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

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

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

RESERVATIONS: (202) 741–6008

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

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

8 CFR Parts 1, 100, 103, 204, 207, 208, 211, 212, 214, 216, 236, 244, 245, 248, 264, 274a, 301, 316, 320, 322, 324, 327, 328, 329, 330, 334, and 392

[CIS No. 2405–07; DHS Docket No. USCIS–2007–0005]

RIN 1615–AB56

Removing References to Filing Locations and Obsolete References to Legacy Immigration and Naturalization Service; Adding a Provision To Facilitate the Expansion of the Use of Approved Electronic Equivalents of Paper Forms

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends Department of Homeland Security (DHS) regulations by eliminating certain references to the Immigration and Naturalization Service (INS) organizational structure and removing all references in the Code of Federal Regulations (CFR) to INS and U.S. Citizenship and Immigration Services (USCIS) Offices. This rule also removes all references in the CFR to filing locations, so that USCIS may provide such information on petition and application forms and through any other means. In addition, this rule adds a definition of the term ''form'' to the CFR, which will facilitate the expansion of the use of approved electronic equivalents of USCIS paper forms; this will support USCIS' transition from a paper-based filing and processing environment to an electronic one.

Overall, the rule is intended to eliminate confusion and certain obsolete references to the INS organizational structure from USCIS regulations, help the public determine where to file forms with USCIS, create a more efficient and streamlined process for future changes to filing instructions, and allow the component to better manage its workload through, among other things, affording greater flexibility to accept and process applications and petitions in an electronic environment.

DATES:

Effective Date: This rule is effective July 6, 2009.

Comment Date: Written comments must be submitted on or before August 4, 2009.

ADDRESSES: You may submit comments, identified by DHS Docket No. USCIS–2007–0005, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529–2210. To ensure proper handling, please reference DHS Docket No. USCIS–2007–0005 on your correspondence. This mailing address may be used for paper, disk, or CD–ROM submissions.
- *Hand Delivery/Courier:* U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts Avenue, NW., Suite 3008, Washington, DC 20529–2210. Contact Telephone Number (202) 272–8377.

FOR FURTHER INFORMATION CONTACT: Roxanne Alonso, Adjudications Officer, Policy and Regulation Management Division, Domestic Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., MS 2211, Washington, DC 20529–2211, telephone (202) 272–8100.

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I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. Comments that will provide the most assistance to USCIS in developing these procedures will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and the DHS docket number (USCIS–2007–0005) for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. See **ADDRESSES** above for information on how to submit comments.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

II. Background

A. What effect does this rule have?

This interim rule eliminates certain references to the organizational structure of the Immigration and Naturalization Service (INS), which was abolished on March 1, 2003, pursuant to the Homeland Security Act of 2002, Public Law 107–609 (November 22, 2002), 116 Stat. 2135. The Secretary of Homeland Security has approved the organizational structure of each new component pursuant to 8 CFR 2.1, which provides that the Secretary may delegate authority and functions by regulation, directive, memorandum, or other means as deemed appropriate. Eliminating references to the organizational structure of INS is necessary, because U.S. Citizenship and Immigration Services (USCIS) is modifying aspects of the command and control structure that was temporarily retained from the INS field management structure. These changes to the regulations will not affect the locations of USCIS local offices or other sites.

This interim rule also removes from the regulations all instructions regarding the filing locations for petitions and applications. These regulatory provisions are unnecessary and restrict USCIS' ability to vary petition and application filing locations as necessary to address fluctuations in the volume of applications, shifting workload needs, and benefits processing modifications. Removing these regulatory provisions will allow USCIS to better utilize its resources and serve its customers. Filing locations and procedures will still be available on USCIS forms and the USCIS Web site. Customers may also call the USCIS '800-number' customer service line for information on where to submit their documents, or simply call the agency listing in the government resources pages of their local telephone directory. This change does not affect any evidentiary requirement or substantive eligibility requirement for a particular benefit.

This interim rule removes current geographic jurisdictional service boundaries. This change will allow USCIS the flexibility to manage workloads and facilitate interaction with, and services to, the public. For those few applications and petitions that are currently filed at USCIS local offices, customers will be able to file these specific forms at the office closest to them. Regarding services that require an alien to make an appearance at a USCIS office, by removing the geographic parameters on the office with jurisdiction for adjudicating specific immigration or naturalization benefits, USCIS will have the flexibility to offer interviews and other services at different offices in the area based on the ability to schedule appointments most effectively. *See* 8 CFR 103.2(b)(9).

The rule adds a definition of the term ''Form'' to 8 CFR part 1. USCIS has added this definition to clarify that references to the term ''form'' and to form numbers throughout USCIS regulations are now intended to encompass both the traditional paper form and all approved electronic equivalents used for on-line filing with USCIS or other similar purposes.

Finally, the rule amends 8 CFR 100.4 to remove all references to INS and USCIS Offices. However, this rule does not alter the regulations in paragraphs (c)(2) for ports of entry for aliens arriving by vessel or by land transportation or (c)(3) for the method of identifying ports-of-entry for aliens arriving by aircraft. The designation of ports of entry is within the authority of the U.S. Customs and Border Protection (CBP) and generally governed by 19 CFR 101.3. Maintenance of the current erroneous references to District Offices in 8 CFR 101.3 will have no legal effect on the distribution of workload or acceptance applications by USCIS. CBP has indicated that they may amend how 8 CFR part 100 references ports of entry, and classes of ports of entry, and will remove references to the INS district in which they are located in a future rulemaking.

B. Why is USCIS issuing this rule?

This rule is necessary to remove references to USCIS office locations and geographical jurisdictions from the Code of Federal Regulations. USCIS will provide information regarding the proper locations on the filing instructions on the respective USCIS forms. As USCIS workload has increased and as USCIS has managed that workload to eliminate processing backlogs of petitions and applications for immigration benefits, it has become clear that the agency on occasion needs to redistribute work within its adjudicative resources. Changing the applicable regulations each time a workload redistribution occurs is a lengthy process and an inefficient management tool. The ability to make changes to filing instructions to reflect a redistribution of workload will enable USCIS to efficiently reallocate its adjudications resources. Thus, this interim rule is intended to enhance USCIS' ability to provide updated, clear information, and to increase its administrative flexibility to adapt to changing situations. Information about the agency's organizational structure, where to file an application or petition, and where and how individuals can seek services or assistance from USCIS will continue to be widely available.

This rule is also necessary to assist the agency in transforming its business environment from a paper-based petition and application process to an electronic environment. This major change effort is referred to as the USCIS Transformation Initiative. This regulation is the first in a series to be published to implement this initiative. As the USCIS Transformation Initiative progresses, USCIS expects that electronic versions of forms and digital images of supporting documents will largely replace paper forms and documents for filing, adjudication, and records retention purposes.

III. Regulatory Requirements

A. Administrative Procedure Act

This interim rule will not change the eligibility rules governing any immigration benefit. It will not confer rights or obligations upon any party. USCIS expects that this rule will further the public's interest in receiving clear instruction on where and in what format to file applications and petitions for immigration benefits. Accordingly, USCIS has determined that the public notice and comment requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553(b), do not apply because the rule is procedural in nature and does not alter the substantive rights of the affected parties. Therefore, this rule satisfies the exemption from notice and comment rulemaking in 5 U.S.C. 553(b)(A). USCIS nevertheless invites comments on this rule and will consider all timely comments in the preparation of a final rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 603(b)), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of a proposed rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions) when the agency is required ''to publish a general notice of proposed rulemaking for any proposed rule.'' Because this rule is being issued as an interim rule, on the grounds set forth above, a regulatory flexibility analysis is not required under the RFA.

C. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

D. Small Business Regulatory Enforcement Fairness Act of 1996

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

E. Executive Order 12866

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

F. Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 Civil Justice Reform

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

H. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting and recordkeeping requirements inherent in a rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 1

Administrative practice and procedure, Immigration.

8 CFR Part 100

Organization and functions (Government agencies).

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 204

Administrative practice and procedures, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 207

Immigration, Refugees, Reporting and recordkeeping requirements.

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 211

Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 214

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

8 CFR Part 216

Administrative practice and procedure, Aliens.

8 CFR Part 236

Administrative practice and procedure, Aliens, Immigration.

8 CFR Part 244

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 248

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 264

Reporting and recordkeeping requirements.

8 CFR Part 274a

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

8 CFR Part 301

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 316

Citizenship and naturalization, Reporting and recordkeeping requirements.

8 CFR Part 320

Citizenship and naturalization, Infants and children, Reporting and recordkeeping requirements.

8 CFR Part 322

Citizenship and naturalization, Infants and children, Reporting and recordkeeping requirements.

8 CFR Part 324

Citizenship and naturalization, Reporting and recordkeeping requirements, Women.

8 CFR Part 327

Citizenship and naturalization, Military personnel, Reporting and recordkeeping requirements.

8 CFR Part 328

Citizenship and naturalization, Military personnel, Reporting and recordkeeping requirements.

8 CFR Part 329

Citizenship and naturalization, Reporting and recordkeeping requirements, Veterans.

8 CFR Part 330

Reporting and recordkeeping requirements, Seamen.

8 CFR Part 334

Administrative practice and procedure, Citizenship and naturalization, Courts, Reporting and recordkeeping requirements.

8 CFR Part 392

Citizenship and naturalization, Reporting and recordkeeping requirements.

■ Accordingly, chapter 1 of title 8 of the Code of Federal Regulations is amended as follows:

PART 1—DEFINITIONS

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

Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 5 U.S.C. 301; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

■ 2. Section 1.1 is amended by adding paragraph (aa) to read as follows:

§ 1.1 Definitions.

* * * * *

(aa) The term *Form* when used in connection with a petition, application, or other instrument to be filed with USCIS in order to request an immigration benefit, means a device for the collection of information in a standard format that may be submitted in paper format or in an electronic format as may be prescribed by USCIS on its official Web site at *http//www.uscis.gov.* The term *Form* followed by a USCIS form number includes a USCIS approved electronic equivalent of such form as USCIS may prescribe on

its official Web site at *http://www.uscis.gov.*

PART 100—STATEMENT OF ORGANIZATION

■ 3. The authority citation for part 100 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 CFR part 2.

■ 4. Section 100.1 is revised to read as follows:

§ 100.1 Introduction.

The following components have been delegated authority under the Immigration and Nationality Act to administer and enforce certain provisions of the Immigration and Nationality Act and all other laws relating to immigration: U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS).

§ 100.2 [Removed and Reserved]

■ 5. Section 100.2 is removed and reserved.

■ 6. Section 100.3 is revised to read as follows:

§ 100. 3 Places where, and methods whereby, information may be secured or submittals or requests made.

Any person desiring information relative to a matter handled by CBP, ICE or USCIS or any person desiring to make a submittal or request in connection with such a matter, should communicate either orally or in writing, with either CBP, ICE or USCIS as appropriate. When the submittal or request consists of a formal application for one of the documents, privileges, or other benefits provided for in the laws administered by CBP, ICE or USCIS or the regulations implementing those laws, follow the instructions on the form as to preparation and place of submission. Individuals can seek service or assistance from CBP, ICE or USCIS by visiting the CBP, ICE or USCIS Web site or calling CBP, ICE or USCIS.

§ 100.4 [Amended]

■ 7. Section 100.4 is amended by:

■ a. Removing the introductory text;

■ b. Removing paragraphs (a), (b), (c)(1) and (c)(4), (e) and (f);

■ c. Removing paragraph (c) heading and introductory text;

■ d. Redesignating paragraph (c)(2), as paragraph (a);

■ e. Redesignating paragraph (c)(3) as paragraph (b); and

■ f. Redesignating paragraph (d) as paragraph (c).

§ 100.5 [Amended]

■ 8. Section 100.5 is amended by revising the term ''Immigration and Naturalization Service'' to read ''Department of Homeland Security''.

§ 100.6 [Removed and Reserved]

■ 9. Section 100.6 is removed and reserved.

§ 100.7 [Amended]

■ 10. Section 100.7 is amended by revising the term ''Immigration and Naturalization Service'' to read ''Department of Homeland Security''.

PART 103—POWERS AND DUTIES; AVAILABILITY OF RECORDS

■ 11. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

■ 12. Section 103.2 is amended by:

■ a. Revising the first sentence of paragraph (a)(1); and by

■ b. Revising paragraph (a)(6).

The revisions read as follows:

§ 103.2 Applications, petitions, and other documents.

(a) * * *

(1) * * * Every application, petition, appeal, motion, request, or other document submitted on any form prescribed by this chapter I, notwithstanding any other regulations to the contrary, must be filed with the location and executed in accordance with the instructions on the form, such instructions being hereby incorporated into the particular section of the regulations in this chapter I requiring its submission. * * *

* * * * *

(6) *Where to file.* An application or petition must be filed as indicated in the instructions on the respective form.

* * * * *

PART 204—IMMIGRANT PETITIONS

■ 13. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, 1641; 8 CFR part 2.

■ 14. Section 204.1, is amended by revising paragraph (e) to read as follows:

§ 204.1 General information about immediate relative and family-sponsored petitions.

* * * * *

(e) *Jurisdiction.* A petition described in this part must be filed in accordance with the instructions on the form. A United States consular officer in a country in which USCIS does not have an office may accept and approve a relative petition or a petition filed by a widow or widower if the petitioner resides in the area over which the post has jurisdiction, regardless of the beneficiary's residence or physical presence at the time of filing. In emergency or humanitarian cases and cases of national interest, a United States consular officer may accept a petition filed by a petitioner who does not reside within the consulate's jurisdiction. While consular officers are authorized to approve petitions, they must refer any petition which is not clearly approvable to the appropriate USCIS office. Consular officers may consult with the appropriate USCIS office abroad prior to stateside referral, if they deem it necessary. A consular official may not accept or approve a self-petition filed by the spouse or child of an abusive citizen or lawful permanent resident of the United States under section 204(a)(1)(A)(iii), 204(a)(1)(A)(iv), 204(a)(1)(B)(ii), or 204(a)(1)(B)(iii) of the Act. These self-petitions must be filed with a USCIS office in the United States as indicated in the instructions to the applicable petition form as prescribed by USCIS.

* * * * *

■ 15. Section 204.3(g) is revised to read as follows:

§ 204.3 Orphans.

