within 1 year after the date of a request from VA, an award for the child named in the surviving spouse's claim will be made on the basis of the surviving spouse's claim having been converted to a claim on behalf of the child. Otherwise, payments may not be made for any period prior to the date of receipt of a new claim from the child.

(Authority: 38 U.S.C. 501, 5110(e))

Cross Reference: Other claims accepted as a claim for accrued benefits or benefits awarded, but unpaid at death. *See* § 5.552(c).

§ 5.53 Claims for benefits under 38 U.S.C. 1151 for disability or death due to VA treatment or vocational rehabilitation.

VA may accept as a claim for benefits under 38 U.S.C. 1151 and § 3.361 of this chapter any communication in writing indicating an intent to file a claim for disability compensation or dependency and indemnity compensation (DIC) under the laws governing entitlement to VA benefits for disability or death due to VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy program. Such communication may be contained in a formal claim for pension, disability compensation, or DIC, or in any other document.

(Authority: 38 U.S.C. 1151)

Cross References: Effective dates. *See* § 3.400(i) of this chapter. Injury or death

due to hospitalization and treatment, including effective dates. *See* §§ 3.361 to 3.363 of this chapter.

§ 5.54 Informal claims.

(a) Any communication or action, indicating an intent to apply for one or more benefits under the laws administered by VA, from a claimant, his or her duly authorized representative, a Member of Congress, or some person acting as next friend of a claimant who does not have the capacity to manage his or her own affairs may be considered an informal claim. Such informal claim must identify the benefit sought. Upon receipt of an informal claim, if a formal claim has not been filed, an application will be forwarded to the claimant for execution. If received within 1 year after the date it was sent to the claimant, it will be considered filed as of the date of receipt of the informal claim.

(b) A communication received from a recognized service organization, or an accredited attorney or agent may not be accepted as an informal claim if a power of attorney as required by § 14.631 of this chapter was not executed at the time the communication was written.

(c) When a claim has been filed which meets the requirements of § 5.51 or § 5.52, an informal request for increase or reopening will be accepted as a claim.

(Authority: 38 U.S.C. 501(a), 5102(a))

§ 5.55 Claims based on new and material evidence.

(a) *New and material evidence.* A claimant may reopen a finally adjudicated claim by submitting new and material evidence. New evidence means existing evidence not previously submitted to agency decisionmakers. Material evidence means existing evidence that, by itself or when considered with previous evidence of record, relates to an unestablished fact necessary to substantiate the claim. New and material evidence can be neither cumulative nor redundant of the evidence of record at the time of the last prior final denial of the claim sought to be reopened, and must raise a reasonable possibility of substantiating the claim.

(b) *Effective date.* Except as otherwise provided in this chapter, if VA reopens a finally denied claim on the basis of new and material evidence and awards the benefit sought, the award is effective on the date entitlement arose or the date that VA received the claim to reopen, whichever is later.

(Authority: 38 U.S.C. 501(a), 5103A(f), 5108, 5110(a))

Cross Reference: *See* § 20.1304(b)(1)(i) of this title for the rule on effective date assigned when evidence is submitted to the Board of Veterans' Appeals during a pending appeal.

§ 5.56 Report of examination or hospitalization as claim for increase or to reopen.

(a) *General.* A report of examination or hospitalization that meets the requirements of this section will be accepted as an informal claim for benefits under an existing law or for benefits under a liberalizing law or VA issue, if the report relates to a disability which may establish entitlement.

(b) *Requirements*—(1) *Prior claim for pension or disability compensation allowed, or prior claim for compensation denied because the service-connected disability was not compensable in degree.* Once a formal claim for pension or disability compensation has been allowed, or once a formal claim for disability compensation has been denied because the service-connected disability is not compensable in degree, receipt of evidence as described in paragraph (c) of this section will be accepted as an informal claim for increased benefits or an informal claim to reopen.

(2) *Prior claim for pension or compensation denied because the veteran is receiving retirement pay.* If a formal claim for pension or compensation from a retired member of a uniformed service has been denied because the veteran was receiving retirement pay, receipt of evidence as described in paragraph (c) of this section will be accepted as an informal claim for pension or compensation.

(3) *Prior claim for pension denied because the disability was not permanently and totally disabling.* If a claim for pension has been denied because the disability was not permanently and totally disabling, receipt of evidence as described in paragraph (c) of this section will be accepted as an informal claim for pension.

(c) *Evidence*—(1) *Report of examination or hospitalization by VA or uniformed services.*

(i) *General.* The provisions of paragraph (c)(1) of this section apply only when the reports described in paragraph (c)(1)(ii) of this section relate to examination or treatment of a disability for which service-connection has previously been established or when a claim specifying the benefit sought is received within 1 year after the date of an examination, treatment, or hospital admission described in paragraph (c)(1)(ii) of this section.