* * * * *

(g) *Where to file.* Form I–600, Petition to Classify Orphan as an Immediate Relative, and Form I–600A, Application for Advanced Processing of Orphan Petition, must be filed in accordance with the instructions on the form.

* * * * *

§ 204.4 [Amended]

■ 16. Section 204.4 is amended by:

■ a. Revising the phrase ''with the Service office having jurisdiction over the place of the alien's intended residence in the United States or with the overseas Service office having jurisdiction over the alien's residence abroad'' in paragraph (c) to read: ''in accordance with the instructions on the form''; and

■ b. Revising the phrase '' with the Service office having jurisdiction over the beneficiary's residence in the United States'' in the second sentence of paragraph (i) to read: ''with USCIS''.

§ 204.5 [Amended]

■ 17. Section 204.5(b), is amended by revising the phrase ''with the Service Center having jurisdiction over the

intended place of employment, unless specifically designated for local filing by the Associate Commissioner for Examinations'' to read: ''in accordance with the instructions on the form''.

§ 204.6 [Amended]

■ 18. Section 204.6 is amended by removing and reserving paragraph (b).

§ 204.8 [Removed and Reserved]

■ 19. Section 204.8 is removed and reserved.

■ 20. Section 204.9 is amended by:

■ a. Revising paragraph (a)(2); and

■ b. Revising the phrase ''with the director having jurisdiction over his or her place of residence,'' in the first sentence of paragraph (c)(2) to read ''in accordance with the instructions on the form''.

The revision reads as follows:

§ 204.9 Special immigrant status for certain aliens who have served honorably (or are enlisted to serve) in the Armed Forces of the United States for at least 12 years.

(a) * * *

(2) *Where to file.* The petition must be filed in accordance with the instructions on the form.

* * * * *

§ 204.10 [Amended]

■ 21. Section 204.10 is amended by removing and reserving paragraph (c)(2).

■ 22. Section 204.11 is amended by revising paragraph (b) to read as follows:

§ 204.11 Special immigrant status for certain aliens declared dependent on a juvenile court (special immigrant juvenile).

* * * * *

(b) *Petition for special immigrant juvenile.* An alien may not be classified as a special immigrant juvenile unless the alien is the beneficiary of an approved petition to classify an alien as a special immigrant under section 101(a)(27) of the Act. The petition must be filed on Form I–360, Petition for Amerasian, Widow(er) or Special Immigrant. The alien, or any person acting on the alien's behalf, may file the petition for special immigrant juvenile status. The person filing the petition is not required to be a citizen or lawful permanent resident of the United States.

* * * * *

§ 204.13 [Amended]

■ 23. Section 204.13 is amended by removing the last sentence in paragraph (c).

PART 207—ADMISSION OF REFUGEES

■ 24. The authority citation for part 207 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1157, 1159, 1182; 8 CFR part 2.

§ 207.1 [Amended]

■ 25. Section 207.1 is amended by removing the phrase ''with the Service office having jurisdiction over the area where the applicant is located'' in the first sentence of paragraph (a).

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 26. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1282; 8 CFR part 2.

■ 27. Section 208.4 is amended by revising paragraph (b) to read as follows:

§ 208.4 Filing the application.

* * * * *

(b) *Filing location.* Form I–589, Application for Asylum and Withholding of Removal, must be filed in accordance with the instructions on the form.

* * * * *

§ 208.5 [Amended]

■ 28. Section 208.5(b)(1)(ii) is amended in the first sentence by revising the phrase ''to the district director having jurisdiction over the port-of-entry'' to read: ''in accordance with the instructions on the form'', and by revising the term ''district director'' to read ''DHS office'' wherever that term appears.

PART 211—DOCUMENTARY REQUIREMENTS; IMMIGRANTS; WAIVERS

■ 29. The authority citation for part 211 continues to read as follows:

Authority: 1101, 1103, 1181, 1182, 1203, 1225, 1257; 8 CFR part 2.

■ 30. Section 211.1 is amended by revising paragraph (b)(3) to read as follows:

§ 211.1 Visas.

* * * * *

(b) * * *

(3) If an immigrant alien returning to an unrelinquished lawful permanent residence in the United States after a temporary absence abroad believes that good cause exists for his or her failure to present an immigrant visa, Form I–551, or reentry permit, the alien may file an application for a waiver of this requirement with the DHS *officer with jurisdiction over the port of entry where the alien arrives.* To apply for this waiver, the alien must file Form I–193, Application for Waiver of Passport and/or Visa, with the fee prescribed in 8 CFR 103.7(b)(1), except that if the alien's Form I–551 was lost or stolen, the alien must instead file Form I–90, Application to Replace Permanent Resident Card, with the fee prescribed in 8 CFR 103.7(b)(1), provided the temporary absence did not exceed 1 year. In the exercise of discretion, the DHS officer *who has jurisdiction over the port of entry where the alien arrives* may waive the alien's lack of an immigrant visa, Form I–551, or reentry permit and admit the alien as a returning resident *if DHS* is satisfied that the alien has established good cause for the alien's failure to present an immigrant visa, Form I–551, or reentry permit. Filing the Form I–90 will serve as both application for replacement and as application for waiver of passport and visa, without the obligation to file a separate waiver application.

* * * * *

■ 31. Section 211.2 is amended by revising paragraph (b) to read as follows:

§ 211.2 Passports.

* * * * *

(b) Except as provided in paragraph (a) of this section, if an alien seeking admission as an immigrant with an immigrant visa believes that good cause exists for his or her failure to present a passport, the alien may file an application for a waiver of this requirement with the *DHS officer who has jurisdiction over the port of entry where the alien arrives.* To apply for this waiver, the alien must file Form I–193, Application for Waiver of Passport and/or Visa, with the fee prescribed in 8 CFR 103.7(b)(1). In the exercise of discretion, the *DHS officer with jurisdiction over the port of entry,* may waive the alien's lack of passport and admit the alien as an immigrant, if DHS is satisfied that the alien has established good cause for his or her failure to present a passport.

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

■ 32. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1102, 1103, 1182 and note, 1184, 1187, 1223, 1225, 1226, 1227.

■ 33. Section 212.2 is amended by:

■ a. Revising paragraph (d);

■ b. Removing the phrase ''an application for permission to reapply, Form I–212, with the district director having jurisdiction over the place where the alien resides'' in the second sentence of paragraph (e) and adding in its place ''Form I–212, Application for Permission to Reapply'';
■ c. Revising paragraph (f);
■ d. Revising paragraph (g)(2); and
■ e. Removing paragraph (g)(3).
The revisions read as follows:

§ 212.2 Consent to reapply for admission after deportation, removal or departure at Government expense.

* * * * *

(d) *Applicant for immigrant visa.* Except as provided in paragraph (g)(2) of this section, an applicant for an immigrant visa who is not physically present in the United States and who requires permission to reapply must file Form I–212. Except as provided in paragraph (g)(2) of this section, if the applicant also requires a waiver under section 212(g), (h), or (i) of the Act, Form I–601, Application for Waiver of Grounds of Excludability, must be filed simultaneously with the Form I–212.

* * * * *

(f) *Applicant for admission at port of entry.* An alien may request permission at a port of entry to reapply for admission to the United States within 5 years of the deportation or removal, or 20 years in the case of an alien deported, or removed 2 or more times, or at any time after deportation or removal in the case of an alien convicted of an aggravated felony. The alien must file the Form I–212, where required, with the DHS officer having jurisdiction over the port of entry.

(g) * * *

(2) An alien who is an applicant for parole authorization under 8 CFR 245.15(t)(2) and requires consent to reapply for admission after deportation, removal, or departure at Government expense, or a waiver under section 212(g), 212(h), or 212(i) of the Act, must file the requisite Form I–212 or Form I–601 concurrently with the Form I–131, Application for Travel Document. An alien who is an applicant for parole authorization under 8 CFR 245.13(k)(2) and requires consent to reapply for admission after deportation, removal, or departure at Government expense, or a waiver under section 212(g), 212(h), or 212(i) of the Act, must file the requisite Form I–212 or Form I–601 concurrently with the Form I–131, Application for Travel Document.

* * * * *

■ 34. Section 212.3 is amended by:
■ a. Revising paragraph (a);
■ b. Removing the phrase ''with the appropriate district director'' at the end of the last sentence in paragraph (d); and by
■ c. Revising paragraph (f) introductory text.
The revisions read as follows:

§ 212.3 Application for the exercise of discretion under section 212(c).

(a) *Jurisdiction.* An application for the exercise of discretion under section 212(c) of the Act must be submitted on Form I–191, Application for Advance Permission to Return to Unrelinquished Domicile. If the application is made in the course of proceedings under sections 235, 236, or 242 of the Act, the application shall be made to the Immigration Court.

* * * * *

(f) Limitations on discretion to grant an application under section 212(c) of the Act. An application for advance permission to enter under section 212 of the Act shall be denied if:

* * * * *

■ 35. Section 212.7 is amended by:
■ a. Revising paragraph (a)(1); and by
■ b. Removing and reserving paragraph (b)(2).
The revision reads as follows:

§ 212.7 Waiver of certain grounds of inadmissibility.

(a) * * *

(1) Form I–601 must be filed in accordance with the instructions on the form. When filed at a consular office, Form I–601 shall be forwarded to USCIS for a decision upon conclusion that the alien is admissible but for the grounds for which a waiver is sought.

* * * * *

§ 212.15 [Amended]

■ 36. Section 212.15 is amended by:
■ a. Removing the phrase, '', and all accompanying required evidence, to the Director, Nebraska Service Center, in duplicate with the appropriate fee contained in 8 CFR 103.7(b)(1)'' in the first sentence of paragraph (j)(1) introductory text;
■ b. Removing the phrase ''to the Director, Nebraska Service Center,'' in first sentence of paragraph (j)(2)(i);
■ c. Removing the phrase ''to the Director, Nebraska Service Center,'' in the first sentence of paragraph (j)(2)(ii); and
■ d. Revising the term ''the Director, Nebraska Service Center'' to read: ''USCIS'' in the first sentence of paragraph (j)(3)(i).

PART 214—NONIMMIGRANT CLASSES

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

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2003 Comp., p. 278), 1186a, 1187, 1221, 1281, 1282, 1301–1305, 1372, 1379, 1731–32; section 643, Pub. L. 104–208, 110 Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively, 8 CFR part 2.

■ 38. Section 214.2 is amended by:
■ a. Revising paragraph (a)(6)(iii);
■ b. Removing the phrase ''with the appropriate Service Center'' in paragraph (e)(8)(iv)(B);
■ c. Removing the word ''State'' in the first sentence of paragraph (e)(8)(iv)(C) and adding in its place ''Department of State'';
■ d. Removing the phrase ''with the Service Center'' in the first sentence of paragraph (e)(8)(v);
■ e. Removing the phrase ''a Service Center'' in the second sentence of paragraph (e)(8)(v) and adding in its place ''USCIS'';
■ f. Removing the last sentence of paragraph (e)(8)(v);
■ g. Revising paragraph (g)(6)(iii);
■ h. Removing paragraph (h)(3)(i)(D);
■ i. Removing the second sentence in paragraph (k)(1);
■ j. Removing the last sentence in paragraph (k)(7);
■ k. Revising paragraph (l)(2);
■ l. Removing the phrase ''Service Center'' in paragraph (l)(5)(ii)(C) and adding in its place ''USCIS office'';
■ m. Revising paragraph (l)(5)(ii)(F);
■ n. Removing the third sentence in paragraph (l)(7)(i) introductory text and by revising the word ''Service'' in the fourth sentence to read ''USCIS'';
■ o. Revising paragraph (l)(7)(i)(C);
■ p. Removing the term ''Service Center'' in the second sentence of paragraph (l)(8)(ii) and adding in its place ''USCIS office'';
■ q. Removing the third sentence in paragraph (m)(11)(ii)(A);
■ r. Removing the phrase ''to the service center with jurisdiction over the current school'' in the fourth sentence of paragraph (m)(11)(ii)(B);
■ s. Removing the phrase '', with the Service Center which has jurisdiction in the area where the alien will work'' in the first sentence of paragraph (o)(2)(i);
■ t. Removing the phrase ''and must be filed with the Service Center which has jurisdiction in the area where the petitioner is located'' in the first sentence of paragraph (o)(2)(iv)(A), and by removing the second sentence;
■ u. Removing the phrase ''with the Service Center that has jurisdiction over the area where the alien will perform services,'' in paragraph (o)(2)(iv)(B);

■ v. Removing the phrase ''with the Service Center having jurisdiction over the new place of employment'' in the first sentence of paragraph (o)(2)(iv)(C);
■ w. Removing the phrase ''with the Service Center where the original petition was filed'' in the first sentence of paragraph (o)(2)(iv)(D);
■ x. Revising the ninth sentence in (p)(2)(i);
■ y. Removing the phrase ''and must be filed with the Service Center which has jurisdiction in the area where the petitioner is located'' in the first sentence of (p)(2)(iv)(A), and by removing the second sentence;
■ z. Removing the phrase ''with the Service Center that has jurisdiction over the area where the alien will perform the services,'' in (p)(2)(iv)(B);
■ aa. Removing the phrase ''with the appropriate Service Center'' in the last sentence of (p)(2)(iv)(H);
■ bb. Removing the second sentence of paragraph (q)(5)(i);
■ cc. Removing the phrase ''with the service center having jurisdiction over the area where the alien will perform services or labor, or receive training'' in the first sentence of paragraph (q)(5)(iv);

The revisions read as follows:

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

(a) * * *

(6) * * *

(iii) If the Department of State's endorsement is favorable, the dependent may apply to USCIS for employment authorization. When applying to USCIS for employment authorization, the dependent must present his or her Form I–566 with a favorable endorsement from the Department of State and any additional documentation as may be required by the Secretary.

* * * * *

(g) * * *

(6) * * *

(iii) If the Department of State's endorsement is favorable, the dependent may apply to USCIS for employment authorization. When applying to USCIS for employment authorization, the dependent must present his or her Form I–566 with a favorable endorsement from the Department of State and any additional documentation as may be required by the Secretary.

* * * * *

(l) * * *

(2) * * *

(i) Except as provided in paragraph (l)(2)(ii) and (l)(17) of this section, a petitioner seeking to classify an alien as an intracompany transferee must file a petition on Form I–129, Petition for Nonimmigrant Worker. The petitioner shall advise USCIS whether a previous petition for the same beneficiary has been filed, and certify that another petition for the same beneficiary will not be filed unless the circumstances and conditions in the initial petition have changed. Failure to make a full disclosure of previous petitions filed may result in a denial of the petition.

(ii) A United States petitioner which meets the requirements of paragraph (l)(4) of this section and seeks continuing approval of itself and its parent, branches, specified subsidiaries and affiliates as qualifying organizations and, later, classification under section 101(a)(15)(L) of the Act multiple numbers of aliens employed by itself, its parent, or those branches, subsidiaries, or affiliates may file a blanket petition on Form I–129. The blanket petition shall be maintained at the adjudicating office. The petitioner shall be the single representative for the qualifying organizations with which USCIS will deal regarding the blanket petition.

* * * * *

(5) * * *

(ii) * * *

(F) If the consular officer determines that the alien is ineligible for L classification under a blanket petition, the consular officer's decision shall be final. The consular officer shall record the reasons for the denial on Form I–129S, retain one copy, return the original of I–129S to the USCIS office which approved the blanket petition, and provide a copy to the alien. In such a case, an individual petition may be filed for the alien on Form I–129, Petition for Nonimmigrant Worker. The petition shall state the reason the alien was denied L classification and specify the consular office which made the determination and the date of the determination.

* * * * *

(7) * * *

(i) * * *

(C) *Amendments.* The petitioner must file an amended petition, with fee, at the USCIS office where the original petition was filed to reflect changes in approved relationships, additional qualifying organizations under a blanket petition, change in capacity of employment (*i.e.,* from a specialized knowledge position to a managerial position), or any information which would affect the beneficiary's eligibility under section 101(a)(15)(L) of the Act.

* * * * *

(p) * * *

(2) * * *

(i) * * * The petitioner must file a P petition on Form I–129, Petition for Nonimmigrant Worker. * * *

* * * * *

PART 216—CONDITIONAL BASIS OF LAWFUL PERMANENT RESIDENCE STATUS

■ 39. The authority citation for part 216 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1154, 1184, 1186a, 1186b, and 8 CFR part 2.

§ 216.4 [Amended]

■ 40. Section 216.4 is amended by removing and reserving paragraph (a)(3).

§ 216.5 [Amended]

■ 41. Section 216.5 is amended by removing and reserving paragraph (c).

§ 216.6 [Amended]

■ 42. Section 216.6, is amended by removing and reserving paragraph (a)(2).

PART 236—APPREHENSION AND DETENTION OF INADMISSIBLE AND DEPORTABLE ALIENS; REMOVAL OF ALIENS ORDERED REMOVED

■ 43. The authority citation for part 236 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1227, 1231, 1362; 18 U.S.C. 4002, 4013(c)(4); 8 CFR part 2.

§ 236.14 [Amended]

■ 44. Section 236.14 is amended by removing the first sentence of paragraph (a).

PART 240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

■ 45. The authority citation for part 240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1224, 1225, 1226, 1227, 1251, 1252 note, 1252a, 1252b, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681); 8 CFR 2.

§ 240.63 [Amended]

■ 46. Section 240.63 is amended by removing the phrase ''at the appropriate Service Center'' in paragraph (c).

PART 244—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

■ 47. The authority citation for part 244 continues to read as follows:

Authority: 8 U.S.C. 1103, 1254, 1254a note, 8 CFR part 2.

§ 244.7 [Amended]

■ 48. Section 244.7 is amended by removing the phrase ''shall be filed with the director having jurisdiction over the applicant's place of residence'' in paragraph (a) and adding in its place ''must be filed on Form I–821, Application for Temporary Protected Status''.

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR LAWFUL PERMANENT RESIDENCE

■ 49. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100, 111 Stat. 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

§ 245.2 [Amended]

■ 50. Section 245.2 is amended by:
■ a. Removing the phrase '', and shall be submitted to the director having jurisdiction over the applicant's place of residence in the United States'' in the second sentence in paragraph (b);
■ b. Removing the third sentence in paragraph (b);
■ c. Removing the word ''his'' in the fourth sentence of paragraph (b) and adding in its place ''the'';
■ d. Removing the phrase ''with the director having jurisdiction over the applicant's place of residence'' in the first sentence in paragraph (c);
■ e. Removing the phrase ''the director'' in the third sentence of paragraph (c) and adding in its place ''USCIS'';
■ f. Removing the phrase ''by the director'' in the fifth sentence of paragraph (c).

§ 245.7 [Amended]

■ 51. Section 245.7 is amended by removing the phrase ''with the director having jurisdiction over the applicant's place of residence'' from the first sentence of paragraph (a).

§ 245.8 [Amended]

■ 52. Section 245.8 is amended by removing the phrase ''with the director having jurisdiction over the applicant's place of residence'' from the first sentence of paragraph (a).

§ 245.12 [Amended]

■ 53. Section 245.12 is amended by removing the phrase '', with the Service director having jurisdiction over the applicant's place of residence'' in paragraph (a)(1).

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

■ 54. The authority citation for part 248 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1258; 8 CFR part 2.

§ 248.3 [Amended]

■ 55. Section 248.3 is amended by removing the phrase '', to the Nebraska Service Center'' in paragraph (d).

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

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

Authority: 8 U.S.C. 1103, 1201, 1303–1305; 8 CFR part 2.

§ 264.2 [Amended]

■ 57. Section 264.2 is amended by removing the phrase ''to the Service office having jurisdiction over the applicant's place of residence in the United States'' in paragraph (a) and adding in its place ''on Form I–485 in accordance with the instructions on the form and paragraph (c) of this section''.
■ 58. Section 264.5 is amended by revising the first sentence in paragraph (e)(2)(i) to read as follows:

§ 264.5 Application for a replacement Permanent Resident Card.

(e) * * *
(2) * * *
(i) Form I–90 must be filed in accordance with the instructions on the form. * * *
* * * * *

PART 274A—CONTROL OF EMPLOYMENT OF ALIENS

■ 59. The authority citation for part 274A continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

§ 274a.13 [Amended]

■ 60. Section 274a.13 is amended by:
■ a. Removing the phrase ''with the director having jurisdiction over applicant's residence, or the director having jurisdiction over the port of entry at which the alien applies, or with such other Service office as the Commissioner may designate'' in the first sentence of paragraph (a)(1) and add in its place '', Application for Employment Authorization'';
■ b. Removing the phrase ''the director or such other officer as the Commissioner may designate'' in the second sentence in paragraph (a)(1) and adding in its place ''USCIS'';
■ c. Removing the phrase ''with the appropriate Service Center or with such other Service office as the Commissioner may designate'' in the first and last sentences in paragraph (a)(2);
■ d. Removing the phrase ''the district director'' in the first sentence of paragraph (d) and adding in its place ''USCIS'';
■ e. Removing the phrase ''the INS'' in the first sentence of paragraph (d) and adding in its place ''USCIS''.

PART 301—NATIONALS AND CITIZENS OF THE UNITED STATES AT BIRTH

■ 61. The authority citation for part 301 continues to read as follows:

Authority: 8 U.S.C. 1103, 1401; 8 CFR part 2.

§ 301.1 [Amended]

■ 62. In section 301.1, paragraph (a)(1) is amended by removing the term ''Service'' in the first and last sentences and adding in its place ''USCIS'', and by removing the second sentence.

PART 316—GENERAL REQUIREMENTS FOR NATURALIZATION

■ 63. The authority citation for part 316 continues to read as follows:

Authority: 8 U.S.C. 1103, 1181, 1182, 1427, 1443, 1447; 8 CFR part 2.

§ 316.3 [Removed and Reserved]

■ 64. Section 316.3 is removed and reserved.

PART 320—CHILD BORN OUTSIDE THE UNITED STATES AND RESIDING PERMANENTLY IN THE UNITED STATES; REQUIREMENTS FOR AUTOMATIC ACQUISITION OF CITIZENSHIP

■ 65. The authority citation for part 320 continues to read as follows:

Authority: 8 U.S.C. 1103, 1443; 8 CFR part 2.

§ 320.3 [Amended]

■ 66. Section 320.3 is amended by removing the fourth sentence in paragraph (a).

PART 322—CHILD BORN OUTSIDE THE UNITED STATES; REQUIREMENTS FOR APPLICATION FOR CERTIFICATE OF CITIZENSHIP

■ 67. The authority citation for part 322 continues to read as follows:

Authority: 8 U.S.C. 1103, 1443; 8 CFR part 2.

§ 322.3 [Amended]

■ 68. Section 322.3 is amended by removing the third sentence in paragraph (a).

PART 324—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: WOMEN WHO HAVE LOST UNITED STATES CITIZENSHIP BY MARRIAGE AND FORMER CITIZENS WHOSE NATURALIZATION IS AUTHORIZED BY PRIVATE LAW

■ 69. The authority citation for part 324 continues to read as follows:

Authority: 8 U.S.C. 1103, 1435, 1443, 1448, 1101 note.

§ 324.2 [Amended]

■ 70. Section 324.2 is amended by removing the final sentence of paragraph (b).

§ 324.3 [Amended]

■ 71. Section 324.3 is amended by:

■ a. Removing the phrase ''the office of the Service having jurisdiction over her place of residence as evidence of her desire to take the oath'' in paragraph (b)(1) and adding in its place ''USCIS in accordance with the instructions on the form.'';

■ b. Removing the phrase ''the district director'' in paragraph (b)(2) and adding in its place ''USCIS'';

■ c. Removing the phrase ''the Service'' in paragraph (b)(2) and adding in its place ''USCIS''.

§ 324.4 [Amended]

■ 72. Section 324.4 is amended by removing the phrase ''office of the Service'' and adding in its place ''USCIS office''.

§ 324.5 [Amended]

■ 73. Section 324.5 is amended by removing the phrase ''the Service'' wherever it appears and adding in its place ''USCIS''.

PART 327—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WHO LOST UNITED STATES CITIZENSHIP THROUGH SERVICE IN ARMED FORCES OF FOREIGN COUNTRY DURING WORLD WAR II

■ 74. The authority citation for part 327 continues to read as follows:

Authority: 8 U.S.C. 1103, 1438, 1443.

§ 327.2 [Amended]

■ 75. Section 327.2 is amended by removing the phrase '', to the Service office having jurisdiction over the applicant's place of residence'' in the first sentence of paragraph (a).

PART 328—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WITH THREE YEARS' SERVICE IN ARMED FORCES OF THE UNITED STATES

■ 76. The authority citation for part 328 continues to read as follows:

Authority: 8 U.S.C. 1103, 1439, 1443.

§ 328.3 [Removed and Reserved]

■ 77. Section 328.3 is removed and reserved.

PART 329—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: NATURALIZATION BASED UPON ACTIVE DUTY SERVICE IN THE UNITED STATES ARMED FORCES DURING SPECIFIED PERIODS OF HOSTILITIES

■ 78. The authority citation for part 329 continues to read as follows:

Authority: 8 U.S.C. 1103, 1440, 1443; 8 CFR part 2.

§ 329.3 [Removed and Reserved]

■ 79. Section 329.3 is removed and reserved.

§ 329.5 [Amended]

■ 80. Section 329.5 is amended by removing and reserving paragraph (c).

PART 330—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: SEAMEN

■ 81. The authority citation for part 330 continues to read as follows:

Authority: 8 U.S.C. 1103, 1443.

§ 330.2 [Amended]

■ 82. Section 330.2 is amended by adding a period immediately after the phrase ''An applicant for naturalization under section 330 of the Act must submit an Application for Naturalization, Form N–400'' and removing the remaining text in paragraph (a).

PART 334—APPLICATION FOR NATURALIZATION

■ 83. The authority citation for part 334 continues to read as follows:

Authority: 8 U.S.C. 1103, 1443.

§ 334.1 [Amended]

■ 84. Section 334.1 is amended by removing the phrase ''at the Service office indicated in the appropriate part of this chapter'' and adding in its place ''in accordance with the instructions on the form''.

§ 334.11 [Amended]

■ 85. Section 334.11 is amended by removing the phrase ''with the Service office having jurisdiction over the applicant's place of residence in the United States'' from the second sentence of paragraph (a).

PART 392—SPECIAL CLASSES OF PERSONS WHO MAY BE NATURALIZED: PERSONS WHO DIE WHILE SERVING ON ACTIVE DUTY WITH THE UNITED STATES ARMED FORCES DURING CERTAIN PERIODS OF HOSTILITIES

■ 86. The authority citation for part 392 continues to read as follows:

Authority: 8 U.S.C. 1103, 1440 and note, and 1440–1; 8 CFR part 2.

§ 392.3 [Amended]

■ 87. Section 392.3(b)(1), is amended by adding a period immediately after the phrase ''An application for posthumous citizenship must be submitted by mail on Form N–644'' and removing the remaining text from the first sentence and removing the second sentence.

Janet Napolitano,

Secretary.

[FR Doc. E9–13014 Filed 6–4–09; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 370

RIN 3064–AD37

Modification of Temporary Liquidity Guarantee Program

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC is issuing this Final Rule to make permanent a minor modification to the Temporary Liquidity Guarantee Program (TLGP) to include certain issuances of mandatory convertible debt (MCD) under the TLGP debt guarantee program (DGP).

DATES: The final rule becomes effective on June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Steven Burton, Senior Financial Analyst, Bank and Regulatory Policy Section, Division of Insurance and Research, (202) 898–3539 or *sburton@fdic.gov*; Robert C. Fick, Counsel, Legal Division, (202) 898–8962 or *rfick@fdic.gov*; A. Ann Johnson, Counsel, Legal Division (202) 898–3573 or *aajohnson@fdic.gov*; Mark L. Handzlik, Senior Attorney, Legal Division, (202) 898–3990 or *mhandzlik@fdic.gov*; Gail Patelunas, Deputy Director, Division of Resolutions

and Receiverships, (202) 898–6779 or *gpatelunas@fdic.gov*; (for questions or comments related to MCD applications): Lisa D Arquette, Associate Director, Division of Supervision and Consumer Protection, (202) 898–8633 or *larquette@fdic.gov*; or Donna Saulnier, Manager, Assessment Policy Section, Division of Finance, (703) 562–6167 or *dsaulnier@fdic.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 23, 2008 the FDIC's Board of Directors (Board) adopted the TLGP as part of a coordinated effort by the FDIC, the U.S. Department of the Treasury (Treasury), and the Board of Governors of the Federal Reserve System (Federal Reserve) to address unprecedented disruptions in credit markets and the resultant effects on the ability of financial institutions to fund themselves and make loans to creditworthy borrowers. The TLGP and other government programs have had favorable effects thus far; however the FDIC continues to evaluate ways to make the TLGP more effective.