(ii) *Date of claim.* The date of the outpatient or hospital examination or date of admission to a VA or uniformed services hospital will be accepted as the date of receipt of the claim. In the case of a uniformed service examination which is the basis for granting severance pay to a former member of the Armed Forces on the temporary disability retired list, the date of the examination will be accepted as the date of receipt of the claim. In the case of an admission to a non-VA hospital where a veteran was maintained at VA expense, the date of admission will be accepted as the date of receipt of claim, if VA maintenance was previously authorized. If VA maintenance was authorized after admission, the date VA received notice of admission will be the date of receipt of the claim.

(2) *Evidence from a private physician or layman*—(i) *General.* Evidence from a private physician or layman will be accepted when the evidence furnished by or on behalf of the claimant is within the competence of the physician or lay person and shows a reasonable probability of entitlement to benefits.

(ii) *Date of claim.* The date that VA received such evidence will be accepted as the date of claim.

(3) *Evidence from State and other institutions*—(i) *General.* Examination reports, clinical records, or transcripts of records from State, county, municipal, or recognized private institutions, or other Government hospitals (except those described in paragraph (c)(1) of this section) will be accepted, provided the following requirements are met. These records must be authenticated by an appropriate official of the institution. Benefits will be granted if the records are adequate for rating purposes; otherwise findings will be verified by official examination. Reports received from private institutions not listed by the American Hospital Association must be certified by the Chief Medical Officer of VA or physician designee.

(ii) *Date of claim.* When submitted by or on behalf of the veteran and entitlement is shown, the date VA received such evidence will be accepted as the date of the claim.

(d) *Liberalizing law or VA issue.* Acceptance of a report of examination or treatment as a claim for increase or to reopen is subject to the requirements of § 5.152 with respect to action on VA initiative or at the request of the claimant and the payment of retroactive benefits from the date of the report or for a period of 1 year prior to the date of receipt of the report.

(Authority: 38 U.S.C. 501)

§ 5.57 Status of claims.

The following definitions are applicable to claims for pension, disability compensation, and dependency and indemnity compensation.

(a) *Formal claim.* A claim filed on the application required for a specific benefit.

(b) *Informal claim. See* § 5.54.

(c) *Original claim.* An initial formal claim. (See §§ 5.51 and 5.52.)

(d) *Pending claim.* A claim which has not been finally adjudicated.

(e) *Finally adjudicated claim.* A claim which has been allowed or denied by the agency of original jurisdiction, the action having become final by the expiration of 1 year after the date of notice of an award or denial, or by denial on appellate review, whichever is the earlier. (*See* §§ 20.1103 and 20.1104 of this chapter.)

(f) *Reopened claim.* Any claim for a benefit received after a final denial of an earlier claim, or any claim based on additional evidence or a request for a personal hearing submitted more than 90 days after notice is provided to the appellant of the certification of an appeal and transfer of applicable records to the Board of Veterans' Appeals which was not considered by the Board in its decision and was referred to the agency of original jurisdiction for consideration as provided in § 20.1304(b)(1) of this chapter.

(g) *Claim for increase.* Any claim for an increase in rate of a benefit being paid under a current award, or for resumption of payments previously discontinued.

(Authority: 38 U.S.C. 501)

§§ 5.58–5.79 [Reserved]

[FR Doc. E8–7898 Filed 4–11–08; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

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April 14, 2008

Part IV

The President

Proclamation 8236—Pan American Day and Pan American Week, 2008

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Presidential Documents

Title 3—

The President

Proclamation 8236 of April 10, 2008

Pan American Day and Pan American Week, 2008

By the President of the United States of America

A Proclamation

On Pan American Day and during Pan American Week, we underscore the importance of a peaceful, democratic, and prosperous Western Hemisphere where our common values continue to strengthen friendships, advance freedom, and encourage fair trade.

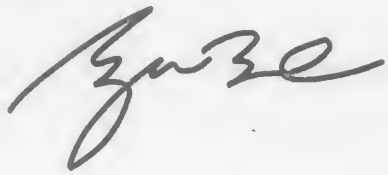
The love of liberty is deeply rooted in our hemisphere. In the earliest days of our Republic, the people of the United States inspired patriots throughout the Americas to take their own stand for independence. Today, the decent and honorable people of both American continents are united in the desire for freedom and democracy. The United States stands with those who respect human rights and those who seek to bring change and hope to their countries. We look forward to the day when all of the Americas are wholly free and democratic.