On February 27, 2009 the Board adopted an Interim Rule that modified the then-existing DGP by extending the FDIC guarantee to certain new issues of MCD.[1] The purpose of the Interim Rule was to provide a mechanism for entities participating in the DGP to obtain funding from investors that may have a longer-term investment horizon. By providing a guarantee for senior unsecured debt that converts into common shares of the issuer, the FDIC expects the Interim Rule to moderate the potential funding needs that could result from concentrations of FDIC-guaranteed debt maturing in mid-2012.[2] The FDIC solicited public comment on all aspects of the Interim Rule for a 15-day comment period.

On March 17, 2009, the Board adopted an interim rule entitled *Amendment Of The Temporary Liquidity Guarantee Program To Extend The Debt Guarantee Program And To Impose Surcharges On Assessments For Certain Debt Issued On Or After April 1, 2009*[3] (Extension Interim Rule), which further amended the DGP by, among other things, extending the duration of the DGP for certain participating entities, imposing surcharges on the issuance of certain FDIC-guaranteed debt, and providing for the issuance of non-guaranteed debt prior to the expiration of the DGP. On May 19, 2009 the Board adopted the Extension Interim Rule as a final rule without change. That final rule (Extension Final Rule) is being published simultaneously today elsewhere in the **Federal Register**.

II. The Interim Rule

The Interim Rule amended section 370.2(e)(5) to permit entities participating in the DGP to issue certain MCD upon application to and approval from the FDIC. The Interim Rule did not affect an entity's existing debt guarantee limit.

As provided in section 370.2(e) of the Interim Rule, FDIC-guaranteed MCD must be newly issued on or after February 27, 2009 and provide, in the debt instrument, for the mandatory conversion of the debt into common shares of the issuing entity on a specified date (unless the issuing entity fails to timely make any payment required under the debt instrument, or merges or consolidates with any other entity and is not the surviving or resulting entity). The Interim Rule also required an entity issuing MCD to provide certain disclosures to investors.

As indicated in the Interim Rule, a participating entity must file a written application with the FDIC and its appropriate Federal banking agency, and obtain the FDIC's prior written approval, before issuing MCD. Like other applications required for purposes of the DGP, an entity seeking to issue MCD must include the details of the request, a summary of the applicant's strategic operating plan, and a description of the proposed use of the debt proceeds. The application also must provide the proposed date of issuance, the amount of MCD to be issued, the mandatory conversion date, and the conversion rate (as described in Section 370.3(h)). Where the issuance of MCD could potentially raise control issues, the applicant must provide written confirmation that all applications and all notices required under the Bank Holding Company Act of 1956 (as amended), the Home Owners' Loan Act (as amended), or the Change in Bank Control Act (as amended) have been submitted to the appropriate Federal banking agency prior to issuing MCD.

Assessments for FDIC-guaranteed MCD are based on the time period from the issue date of the MCD until its mandatory conversion date.

III. Summary of Comments

The FDIC received eight comments on the Interim Rule from banking organizations, trade and industry groups, and certain individuals. The commenters generally supported the Interim Rule in that it would provide participating entities the flexibility needed to attract a broader group of investors, including those with longer-term investment horizons.

Several commenters encouraged the FDIC to revise the Interim Rule by making structural enhancements to MCD so that it would qualify for the Federal interest rate tax deduction, as provided under the Internal Revenue Code.[4] For example, the commenters suggested revising the Rule to provide for a mandatory unit structure, where remarketed debt proceeds are used to fund share purchases under a separate forward-purchase contract, and senior unsecured debt that converts to equity at the option of the investor. However, these structures contain certain features (such as the bundling of debt with a futures contract, the pledge of debt against the forward contract, possible contingencies related to debt remarketing efforts, and optionality pertaining to the conversion of debt to common shares of the issuer) that would make them ineligible for an FDIC guarantee.

Pursuant to the Interim Rule, the underlying debt instrument must, by its terms, provide for the conversion of the debt into the common shares of the issuing entity on a specified date. This modification of the DGP was intended to attract investors with longer-term investment horizons and reduce potential refinancing risks, and not to expand the definition of senior unsecured debt to include hybrid debt and equity securities with complex structures.

Some commenters encouraged the FDIC to coordinate with the Federal Reserve to permit MCD to qualify as Tier 1 capital. MCD issued under the DGP is not includable in the regulatory capital of a participating entity until such MCD converts to the common stock of such entity. The FDIC does not wish to consider or pursue exceptions to the existing regulatory capital framework for purposes of the TLGP. Notwithstanding the regulatory capital treatment for MCD, however, the FDIC believes that FDIC-guaranteed MCD provides significant benefits to issuers and investors in that such debt can be expected to offer higher coupon rates than other senior unsecured debt issues

[1] 74 FR 9522 (March 4, 2009).

[2] This modification of the TLGP is supported by the rationale for establishing the existing TLGP and is consistent with the determination of systemic risk made on October 14, 2008, pursuant to 12 U.S.C. section 1823(c)(4)(G), by the Secretary of the Treasury (after consultation with the President) following receipt of the written recommendation dated October 13, 2008, of the FDIC's Board of Directors (Board) and the similar written recommendation of the Federal Reserve.

[3] 74 FR 12078 (March 23, 2009).

[4] *See* 26 U.S.C. 163.

without a mandatory conversion feature. Also, for participating entities, the ability to issue MCD should facilitate liquidity and capital planning to the extent the conversion feature offsets the need to obtain new financing upon the expiration of the FDIC's guarantee.

Several commenters sought clarification on the scope of the FDIC guarantee with respect to MCD, and urged the FDIC to confirm (i) that the guarantee would cover scheduled payments of principal and interest through maturity even in the event of a bankruptcy, conservatorship, or receivership, and (ii) that investors would be made whole in the event they do not receive equity shares on the date of conversion.

The FDIC's obligation under the guarantee for MCD is basically the same as it is for any other FDIC-guaranteed debt. Generally, the FDIC will make scheduled payments of principal and interest pursuant to the terms of the debt instrument upon a ''payment default'' which is defined as the uncured failure of the issuing entity to make a timely payment of principal or interest required under the debt instrument. Therefore, it is irrelevant whether the payment default results from bankruptcy, conservatorship, receivership or some other event. The FDIC's guarantee protects investors when there has been a payment default whether or not there has been a bankruptcy, a conservatorship, or a receivership of the issuing entity.

The Interim Rule states that the FDIC will make scheduled payments of principal and interest ''through maturity.'' Since MCD does not necessarily have a stated ''maturity'' date, the Final Rule makes clear that in the event of a payment default on MCD, the FDIC will make scheduled payments of principal and interest pursuant to the terms of the debt instrument *through the mandatory conversion date.*

With regard to the comment suggesting that the FDIC clarify that investors would be made whole in the event they do not receive equity shares on the date of conversion, the FDIC believes that the Interim Rule adequately describes the operation of the FDIC's guarantee obligation in the event of a payment default. Specifically, upon a payment default, the FDIC will make scheduled payments of principal and interest pursuant to the terms of the debt instrument *through the mandatory conversion date.* Failure to deliver shares on the conversion date would not necessarily constitute a ''payment default.'' However, the FDIC anticipates that the debt instrument for MCD will require a payment of the unpaid principal on the conversion date in the event of a payment default. To the extent that the debt instrument provides that a principal payment is due on the conversion date in the event of a payment default, the FDIC would make that principal payment subject to the limitation that the principal payment cannot exceed the amount paid by holders of the MCD under the issuance. As a result, the Final Rule does not make any changes to the Interim Rule with respect to that issue.

The following example illustrates how the Final Rule would operate in the event of a payment default on FDIC-guaranteed MCD after the bankruptcy of the issuer. Assume that a bank holding company (with the prior approval of the FDIC) issues MCD in which the note provides for monthly payments of interest for each of the seventeen months after the issue date. Assume also that the note provides that upon the eighteenth month the principal amount of the note shall convert to the common stock of the issuer unless there is a payment default. Finally, assume that in the event of a payment default the note requires that the issuer pay the debt holder the unpaid principal on the conversion date. If a petition in bankruptcy is filed against the issuer just prior to the twelfth month, but no payment default occurs until the fourteenth month, the FDIC would satisfy its guarantee obligation by making all payments of interest scheduled for months fourteen through seventeen. The FDIC also would pay to the holder of the note the unpaid principal amount, not to exceed the amount paid for the debt by the holder, on the conversion date (the eighteenth month).

One of the commenters also asked the FDIC to protect investors against losses resulting from government interventions short of placing issuing institutions into receivership. As described by the commenter, an example would include a situation where a federal agency directly acquired, or acquired the right to receive (through warrants or other convertible securities) more than one-third of the common stock of an entity that has received approval to issue MCD. Several commenters also asked the FDIC to consider expanding the guarantee to cover any amount of the original investment (of principal) that is not recovered upon conversion. The FDIC does not wish to extend its guarantee to cover situations that do not involve payment default by the issuer. Such a change would protect investors against investment losses attributable to declines in the value of the convertible debt instrument, as opposed to losses related to an actual default on the underlying obligation.

Two commenters urged the FDIC to revise the Interim Rule by eliminating the prior application requirement for issuing MCD, thereby allowing participating entities to issue MCD at their own discretion. As provided in the Interim Rule and under the Final Rule, the FDIC will review applications to issue MCD on a case-by-case basis to ensure that the transaction will meet the requirements of the DGP, and confirm that all applicable applications and notices have been submitted to the appropriate Federal banking agency where the transaction could present a change in control issue.

Several commenters encouraged the FDIC to allow entities that issue MCD to use the proceeds of the issuance to replace other non-FDIC guaranteed debt and other regulatory capital instruments, such as Capital Purchase Program (CPP) obligations. The FDIC does not believe it is appropriate to allow participating entities to use the proceeds of FDIC-guaranteed debt to prepay non-FDIC guaranteed obligations because such prepayments would be inconsistent with one of the primary objectives of the DGP, which is to encourage participating entities to lend to creditworthy borrowers.

One commenter urged the FDIC to revise the Interim Rule to permit subsidiaries of holding companies to issue MCD that, under the terms of the debt instrument, converts to the common stock of an affiliate. Such a provision would allow holding companies to effectively use the debt guarantee limit of an insured depository institution subsidiary for the holding company's own capital planning purposes. The FDIC is concerned that this type of funding arrangement could ultimately benefit the holding company at the expense of the insured depository institution subsidiary, where the depository institution could be forced to seek replacement funding once the debt converts to the common stock of the holding company. Accordingly, the FDIC will only approve applications to issue MCD that, by its terms, requires conversion of the debt into common stock of the issuing entity on a specified conversion date.

Commenters also sought additional flexibility in determining the debt guarantee limit for bank holding companies. Specifically, the commenters suggested revising the Interim Rule to permit a bank holding company to issue senior unsecured debt up to the amount that is permissible for an insured depository institution subsidiary, or provide a separate debt

guarantee limit for bank holding companies based on a delineated percentage of liabilities or risk-weighted assets. Two other commenters encouraged the FDIC to modify the TLGP in a way that would permit eligible entities to use the TLGP for purposes of raising capital. One of these commenters suggested revising the definition of senior unsecured debt to include trust preferred securities and subordinated debentures.

Under the TLGP, debt guarantee limits are based on the liquidity needs of an entity as determined by senior unsecured debt outstanding on September 30, 2008 (or 2 percent of liabilities for insured depository institutions without any outstanding senior unsecured debt on September 30, 2008). Although the Interim Rule provides an opportunity to attract future capital in the form of common equity, the purpose of the TLGP is not to recapitalize the banking industry. The FDIC notes that capital deficiencies are being addressed by other government programs and initiatives, such as the Troubled Asset Relief Program (TARP) and the CPP.

Another commenter requested a second opportunity to opt-into the TLGP, in light of the modifications to the DGP provided under the Interim Rule. The FDIC notes that on March 17, 2009, the Board approved an Interim Rule that extends the DGP and imposes surcharges on assessments for certain debt issued on or after April 1, 2009 (the Extension Rule).[5] One of the purposes of the DGP extension is to ensure an orderly phase-out of the TLGP. Providing a second opportunity to opt-into the DGP would be contrary to that effort. Further, the FDIC believes the TLGP has provided reliable and cost-efficient liquidity support to financial institutions with demonstrated funding needs. Institutions that have elected to opt-out of the TLGP are less likely to have such funding needs and, therefore, the FDIC believes that providing a second opportunity to opt-into the DGP would be of marginal benefit to the industry.

Finally, one commenter suggested revising the DGP to permit mutual banking organizations to issue MCD, on the condition that such organizations would convert to stock form on or before the conversion date. According to the commenter, this would allow mutual banks to raise capital now while they convert to stock form. The FDIC notes that mutual banking organizations must obtain regulatory approval to convert to a stock form of ownership, and that FDIC-guaranteed MCD is not recognized as regulatory capital until the debt converts into common equity of the issuer. In addition, the purpose of the TLGP is not to create incentives that would promote one form of ownership structure over another.

Although the FDIC received a few other comments in connection with the Interim Rule, they were either unrelated to the substance of the Interim Rule or applicable to the Extension Rule approved by the Board on March 17, 2009, which provides for a limited, four-month extension of the DGP.[6]

IV. Final Rule

The Interim Rule generally permits entities participating in the DGP to issue FDIC-guaranteed MCD upon application to and approval from the FDIC. FDIC-guaranteed MCD must, in the debt instrument, provide for the mandatory conversion of the debt into the common equity of the issuer on a specified date, which must be on or before the expiration of the FDIC's guarantee.

This Final Rule adopts the Interim Rule (as amended by the final rule entitled *Amendment Of The Temporary Liquidity Guarantee Program To Extend The Debt Guarantee Program And To Impose Surcharges On Assessments For Certain Debt Issued On Or After April 1, 2009* which was issued by the Board on May 19, 2009) with one change.[7] Because MCD does not have a maturity date as such, this Final Rule clarifies that, with respect to MCD, the FDIC guarantee covers scheduled payments of principal and interest through the date of conversion.

VI. Regulatory Analysis and Procedure

A. Administrative Procedure Act

The process of amending Part 370 by means of this Final Rule is governed by the Administrative Procedure Act (APA). Pursuant to Section 553(b)(B) of the APA, general notice and opportunity for public comment are not required with respect to a rule making when an agency for good cause finds that ''notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' Similarly, Section 553(d)(3) of the APA provides that an agency, for good cause found and published with the rule, does not have to comply with the requirement that a substantive rule be published not less than 30 days before its effective date. When it issued the Interim Rule, the FDIC invoked these good cause exceptions based on the unprecedented disruption of the credit markets that has occurred as a result of the severe financial conditions that threaten the nation's economy and the stability of the banking system. For this same reason, the FDIC invokes the good cause exceptions with respect to the Final Rule.

B. Riegle Community Development and Regulatory Improvement Act

The Riegle Community Development and Regulatory Improvement Act provides that any new regulations or amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of the calendar quarter which begins on or after the date on which the regulations are published in final form, unless the agency determines, for good cause published with the rule, that the rule should become effective before such time.[8]

The FDIC invoked the good cause exception for purposes of the Interim Rule because of the unprecedented disruption of the credit markets that has occurred as a result of the severe financial conditions that threaten the nation's economy and the stability of the banking system. The FDIC had determined that any delay of the effective date for the Interim Rule would have had serious adverse effects on the economy and the stability of the financial system. For these same reasons, the FDIC invokes the good cause exception for purposes of the Final Rule.

C. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget (OMB) has previously determined that the Interim Rule is not a ''major rule'' within the meaning of the relevant sections of the Small Business Regulatory Enforcement Act of 1996 (SBREFA).[9] The OMB also has determined that this Final Rule is not a ''major rule'' within the meaning of the SBREFA.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[10] requires an agency to prepare a final regulatory flexibility analysis when an agency promulgates a final rule under section 553 of the APA, after being required by that section to publish a notice of proposed rulemaking. Because the FDIC has invoked the good

[5] *See* 74 FR 12078 (March 23, 2009).

[6] *Id.*

[7] See **SUPPLEMENTARY INFORMATION**, Section I. Background.

[8] 12 U.S.C. 4802.

[9] 5 U.S.C. 801 *et seq.*

[10] Pub. L. 96–354, Sept. 19, 1980.

cause exception provided for in section 553(b)(B) of the APA, with respect to this Final Rule, the RFA's requirement to prepare a final regulatory analysis does not apply.

E. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,[11] 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 Final Rule, as did the Interim Rule, includes in sections 370.3(h)(1)(v) and 370.3(h)(2) a requirement for submission of an application setting forth certain specific items of information for institutions seeking to issue FDIC-guaranteed MCD. On February 27, 2009, the FDIC requested and received approval under OMB's emergency clearance procedures to revise its existing collection of information entitled, ''Temporary Liquidity Guarantee Program'' (OMB Control No. 3064–0166), to incorporate the paperwork burden associated with applications to issue MCD.

The Interim Rule requested comments on the paperwork burden associated with applications to issue MCD, and only one such comment was received. The commenter suggested that in lieu of the extra paperwork burden created by the application requirement, the FDIC should allow institutions to issue MCD at their own discretion, limited only by their debt issuance caps. As noted in the *Summary of Comments* section of the preamble, the information submitted in applications allows the FDIC to ensure that proposed transactions will meet the requirements of the DGP and confirm that all applicable applications and notices have been submitted to the appropriate Federal banking agency in cases where the transaction could present a change in control issue. Accordingly, the FDIC declines to adopt that suggestion.

On March 11, 2009, the FDIC began the process for normal clearance of the Temporary Liquidity Guarantee Program information collection, including applications to issue MCD, with publication of an initial 60-day notice requesting comment on: (1) Whether this collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (2) the accuracy of the estimates of the burden of the information collection, including the validity of the methodologies and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (5) estimates of capital or start up costs, and costs of operation, maintenance and purchase of services to provide the information. The comment period ended on May 11, 2009, and no comments were received. It will be followed by publication of a second **Federal Register** notice, with a 30-day comment period, of the FDIC's submission to OMB of its request for full clearance the collection. Interested parties are invited to submit written comments during the 30-day period on the estimated burden for applications to issue MCD or any other aspect of the Temporary Liquidity Guarantee Program information collection by any of the following methods: *http://www.FDIC.gov/regulations/laws/federal/propose.html.*

- *E-mail: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Leneta Gregorie (202–898–3719), Counsel, 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 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

A copy of the comment 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 3208, Washington, DC 20503. All comments should refer to the name and number of the collection.

The burden estimate for the application to issue FDIC-guaranteed mandatory convertible debt is as follows:

Title: Temporary Liquidity Guarantee Program.

OMB Number: 3064–0166.

Frequency of Response: 5.

Estimated Number of Respondents: 25.

Average Time for Response: 1 hour.

Estimated Annual Burden: 125 hours.

Previous Annual Burden: 2,201,550 hours.

Total New Burden: 2,201,675 hours.

List of Subjects in 12 CFR Part 370

Banks, Banking, Bank deposit insurance, Holding companies, National banks, Reporting and recordkeeping requirements, Savings associations.

■ Accordingly, the Interim Rule amending 12 CFR part 370 which was published at 74 FR 9522 on March 4, 2009 is adopted as a final rule with the following change:

PART 370—TEMPORARY LIQUIDITY GUARANTEE PROGRAM

■ 1. The authority citation for part 370 shall continue to read as follows:

Authority: 12 U.S.C. 1813(l), 1813(m), 1817(i), 1818, 1819(a)(Tenth), 1820(f), 1821(a), 1821(c), 1821(d), 1823(c)(4).

■ 2. In part 370, amend section 370.12 by revising paragraph (b)(2) as follows:

§ 370.12 Payment on the guarantee.

* * * * *

(b) *Payments on Guaranteed Debt of participating entities in default.*

(1) * * *

(2) *Method of payment.* Upon the occurrence of a payment default, the FDIC shall satisfy its guarantee obligation by making scheduled payments of principal and interest pursuant to the terms of the debt instrument through maturity, or in the case of mandatory convertible debt, through the mandatory conversion date (without regard to default or penalty provisions). Any principal payment on mandatory convertible debt shall be limited to amounts paid by holders under the issuance. The FDIC may in its discretion, at any time after the expiration of the guarantee period, elect to make a final payment of all outstanding principal and interest due under a guaranteed debt instrument whose maturity extends beyond that date. In such case, the FDIC shall not be liable for any prepayment penalty.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 29th day of May 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–13083 Filed 6–4–09; 8:45 am]

BILLING CODE 6714–01–P

[11] 44 U.S.C. 3501 *et seq.*

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM405; Special Conditions No. 25–283–SC]

Special Conditions: Bombardier Inc. Model DHC–8–100, –200, –300 and –400 Series Airplanes; Passenger Seats With Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for all models of Bombardier Inc. DHC–8–100, –200, and –400 Series Airplanes and for Bombardier Models DHC–8–301, DHC–8–311, and DHC–8–315 airplanes in the DHC–8–300 series. These airplanes will have a novel or unusual design feature(s) associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 18, 2009. We must receive your comments by July 20, 2009.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM405, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM405 You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2195; facsimile (425) 227–1232; electronic mail *alan.sinclair@faa.gov.*

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On July 1, 2008, Bombardier Inc. 400 Cote Vertu West, Dorval, Quebec, Canada, H4S 1Y9 applied for a design change to Type Certificate No. A13NM for installation of seats that include non-traditional, large, non-metallic panels in Bombardier Inc. Model DHC–8–100, –200, –300, and –400 Series Airplanes. These airplanes, which are currently approved under Type Certificate No. A13NM, are straight-wing, T-tail, twin-engine, wing mounted turboprop, single aisle, medium sized transport category airplanes.

The applicable regulations to airplanes currently approved under Type Certificate No. A13NM do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14 Code of Federal Regulations (14 CFR), part 25, Appendix F, parts IV and V, heat release and smoke emission requirements.

Type Certification Basis

Under the provisions of § 21.101 Bombardier must show that the models in the DHC–8 series of airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A13NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A13NM are only for the following models:

- Model DHC–8–100, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–51;
- Model DHC–8–200, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–66;
- Model DHC–8–301, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–58;
- Model DHC–8–311, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–86;
- Model DHC–8–315, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–86;

Note: Only the listed –300 series Models are certified.

• Model DHC–8–400, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–83.

In addition, the certification basis includes other regulations and special conditions that are not pertinent to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for all models of Bombardier DHC–8 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, all models of Bombardier DHC–8 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.101.

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

Novel or Unusual Design Features

Bombardier models in the DHC–8 series of airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of occupants of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels. In order to provide a level of safety that is equivalent to that provided by the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

Definition of ''Non-Traditional, Large, Non-Metallic Panel''

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture. Examples of traditional exempted parts of the seat include: arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include those panels directly exposed to the passenger cabin in the traditional sense, plus those panels enveloped such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Discussion

In the early 1980s the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (*i.e.,* § 25.853 entitled ''Compartment interiors'' as amended by Amendment 25–61 and Amendment 25–66) extend survival time by approximately 2 minutes, over materials that do not comply.

At the time these standards were written, the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food trays met the heat release and smoke requirements. The requirements, therefore, did not address seats. The preambles to both the Notice of Proposed Rule Making (NPRM), Notice No. 85–10 (50 FR 15038, April 16, 1985), and the Final Rule at Amendment 25–61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded ''because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats.''

Subsequently, the Final Rule at Amendment 25–83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: ''It is not possible to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made.''

In the late 1990s, the FAA issued Policy Memorandum 97–112–39, ''Guidance for Flammability Testing of Seat/Console Installations,'' October 17, 1997 (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include large non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October of 2004, an issue was raised regarding the appropriate flammability standards for passenger

seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in § 25.853(d) to seats with large non-metallic panels in their design.

Applicability

Although smoke testing requirements of § 25.853 per Appendix F, parts IV and V, are not part of the part 25 certification basis for the Bombardier DHC–8–100 and –301 series airplanes, these special conditions are applicable if the airplanes were manufactured after 8/19/1990 and are in 14 CFR part 121 service. Part 121 requires applicable interior panels to comply with § 25.853 and Appendix F, parts IV and V, regardless of the certification basis. It is not our intent to require seats with large non-metallic panels to meet § 25.853 and Appendix F, parts IV and V, if they are installed in cabins of airplanes that are not required to meet these standards.

Because the heat release and smoke testing requirements of § 25.853 are part of the type certification basis for the DHC–8–200 series, models 311 and 315 of the –300 series, and DHC–8–400 series airplanes, these special conditions are applicable to the DHC–8–200 series, models 311 and 315 of the –300 series, and DHC–8–400 series airplanes for all types of operations. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Seats do not have to meet these special conditions when installed in compartments that are not otherwise required to meet the test requirements of 14 CFR part 25 and Appendix F, parts IV and V. For example, airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis, and do not need to comply with the requirements of 14 CFR 121.312, do not have to comply with these special conditions.

Conclusion

This action affects only certain novel or unusual design features on Bombardier Inc. DHC–8–100, –200, and –400 series airplanes and in models –311 and –315 in –300 series airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

■ The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Inc. DHC–8–100 series, DHC–8–200 series, models 311 and 315 of the –300 series, and DHC–8–400 series airplanes.

1. Except as provided in paragraph 3 of these special conditions, compliance with heat release and smoke emission testing requirements per 14 CFR part 25, and Appendix F, parts IV and V, is required for seats that incorporate non-traditional, large non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number 1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (*e.g.*, outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of 14 CFR part 25 and Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less,

b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of 14 CFR 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on May 18, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–13187 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM406; Special Conditions No. 25–384–SC]

Special Conditions: Bombardier Inc. Model CL–600–2B19, –2C10, –2D15 and –2D24 Airplanes; Passenger Seats with Non-Traditional, Large, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Bombardier Inc. model CL–600–2B19, –2C10, –2D15 and –2D24 airplanes. These airplanes will have a novel or unusual design feature(s) associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is May 18, 2009.

We must receive your comments by July 20, 2009.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–

113), Docket No. NM406, 1601 Lind Avenue, SW., Renton, Washington 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM406 You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Alan Sinclair, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2195; facsimile (425) 227–1232; electronic mail *alan.sinclair@faa.gov*.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On July 1, 2008, Bombardier Inc. 400 Cote Vertu West, Dorval, Quebec, Canada H4S 1Y9 applied for a design change to Type Certificate No. A21EA for installation of seats that include non-traditional, large, non-metallic panels in the following Bombardier Inc. airplanes: Model CL–600–2B19, Model CL–600–2C10, Model CL–600–2D15 and Model CL–600–2D24. These airplanes, which are currently approved under Type Certificate No. A21EA, are swept-wing, T-tail, twin-engine, fuselage mounted turbofan-powered, single aisle, medium sized transport category airplanes.

The applicable regulations to airplanes currently approved under Type Certificate No. A21EA do not require seats to meet the more stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat release and smoke emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of Title 14 Code of Federal Regulations (14 CFR), part 25, Appendix F, parts IV and V, heat release and smoke emission requirements.

Type Certification Basis

Under the provisions of § 21.101 Bombardier must show that the following model airplanes, CL–600–2B19, CL–600–2C10, CL–600–2D15 and CL–600–2D24, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A21AE, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.''

The regulations incorporated by reference in Type Certificate No. A21AE are for the following models:

- CL–600–2B19, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–62;
- CL–600–2C10, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–86:
- CL–600–2D15, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–86, Amendments 25–88 through Amendments 25–90 and Amendments 25–92 through Amendments 25–98.
- CL–600–2D24, regulation 14 CFR part 25, effective February 1, 1965, including Amendments 25–1 through 25–86, Amendments 25–88 through Amendments 25–90 and Amendments 25–92 through Amendments 25–98.