My Administration remains committed to helping our friends as they advance the cause of justice and economic opportunity throughout the Western Hemisphere. Through Millennium Challenge Compacts, we support development in countries that govern justly, invest in their people, and promote economic freedom. In addition, the Dominican Republic-Central America-United States Free Trade Agreement, signed in 2005, has opened markets and created opportunities for American businesses, strengthened economic ties with our neighbors to the south, and brought hope to people so that they can better care for themselves and for their families. In December of 2007, I signed the United States-Peru Trade Promotion Agreement Implementation Act to bring economic gains for both of our countries, empower workers, and foster accountability and the rule of law. We seek to build on these successes by working with the Congress to approve the United States-Colombia Trade Promotion Agreement and the United States-Panama Trade Promotion Agreement. These and other free trade agreements enhance prosperity in the United States and signal our firm support for those who share our values of freedom and democracy.

As we recognize Pan American Day and Pan American Week, we will continue to work together to advance our common interests and build a future in which opportunity reaches into every community.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim April 14, 2008, as Pan American Day and April 13 through April 19, 2008, as Pan American Week. I urge the Governors of the 50 States, the Governor of the Commonwealth of Puerto Rico, and the officials of other areas under the flag of the United States of America to honor these observances with appropriate ceremonies and activities.

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



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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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State Hazardous Waste Management Program Revisions and Approved Hazardous Waste Program Incorporation by Reference:

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Centers for Medicare & Medicaid Services

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National Oceanic and Atmospheric Administration

Fisheries of the Exclusive Economic Zone Off Alaska:

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Revision to the Time for Filing of a Biological Deposit and the Date of Availability of a Biological Deposit; comments due by 4-21-08; published 2-20-08 [FR E8-03084]

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Louisiana; Approval of 8-hour Ozone NAAQS; comments due by 4-23-08; published 3-24-08 [FR E8-05798]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (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. 1593/P.L. 110–199

Second Chance Act of 2007: Community Safety Through Recidivism Prevention (Apr. 9, 2008; 122 Stat. 657)

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

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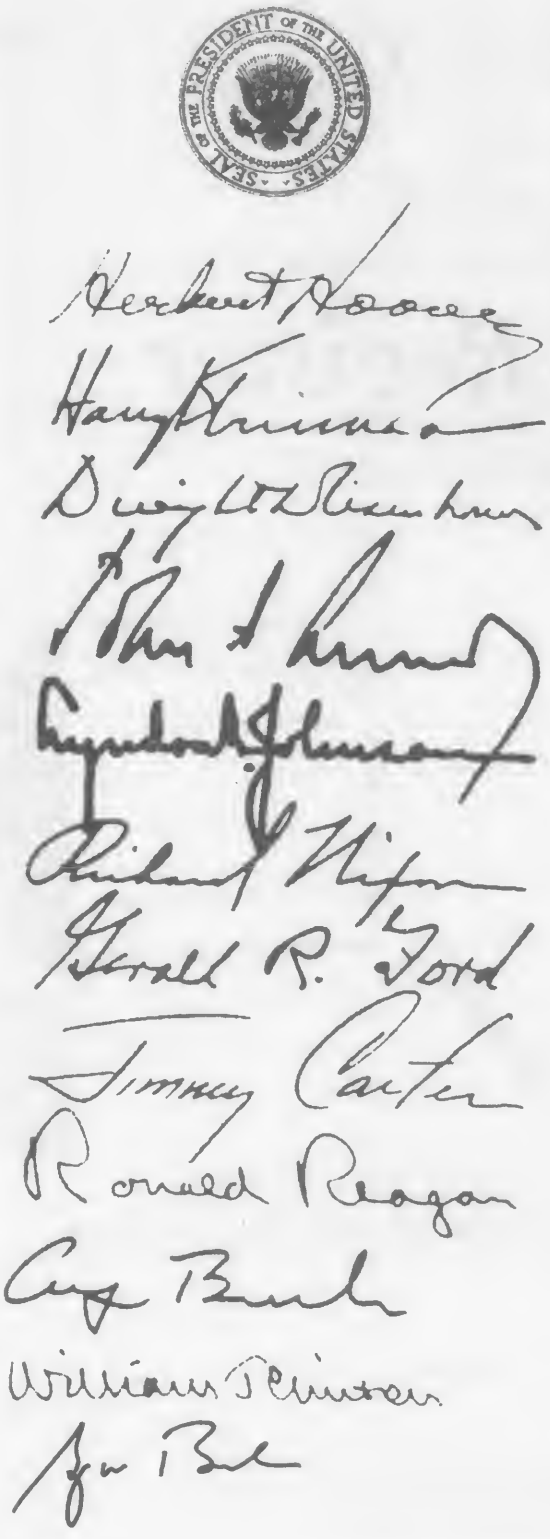

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