In addition, the certification basis includes other regulations and special conditions that are not pertinent to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model CL–600 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model CL–600 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in § 11.19, under § 11.38 and they become part of the type certification basis under § 21.101.

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

Novel or Unusual Design Features

The Model CL–600 series airplanes will incorporate the following novel or unusual design features: These models offer interior arrangements that include passenger seats that incorporate non-

traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of occupants of the cabin in the case of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels. In order to provide a level of safety that is equivalent to that provided by the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

Definition of ''Non-Traditional, Large, Non-Metallic Panel''

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: seat backs, bottoms and leg/foot rests, kick panels, back shells, credenzas and associated furniture. Examples of traditional exempted parts of the seat include: arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, video monitors and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include those panels directly exposed to the passenger cabin in the traditional sense, plus those panels enveloped such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with § 25.853(a) and § 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Discussion

In the early 1980s the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with large surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash fire survival time. Materials that comply with the standards (*i.e.,* § 25.853 entitled ''Compartment interiors'' as amended by Amendment 25–61 and Amendment 25–66) extend survival time by approximately 2 minutes, over materials that do not comply.

At the time these standards were written, the potential application of the requirements of heat release and smoke emission to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and there were only small amounts of non-metallic materials. It was determined that the overall effect on survivability was negligible, whether or not the food trays met the heat release and smoke requirements. The requirements, therefore, did not address seats. The preambles to both the Notice of Proposed Rule Making (NPRM), Notice No. 85–10 (50 FR 15038, April 16, 1985), and the Final Rule at Amendment 25–61 (51 FR 26206, July 21, 1986), specifically note that seats were excluded ''because the recently-adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats.''

Subsequently, the Final Rule at Amendment 25–83 (60 FR 6615, March 6, 1995) clarified the definition of minimum panel size: ''It is not possible to cite a specific size that will apply in all installations; however, as a general rule, components with exposed-surface areas of one square foot or less may be considered small enough that they do not have to meet the new standards. Components with exposed-surface areas greater than two square feet may be considered large enough that they do have to meet the new standards. Those with exposed-surface areas greater than one square foot, but less than two square feet, must be considered in conjunction with the areas of the cabin in which they are installed before a determination could be made.''

In the late 1990s, the FAA issued Policy Memorandum 97–112–39, ''Guidance for Flammability Testing of Seat/Console Installations,'' October 17, 1997 (*http://rgl.faa.gov*). That memo was issued when it became clear that seat designs were evolving to include large non-metallic panels with surface areas that would impact survivability during a cabin fire event, comparable to partitions or galleys. The memo noted that large surface area panels must comply with heat release and smoke emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs could have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

In October of 2004, an issue was raised regarding the appropriate flammability standards for passenger seats that incorporated non-traditional, large, non-metallic panels in lieu of the traditional metal covered by fabric. The Seattle Aircraft Certification Office and Transport Standards Staff reviewed this design and determined that it represented the kind and quantity of material that should be required to pass the heat release and smoke emissions requirements. We have determined that special conditions would be promulgated to apply the standards defined in § 25.853(d) to seats with large non-metallic panels in their design.

Applicability

These special conditions are applicable to Bombardier model CL–600–2B19 airplanes. Because the heat release testing requirements of § 25.853 per Appendix F, part IV are part of the type certification basis for model CL–600–2B19 airplanes, these special conditions are applicable to model CL–600–2B19 airplanes. Although smoke testing requirements of § 25.853 per Appendix F, part V, are not part of the part 25 certification basis for Bombardier Model CL–600–2B19 airplanes, these special conditions are applicable if the airplanes are in 14 CFR part 121 service. Part 121 requires applicable interior panels to comply with § 25.853 and Appendix F, part V, regardless of the certification basis. It is not our intent to require seats with large non-metallic panels to meet § 25.853 and Appendix F, parts V, if they are installed in cabins of airplanes that otherwise are not required to meet these standards. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

These special conditions are applicable to Bombardier Inc. Model CL–600–2C10, –2D15 and –2D24

airplanes. Because the heat release and smoke testing requirements of § 25.853 are part of the type certification basis for the Model CL–600–2C10, –2D15 and –2D24 airplanes, these special conditions are applicable to the Model CL–600–2C10, –2D15 and –2D24 airplanes. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Seats do not have to meet these special conditions when installed in compartments that are not otherwise required to meet the test requirements of CFR part 25, Appendix F, parts IV and V, for example, airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and those airplanes that do not need to comply with the requirements of 14 CFR 121.312.

Conclusion

This action affects only certain novel or unusual design features on Bombardier Inc. Model CL–600–2B19, –2C10, –2D15 and –2D24 series airplanes. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, the FAA has determined that prior public notice and comment are unnecessary and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

Authority Citation

■ The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Bombardier Inc. Model CL–600–2B19, –2C10, –2D15 and –2D24 series airplanes.

1. Except as provided in paragraph 3 of these special conditions, compliance with heat release and smoke emission testing requirements per 14 CFR part 25 and Appendix F, parts IV and V, is required for seats that incorporate non-traditional, large non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition Number 1, above. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 square foot, middle 1 square foot, and inboard 2.5 square feet).

3. Seats do not have to meet the test requirements of 14 CFR part 25 and Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less,

b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of 14 CFR 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

4. Only airplanes associated with new seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on May 18, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. E9–13188 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

[Docket No. FDA–2009–N–0665]

New Animal Drugs; Change of Sponsor; Fomepizole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) for fomepizole solution for injection from Jazz Pharmaceuticals, Inc., to Paladin Labs (USA), Inc.

DATES: This rule is effective June 5, 2009.

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

SUPPLEMENTARY INFORMATION: Jazz Pharmaceuticals, Inc., 3180 Porter Dr., Palo Alto, CA 94304, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 141–075 for ANTIZOL-VET (fomepizole) to Paladin Labs (USA), Inc., 160 Greentree Dr., suite 101, Dover, DE 19904. Accordingly, the agency is amending the regulations in 21 CFR 522.1004 to reflect the transfer of ownership.

Following these changes of sponsorship, Jazz Pharmaceuticals, Inc., is no longer the sponsor of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove the entries for this sponsor.

In addition, Paladin Labs (USA), Inc., is not currently listed in the animal drug regulations as a sponsor of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to add entries for this sponsor.

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

List of Subjects

21 CFR Part 510

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

21 CFR Part 522

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

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

■ 2. In § 510.600, in the table in paragraph (c)(1) remove the entry for ''Jazz Pharmaceuticals, Inc.'' and alphabetically add a new entry for ''Paladin Labs, Inc.''; and in the table in paragraph (c)(2) remove the entry for ''068727'' and numerically add a new entry for ''046129'' to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* *
Paladin Labs (USA), Inc., 160 Greentree Dr., suite 101, Dover, DE 19904	046129
* * *	* *

(2) * * *

Drug labeler code	Firm name and address
* *	* * *
046129	Paladin Labs (USA), Inc., 160 Greentree Dr., suite 101, Dover, DE 19904
* *	* * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 522 continues to read as follows:

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

§ 522.1004 [Amended]

■ 4. In paragraph (b) of § 522.1004, remove ''068727'' and add in its place ''046129''.

Dated: June 1, 2009.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E9–13126 Filed 6–4–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0385]

RIN 1625–AA09

Drawbridge Operation Regulation; Sturgeon Bay Ship Canal, Sturgeon Bay, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard proposes to temporarily revise the operating regulations for the Maple-Oregon Bridge at Mile 4.17 over the Sturgeon Bay Ship Canal in Sturgeon Bay, WI. This action was requested by the Wisconsin Department of Transportation (Wisconsin DOT) to facilitate vehicular traffic in downtown Sturgeon Bay during the rehabilitation of the Michigan Street Bridge at Mile 4.30 over the Sturgeon Bay Ship Canal. This final rule is expected to reflect the need for bridge openings for the Maple-Oregon Bridge during the Michigan Street Bridge rehabilitation and still provide for the reasonable needs of navigation.

DATES: This temporary final rule is effective from 6 a.m. on June 1, 2009 to 6 p.m. on November 15, 2010.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket USCG–2009–0385 and are available by going to *http://www.regulations.gov*, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0385 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Blair Stanifer, Bridge Management Specialist, Coast Guard Ninth District; telephone 216–902–6086, e-mail: *William.B.Stanifer@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the request to revise the operating schedule for this temporary final rule included extensive preliminary coordination with known affected marine entities, Wisconsin DOT, and the City of Sturgeon Bay, WI, and resulted in a temporary drawbridge schedule that would not significantly impact either vehicular traffic or known navigation.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. As noted above the Coast Guard has conducted extensive preliminary coordination with known affected marine entities, the Wisconsin DOT and the City of Sturgeon Bay, WI and determined that the impact on navigation will be minimal as the bridge will continue to open on demand for commercial vessels and public vessels and on the hour for recreational vessels from March 15 through December 31, and from January 1 through March 14, for any vessel provided at least notice is given at least 12 hours advance. This is the same schedule under which the Michigan Street Bridge currently operates under 33 CFR 117.1101. During renovation the Michigan Street Bridge will remain in the open position and vehicular traffic is expected to use the Maple-Oregon Bridge as an alternate route. Repeated openings would likely cause significant congestion on the vehicular approaches to the bridge. Hourly openings will allow vehicular traffic to plan accordingly and will minimally affect recreational vessels.

Background and Purpose

Wisconsin DOT requested a temporary change to the operating schedule of the Maple-Oregon Bridge at Mile 4.17 over the Sturgeon Bay Ship Canal to facilitate the rehabilitation of the Michigan Street Bridge. The Maple-Oregon Double-Leaf Bascule Bridge navigation span provides for a design clearance of 25 feet above Mean Low

Water in the closed to navigation position. The waterway carries commercial, recreational and public vessel traffic. The bridge is normally required to open on signal for vessels year-round under the general provisions of 33 CFR 117.5. In order to perform the rehabilitation to the Michigan Street Bridge with a minimum of disruptions, Wisconsin DOT has requested that the Maple-Oregon Bridge be required to open for recreational vessels only on the hour, 24 hours a day, seven days a week, between March 15 and December 31. The Maple-Oregon Bridge will continue to open on demand for commercial and public vessels during this period. Between January 1 and March 14, the Maple-Oregon Bridge will open if notice is provided at least 12 hours in advance of a vessel's time of intended passage. As the Michigan Street Bridge currently operates under this schedule as outlined in 33 CFR 117.1101, Wisconsin DOT feels that operating the Maple-Oregon Bridge with this schedule will maintain the expectations of the waterway users and vehicular traffic while the Michigan Street Bridge is rehabilitated in the open to navigation position. The request from Wisconsin DOT also included undefined periods of time where the Maple-Oregon Bridge would not be required to open for any vessel as work being performed on the Michigan Street Bridge would necessitate the occasional, short-term closing of the waterway. The dates of these closure periods can not, and have not, been identified due to the nature of the work, but Wisconsin DOT is required to provide those dates to the Coast Guard 10–14 days in advance of anticipated closure periods. The Coast Guard will issue Broadcast and Local Notices to Mariners covering those dates when they have been finalized.

Regulatory Analyses

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

Regulatory Planning and Review

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. This rule is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security. The temporary drawbridge schedule still provides for the passing of vessels throughout the entire proposed work period. The unspecified closure periods, which are necessary for a limited amount of rehabilitation work being performed on the Michigan Street Bridge, will be published as early as possible in the Ninth Coast Guard District Local and/or Broadcast Notice to Mariners prior to the work beginning.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of recreational vessels intending to transit the bridge from 6 a.m. on June 1, 2009 to 6 p.m. on November 15, 2010, and marine facilities that provide services for recreational vessels. However, this action will not have a significant economic impact on a substantial number of small entities for the following reasons. The Maple-Oregon Bridge was designed to pass a substantial amount of waterway users without the need for an opening. Vessels that can safely transit under the bridge may do so at any time. The remaining vessels will still be granted openings once an hour on the hour, twenty-four hours a day. Before the effective period, we will issue maritime advisories widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 6 a.m. on June 1, 2009 to 6 p.m. on November 15, 2010, temporarily add paragraph (c) to § 117.1101 to read as follows:

§ 117.1101 Sturgeon Bay.

* * * * *

(c) The draw of the Maple-Oregon Bridge at Mile 4.17 at Sturgeon Bay, shall operate as follows:

(1) From June 1 through December 31, 2009, and from March 15 through November 15, 2010 the draw need open for recreational vessels only on the hour, 24 hours a day.

(2) Commercial and Public vessels shall be passed at all times.

(3) From January 1 through March 14, 2010, the draw shall open on signal for all vessels if notice is given at least 12 hours in advance of a vessel's intended time of passage.

Dated: May 18, 2009.

D.R. Callahan,

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

[FR Doc. E9–13103 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0120]

RIN 1625–AA00

Safety Zone; Coronado Fourth of July Fireworks; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the San Diego Bay in support of the Coronado Fourth of July Fireworks. This temporary safety zone is necessary to provide for the safety of crew, spectators, and other users and vessels of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this temporary safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 8:45 p.m. to 9:30 p.m. on July 4, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2009–0120 and are available online by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0120 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Petty Officer Kristen Beer, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7262, e-mail *Kristen.A.Beer@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 27, 2009, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Coronado Fourth of July Fireworks; San Diego Bay, San Diego, CA in the **Federal Register** (74 FR 19034). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

Coronado 4th of July, Inc. is sponsoring the Coronado Fourth of July Fireworks, which will include a fireworks presentation originating from a barge located in Glorietta Bay at approximately 32°40.68′ N, 117°10.18′ W. The safety zone will encompass all navigable waters within 1200 feet of the

fireworks barge. This temporary safety zone is necessary to provide for the safety of the crew, spectators, and other users and vessels of the waterway.

Regulatory Analyses

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

Regulatory Planning and Review

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

This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the established safety zone during the specified times unless authorized to do so by the Captain of the Port or his designated representative.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the San Diego Bay from 8:45 p.m. to 9:30 p.m. on July 4, 2009.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced only 45 minutes late in the evening when vessel traffic is low. Although the safety zone will apply to the entire width of Glorietta Bay, traffic will be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via marine channel 16 VHF before the temporary safety zone is enforced.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a new temporary zone § 165.T11–176 to read as follows:

§ 165.T11–176 Safety Zone; Coronado Fourth of July Fireworks; San Diego Bay, San Diego, CA.

(a) *Location.* The limits of the safety zone are all the navigable waters within 1200 feet of the fireworks barge located in Glorietta Bay at approximately 32°40.68′ N, 117°10.18′ W.

(b) *Enforcement Period.* This section will be enforced from 8:45 p.m. to 9:30 p.m. on July 4, 2009. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *Designated representative,* means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, State, and Federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF–FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other Federal, State, or local agencies.

Dated: May 5, 2009.

T.H. Farris,

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

[FR Doc. E9–13107 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AN25

Severance Pay, Separation Pay, and Special Separation Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to incorporate relevant statutory provisions regarding severance pay, separation pay, and special separation benefits. These amendments are necessary to conform the regulation to statutory provisions.

DATES:

Effective Date: These amendments are effective June 5, 2009.

Applicability Date: The amendment to 38 CFR 3.700(a)(3) applies to members of the Armed Forces separated under 10 U.S.C. chapter 61 on or after January 28, 2008. The amendment to 38 CFR 3.700(a)(5) applies to payments of special separation benefits made on or after December 5, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas J. Kniffen, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9725.

SUPPLEMENTARY INFORMATION: We are amending 38 CFR 3.700 to implement statutory changes.

38 CFR 3.700(a)(3)—Disability Severance Pay

Section 1212 of title 10, United States Code, which authorizes disability severance pay, generally requires that the amount of disability severance pay received for a disability be deducted from any VA compensation awarded for the same disability. However, the National Defense Authorization Act for Fiscal Year 2008, Public Law 110–181, Div. A, Title XVI, Subtitle D, section 1646(b), amended 10 U.S.C. 1212 to provide that no deduction may be made from VA compensation for disability severance pay received for disabilities incurred in line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Department of Defense (DoD). The DoD designation of whether a disability was incurred in a combat zone or incurred during performance of duty in combat-related operations will govern only whether a deduction may be made from VA compensation paid for the disability for which disability severance pay was received. VA will continue to determine whether the disability resulted from disease or injury incurred or aggravated in line of duty in active service for purposes of determining entitlement to VA disability compensation. The amendment applies to members of the Armed Forces separated from the Armed Forces under Chapter 61 of title 10, United States Code, on or after January 28, 2008.

Section 3.700(a)(3) is VA's regulation governing offset of disability severance pay from VA compensation. Generally, an award of compensation will be made subject to recoupment of any disability severance pay received for the same disability. We are adding to the regulation a new provision specifying that there will be no recoupment of disability severance pay for disabilities identified by the DoD as being incurred in combat zones or during performance of duty in combat-related operations.

Because of the amendments to 38 U.S.C. 1212 made by the National Defense Authorization Act for Fiscal Year 2008, the authority for § 3.700(a)(3) has changed from section 1212(c) to section 1212(d). We are making this change in the authority citation in the regulation.

38 CFR 3.700(a)(5)—Separation Pay and Special Separation Benefits

In Public Law 102–190, section 661(a)(1), effective December 5, 1991, Congress added the special separation benefits program to be carried out by the DoD. See 10 U.S.C. 1174a.

To avoid duplication of benefits resulting from the special separation benefits program, section 1174a(g) makes the provisions of 10 U.S.C. 1174(h)(2) applicable to special separation benefits. Section 1174(h)(2) states that a member who has received separation pay based on service in the Armed Forces shall not be deprived, by reason of his receipt of such pay, of any disability compensation to which he is entitled under the laws administered by VA, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay received. In Public Law 104–201, section 653, Congress amended section 1174(h)(2) by providing that the amount deducted from disability compensation would be the total amount of separation pay received less the amount of Federal income tax withheld from such pay (such withholding being at the flat withholding rate for Federal income tax withholding). This amendment was made applicable to payments of separation pay made after September 30, 1996.

In 1998, Congress enacted Public Law 105–178, section 8208, which extended the applicability of the amendment made by Public Law 104–201 to any payment of special separation benefits under section 1174a made during the period beginning on December 5, 1991, and ending on September 30, 1996.

In 2002, VA revised its regulation concerning concurrent benefits, 38 CFR 3.700, to incorporate the offset requirements, including the reduction of the amount of offset by the amount of Federal income tax withheld from separation pay or special separation benefits. 67 FR 60867 (Sept. 27, 2002). However, VA did not specify that the reduction for Federal income tax withheld was applicable to payments of special separation benefits made on or after December 5, 1991. Nonetheless, VA's practice has been to recoup the after-tax amount since December 5, 1991. We are now amending the regulation to conform to the statute and current practice. We are amending § 3.700(a)(5) by creating a new § 3.700(a)(5)(iii) that will address special separation benefits, and we will remove the special separation benefits references from current § 3.700(a)(5)(i).

We will also add a clarification in § 3.700(a)(5) for both separation pay and special separation benefits that the Federal income tax withholding amount is at the flat withholding rate for Federal income tax withholding, to ensure the regulations accurately reflect the statute.

Administrative Procedures Act

This final rule merely restates statutory provisions. Accordingly, there is a basis for dispensing with prior notice and comment and the delayed effective date provisions of 5 U.S.C. 553.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this rule 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 rule would not affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this rule 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), 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 final rule have been examined and it has been determined not to be a significant regulatory action.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This 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 number and title for this rule is 64.109, Veterans Compensation for Service-Connected Disability.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: April 29, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.700 as follows:

■ a. In paragraph (a)(3), add a sentence at the end of the paragraph and revise its authority citation.

■ b. In paragraph (a)(5)(i), remove ''or special separation benefits'' and ''under section 1174a'' each place it appears, and add a sentence at the end of the paragraph.

■ c. Remove the authority citation at the end of paragraph (a)(5)(ii).

■ d. Add paragraph (a)(5)(iii) and an authority citation.

The revision and additions read as follows:

§ 3.700 General.

* * * * *

(a) * * *

(3) * * * For members of the Armed Forces who separated under Chapter 61 of title 10, United States Code, on or after January 28, 2008, no recoupment of severance pay will be made for disabilities incurred in line of duty in a combat zone or incurred during performance of duty in combat-related operations as designated by the Department of Defense.

(Authority: 10 U.S.C. 1174(h)(2) and 1212(d))

* * * * *

(5) * * *

(i) * * * The Federal income tax withholding amount is the flat withholding rate for Federal income tax withholding.

* * * * *

(iii) Where payment of special separation benefits under 10 U.S.C. 1174a was made on or after December 5, 1991, VA will recoup from disability compensation an amount equal to the total amount of special separation benefits less the amount of Federal income tax withheld from such pay. The Federal income tax withholding amount is the flat withholding rate for Federal income tax withholding.

(Authority: 10 U.S.C. 1174 and 1174a)

* * * * *

[FR Doc. E9–13212 Filed 6–4–09; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 4

RIN 2900–AN22

Pension Management Center Manager

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) regulations to add the Pension Management Center Manager as a person who, in addition to the Veterans Service Center Manager, is authorized to review decisions on benefit claims and authorized to approve permanent and total disability evaluations on an extraschedular basis for pension purposes. These changes are made to reflect the duties of the Pension Management Center Manager.

DATES: *Effective Date:* June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Thomas J. Kniffen, Chief, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9725.

SUPPLEMENTARY INFORMATION: In fiscal year 2002, all VA pension management activities were consolidated from the VA's Regional Offices to three Pension Management Centers (PMCs), which are located in Philadelphia, Pennsylvania, Milwaukee, Wisconsin, and St. Paul, Minnesota. Recently, VA has decided to consolidate nearly all of its pension activities (including original pension claims processing), which were previously done at regional office Veterans Service Centers (VSCs), to the PMCs.

Therefore, most activities involving pension that would previously have been within the duties of the Veterans Service Center Manager (VSCM) at the VSC will be transferred to the Pension Management Center Manager (PMCM) at the PMC. This rulemaking amends 38 CFR 3.2600, as well as 38 CFR 3.321 and 4.17, to reflect the position of the PMCM as the person authorized to perform these activities. Specifically, these activities are reviewing benefit decisions under § 3.2600 and determining entitlement to permanent and total disability ratings, on an extraschedular basis, for pension purposes under § 3.321(b)(2) and § 4.17(b). Adding the PMCM as a person authorized to perform these activities allows claims involving both compensation and pension to be processed at either the PMC or the VSC, as appropriate.

We are not intending any substantive change to the regulations, merely including the new position of the PMCM in VA's regulations.

Administrative Procedure Act

This document is being published as a final rule pursuant to 5 U.S.C. 553, which excepts matters pertaining to internal agency management and personnel from its notice, comment, and delayed effective date requirements.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule 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 final rule would not affect any small entities. Only VA's internal procedures for processing claims of individuals will be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866–Regulatory Planning and Review

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 final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This final 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 rule are 64.104, Pension for

Non-Service-Connected Disability for Veterans; and 64.105, Pension to Veterans Surviving Spouses, and Children.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

38 CFR Part 4

Disability benefits, Pensions, Veterans.

Approved: April 28, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR parts 3 and 4 are amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.321 [Amended]

■ 2. Section 3.321(b)(2) is amended by removing ''Manager;'' and adding, in its place, ''Manager or the Pension Management Center Manager;''.

Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

■ 3. The authority citation for part 3, subpart D continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 4. Section 3.2600(a) is amended by revising the second sentence to read as follows:

§ 3.2600 Revision of benefit claims decisions.

(a) * * * The review will be conducted by a Veterans Service Center Manager, Pension Management Center Manager, or Decision Review Officer, at VA's discretion. * * *

* * * * *

PART 4—SCHEDULE FOR RATING DISABILITIES

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

Authority: 38 U.S.C. 1155, unless otherwise noted.

Subpart A—General Policy in Rating

§ 4.17 [Amended]

■ 6. Section 4.17(b) is amended by removing ''Manager'' and adding, in its place, ''Manager or the Pension Management Center Manager''.

[FR Doc. E9–13211 Filed 6–4–09; 8:45 am]

BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 20

Customs Label Requirements When Mailing Items Internationally

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service has revised its customs label requirements when mailing items internationally. This revision will comply with the Universal Postal Union (UPU) Letter Post Regulations.

DATES: *Effective Date:* July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Rick Klutts, 813–877–0372.

SUPPLEMENTARY INFORMATION: The Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®) part 123 and sections 217.3, 232.4, 244.5, and 276 to comply with Article RL 152.5 of the Universal Postal Union (UPU) Letter Post Regulations. Under that provision, all small packet items must bear customs declarations CN 22 (PS Form 2976) or CN 23 (PS Form 2976–A), depending on value and regardless of whether the items are ordinarily subject to customs control in the destination country. Small packets are Letter Post items that are not letters, cards, or flats, and that typically contain merchandise or other goods.

In terms of Postal Service products, the small packet category includes package-size First-Class Mail International™ items and the Priority Mail® Small Flat-Rate Box, as well as certain Priority Mail Flat-Rate Envelopes meeting specific physical characteristics. We clarify that all such items, regardless of contents or value, must bear a PS Form 2976, *Customs Declaration CN 22—Sender's Declaration.* Current Postal Service standards only require a customs declaration for package-size First-Class Mail International items that contain potentially dutiable contents.

This change also applies to ''known mailers'', as defined in IMM 123.62, who send documents weighing 16 ounces or more. With these revisions, only mailpieces that meet the physical characteristic of a letter or flat may qualify—small packet items must bear a PS Form 2976.

For customer convenience, this change allows the Priority Mail Flat-Rate Envelopes containing only non-dutiable document contents weighing less than 16 ounces, and that are flat-size (no more than ¾ inch thick and uniformly thick), to be mailed without a PS Form 2976. However, a customs declaration will still be required for First-Class Mail International items and Priority Mail Flat-Rate Envelopes with non-dutiable contents if those items weigh 16 ounces or more.

As a further result of UPU Letter Post Regulation Article RL152, which stipulates that customs declarations must be affixed to the outside of the mailpiece, and consistent with USPS® aviation security guidelines, we will no longer allow the option to place a PS Form 2976 on the outside of a package and insert the required PS Form 2976–A within the package.

We are also clarifying that packaging must be large enough to accommodate the applicable customs form(s), postage, and any applicable markings and extra service labels on the address side of the item to be mailed, and that items requiring an export license must always use a PS Form 2976–A. As a result of these requirements, and consistent with UPU Articles RC 120 and 121, we are clarifying in Exhibit 123.61 that PS Form 2976–A (which is a parcel customs declaration) may not be used on Letter Post items. Letter Post items include First-Class Mail International items, the Priority Mail International flat-rate envelope and small flat-rate box, International Priority Airmail (IPA) items, and International Surface Air Lift (ISAL) items. Consequently, certain items that were previously mailable in one of the aforementioned Letter Post categories will now be required to be mailed via a different category of mail. Specifically, these include First-Class Mail International items over $400 in value, or any item requiring an export license.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR Part 20.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

■ Accordingly, 39 CFR Part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3622, 3632, and 3633.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM) as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

1 International Mail Services

* * * * *

120 Preparation for Mailing

* * * * *

123 Customs Forms and Online Shipping Labels

* * * * *

123.6 Required Usage

123.61 Conditions

[Revise 123.61 as follows:]

The following conditions apply to customs forms for international mail items:

a. Except as provided in 123.62, mailers must use PS Form 2976 or PS Form 2976–A as described in Exhibit 123.61.

b. The surface area of the address side of the item to be mailed must be large enough to contain completely the applicable customs form, postage, and any applicable markings, endorsements, and extra service labels.

c. Regardless of any listing in Exhibit 123.61, items containing articles that require an export license (see 532) must always bear PS Form 2976–A.

Exhibit 123.61 Customs Declaration Form Usage by Mail Category

Type of item	Declared value, weight, or physical characteristic	Required PS Form	Comment
Global Express Guaranteed Items			
All items	All values	6182	PS Form 6182, *Commercial Invoice,* is required for certain commodities and destinations. For determination, see Publication 141, *Global Express Guaranteed Service Guide.*
Express Mail International Items			
All items	All values	2976 or 2976–A	Required customs forms and endorsements vary by country and are specified in the Individual Country Listings.
Priority Mail International Items except Flat-Rate Envelope and Small Flat-Rate Box			
All Priority Mail International items except the flat-rate envelope and small flat-rate box.	All values	2976–A	Except for the Priority Mail International flat-rate envelope and small flat-rate box, all items mailed in USPS-produced Priority Mail International packaging or any other container bearing a Priority Mail sticker or marked with the words ''Priority Mail'' are considered to be within the scope of this requirement.
Priority Mail International Flat-Rate Envelope (Maximum weight limit: 4 pounds)			
All Priority Mail International flat-rate envelopes containing only documents except for the known mailer exemption described in the entry below.	Under 16 ounces, no more than ¾-inch thick, and uniformly thick.	None*.	
	16 ounces or more, more than ¾-inch thick, or not uniformly thick.	2976.	
All Priority Mail International flat-rate envelopes containing only documents that are entered by a known mailer as defined in 123.62.	No more than ¾-inch thick and uniformly thick.	None*.	
	More than ¾ inch thick or not uniformly thick.	2976.	
All Priority Mail International flat-rate envelopes containing potentially dutiable contents, regardless of weight.	$400 or less	2976	Merchandise is permitted unless prohibited by the destination country.
	Over $400	Prohibited	Items over $400 must be mailed using Global Express Guaranteed service, Express Mail International service, or Priority Mail International service (other than the flat-rate envelope or small flat-rate box).
Priority Mail International Small Flat-Rate Box (Maximum weight limit: 4 pounds)			

Type of item	Declared value, weight, or physical characteristic	Required PS Form	Comment
All Priority Mail International small flat-rate boxes, regardless of contents.	$400 or less	2976	Merchandise is permitted unless prohibited by the destination country.
	Over $400	Prohibited	Items over $400 must be mailed using Global Express Guaranteed service, Express Mail International service, or Priority Mail International service (other than the flat-rate envelope or small flat-rate box).
First-Class Mail International Letters and Large Envelopes (Flats), Including International Priority Airmail (IPA) Items and International Surface Air Lift (ISAL) Items (Maximum weight limit: 4 pounds)			
All letter-size and flat-size items, as defined in 243, containing only documents except for the known mailer exemption described in the entry below.	Under 16 ounces	None*.	
	16 ounces or more	2976.	
All letter-size and flat-size items, as defined in 243, containing only documents that are entered by a known mailer as defined in 123.62.		None*.	
All items containing potentially dutiable contents, regardless of weight.	$400 or less	2976	Merchandise is permitted unless prohibited by the destination country.
	Over $400	Prohibited	Items over $400 must be mailed using Global Express Guaranteed service, Express Mail International service, or Priority Mail International service (other than the flat-rate envelope or small flat-rate box).
First-Class Mail International Packages (Small Packets), Including IPA Items and ISAL Items (Maximum weight limit: 4 pounds)			
All First-Class Mail International packages (small packets), as defined in 243.4, regardless of contents.	$400 or less	2976	Merchandise is permitted unless prohibited by the destination country.
	Over $400	Prohibited	Items over $400 must be mailed using Global Express Guaranteed service, Express Mail International service, or Priority Mail International service (other than the flat-rate envelope or small flat-rate box).
Free Matter for the Blind or Other Physically Handicapped Persons			
All items	Follow above requirements for relevant mail category, as appropriate.	Follow above requirements for relevant mail category, as appropriate.	Free matter for the blind or other physically handicapped persons requires a customs form for all articles.
M-bags (Airmail, IPA Service, and ISAL Service)			
All M-bags	$400 or less	2976	A fully completed PS Form 2976 must to be affixed to PS Tag 158, M-bag Addressee Tag.
	Over $400	Prohibited.	

*Qualifying items must be uniformly thick (243.34). First-Class Mail International items claimed at the package price, or Priority Mail International flat-rate envelopes that are not uniformly thick, or IPA and ISAL packages (small packets) containing only documents must always use PS Form 2976.

123.62 Known Mailers

[Revise 123.62 as follows:]

123.621 Overview

A ''known mailer'' may be exempt from the customs form requirement that would otherwise apply to flat-size mailpieces as defined in 243, weighing 16 ounces or more. A ''known mailer'' must meet one of the definitions in 123.622 and must meet the conditions in 123.623.

123.622 Definition

A ''known mailer'' must meet one of the following definitions:

a. A federal, state, or local government agency whose mail is regarded as Official Mail.

b. A contractor who sends out prepaid mail on behalf of a military service, provided the mail is endorsed ''Contents for Official Use—Exempt from Customs Requirements.''

c. A business mailer who enters volume mailings through a business mail entry unit (BMEU) or other bulk mail acceptance location, completes a

postage statement at the time of entry, pays postage through an advance deposit account, and uses a permit imprint for postage payment. For this purpose, the categories of mail that qualify are as follows:

1. Priority Mail International flat-rate envelope.
2. First-Class Mail International service.
3. International Priority Airmail (IPA) service.
4. International Surface Air Lift (ISAL) service.

123.623 Conditions

The following conditions apply to ''known mailers'':

1. The mailpieces must contain no merchandise items or other contents that are potentially dutiable.
2. The mailpieces must be letter-size or flat-size as defined in 243.
3. If the mailpieces are mailed with a postage statement, the mailer must certify on the postage statement that the mailpieces contain no dangerous materials that are prohibited by postal regulations.
4. The import regulations of the destination country must allow individual mailpieces without a customs form affixed.
5. For IPA and ISAL mailings, the mailer must pay with a permit imprint or with a combination postage method (meter postage affixed to the piece and additional postage by permit imprint). IPA and ISAL mailpieces that are paid for by postage solely with a meter do not qualify for the ''known mailer'' exemption.

* * * * *

123.7 Completing Customs Forms

* * * * *

123.72 PS Form 2976–A, Customs Declaration and Dispatch Note—CP 72

123.721 Sender's Preparation of PS Form 2976–A

* * * * *

[Revise item r to read as follows in its entirety:]

Place the form set inside PS Form 2976–E (plastic envelope) and affix it to the address side of the package. Allow the Postal Service employee to complete PS Form 2976–A as described in 123.722.

* * * * *

2 Conditions for Mailing

210 Global Express Guaranteed

* * * * *

217 Mail Preparation

* * * * *

[Revise the heading and text of 217.3 as follows:]

217.3 Customs Forms

PS Form 6182, *Commercial Invoice*, is required for certain commodities and destinations. For determination, see Publication 141, *Global Express Guaranteed Service Guide.*

* * * * *

230 Priority Mail International

* * * * *

232 Priority Mail International Flat-Rate Envelope and Small Flat-Rate Box

* * * * *

[Revise the heading and text of 232.4 as follows:]

232.4 Customs Forms

Priority Mail International flat-rate envelopes (see 123.61) may be required to bear PS Form 2976 depending on their physical characteristics and may not exceed $400 in value. Priority Mail International small flat-rate boxes must always bear PS Form 2976 and may not exceed $400 in value.

* * * * *

240 First-Class Mail International

* * * * *

244 Mail Preparation

* * * * *

244.5 Customs Forms Required

244.51 Dutiable Merchandise

* * * * *

[Revise item c and add new item d as follows:]

c. When mailing articles that may be dutiable, the sender must use PS Form 2976 (see 123) and must also follow the special instructions under ''Customs Forms Required'' and ''Observations'' in the Individual Country Listings.

d. The maximum value for dutiable merchandise is $400. Items over $400 must be mailed using Global Express Guaranteed service, Express Mail International service, or Priority Mail International service (other than the flat-rate envelope or small flat-rate box).

* * * * *

260 Direct Sacks of Printed Matter to One Addressee (M-bags)

* * * * *

264 Mail Preparation

* * * * *

264.3 Customs Forms Required

[Revise 264.3 as follows:]

M-bags that contain potentially dutiable printed matter or any category of printed matter that is combined with allowable merchandise items (see 261.22) must be accompanied by a fully completed PS Form 2976, which is to be affixed to PS Tag 158, *M-bag Addressee Tag.* The maximum allowable value is $400.

* * * * *

270 Free Matter for the Blind or Other Physically Handicapped Persons

* * * * *

276 Customs Forms Required

[Revise the first sentence in 276 as follows:]

As defined in Exhibit 123.61, a fully completed PS Form 2976 or 2976–A must be affixed to each item. * * *

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. E9–13078 Filed 6–4–09; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2000–0007; FRL–8912–1]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct Final Notice of Deletion of the Callaway & Son Drum Services Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is publishing a direct final Notice of Deletion of the Callaway & Son Drum Services Superfund Site, located in Lake Alfred, Polk County, Florida from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Florida, through the Florida Department of Environmental Protection, because EPA has determined that all appropriate response actions under CERCLA, other than five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective August 4, 2009 unless EPA receives adverse comments by July 6, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–2000–0007, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *E-mail: jackson.galo@epa.gov.*
- *Fax:* (404) 562–8842.
- 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
- *Hand delivery:* 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation (8 a.m. to 4:30 p.m.), and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–2000–0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the Docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statue. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

U.S. EPA Record Center, attn: Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960, Phone: (404) 562–8862. Hours: 8 a.m. to 4 p.m., Monday through Friday. By Appointment Only.

Lake Alfred Public Library, 195 East Pomelo Street, Lake Alfred, Florida 33850, Phone: (863) 291–5378. Hours: 10 a.m. to 6 p.m., Monday through Friday 9 a.m. to 2 p.m., Saturday closed, Sunday.

FOR FURTHER INFORMATION CONTACT: Galo Jackson, Remedial Project Manager, Environmental Protection Agency, Region 4, 4WD–SRB, 61 Forsyth Street, SW., Atlanta, GA 30303–8960, (404) 562–8937, e-mail: *jackson.galo@epa.gov.*

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region 4 is publishing this direct final Notice of Deletion of the Callaway & Son Drum Services Superfund Site, from the NPL. The NPL constitutes Appendix B of 40 CFR part 300, which is the NCP, which EPA promulgated pursuant to section 105 of the CERCLA of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). As described in 300.425(e) (3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective August 4, 2009 unless EPA receives adverse comments by July 6, 2009. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the ''Proposed Rules'' section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Callaway & Son Drum Services Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the state, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121 (c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of Florida prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co- published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA has provided the State of Florida 30 working days for review of this notice and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the Florida Department of Environmental Protection, has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, the Lakeland Ledger. The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Background and History

The Callaway & Son Drum Services (CSDS) Superfund Site (CERCLIS ID FLD094590916) is located in Lake Alfred, Polk County, Florida. The approximately nine and a half acre Site is located 55 miles east of Tampa and 43 miles west of Orlando, Florida. The Site lies between the Seaboard System Railroad tracks on the north and U.S. Highway 17–92 on the south. The City of Lake Alfred Wastewater Treatment Plant is located adjacent to and west of the Site. The Redwoods Apartments are located adjacent to and east of the Site. A garden nursery borders the property to the southwest.

CSDS was a family business, which operated from mid-1977 through early 1991 as a re-furbisher and reseller of used 55-gallon oil, solvent and citrus products drums. About 20 spent oil drums were cleaned, sandblasted and painted on an average day. During the citrus season, approximately 500 open-top drums were sandblasted and, if needed, painted every day.

At the operation's height, the facility once was estimated to have 60,000 drums present on the Site. Approximately 71 of the drums left abandoned on the uplands were removed and disposed of during a 1995 removal action conducted by the Florida Department of Environmental Protection (FDEP). The remaining drums and drum carcasses, estimated to be between two-to-three thousand, were removed and disposed of in December 2001 by contractors to EPA.

The CSDS Site first came to the attention of the Florida Department of Environmental Regulation (FDER, now FDEP) in October 1982, through the owner's application to construct/operate an industrial wastewater treatment and disposal system for the rinse water. Analyses of the rinse water discharge collected in December 1982 detected oil and grease and several inorganic analytes, including chromium, iron, and lead.

In early March 1984, members of the FDER Groundwater Section Operation Response Team conducted a site inspection of the CSDS Site. As a result of that inspection, FDER issued a warning notice to the owner for unauthorized discharge of organic solvents into surface and groundwater and for failure to provide a groundwater monitoring plan. A monitoring plan was subsequently submitted in January 1985. The plan proposed the installation of three monitoring wells. In July 1985, FDER completed a Potential Hazardous Waste Site Preliminary Assessment for the CSDS Site. The assessment recommended that the Site be given a low priority of inspection at the time, due to the then recent sampling conducted by FDER and the January 1985 submittal of a groundwater monitoring plan.

In June 1994, the FDER filed a Notice of Violation and Order for Corrective Action against the owner. The Notice of Violation was based upon the results of the Site Investigation, which revealed improper drum disposal and storage, as well as onsite soil and groundwater contamination. The owner was given the opportunity to petition the FDER for a hearing to address the Notice of Violation. The owner did not file for a petition and in October 1994, FDER filed a final Order against him.

The EPA proposed the Site to the NPL on February 4, 2000 through publication in the **Federal Register** (Volume 65, Number 24). The Site was finalized on the NPL through publication in the **Federal Register** on May 11, 2000 (Volume 65, Number 92).

Remedial Investigation (RI)

EPA initially conducted RI filed activities from February 2002 through August 2003. The following summarizes the scope of the RI for the CSDS Site:

- Determined the nature and extent of groundwater, soil, sediment, and surface water contamination relative to local background conditions that were attributable to the Site;
- Determined the extent of human contact with potentially contaminated media;
- Collected and evaluated the data necessary to develop a human health risk assessment; and
- Collected and evaluated the data necessary to develop an ecological risk assessment.

The 2002 surface and subsurface soil semivolatile organic compound (SVOCs) results reported a significant number of tentatively identified and/or unidentified compounds. At that time, EPA consulted with FDEP (prior to issuing a Proposed Plan) on the remedy, which consisted of a deed notice to notify prospective buyers of the presence of the unidentified and tentatively identified compounds, as well as groundwater monitoring for a limited period of time. In the event that the monitoring did not indicate contaminant concentrations of concern, groundwater monitoring was to be discontinued. FDEP did not concur with that proposed remedy as a final remedy. As a result, EPA conducted additional studies between 2004 and 2006 to determine the identity, concentration and toxicities of the tentatively identified and unidentified semivolatile compounds.

The question of the risks posed by tentatively identified and unidentified semivolatile organic compounds to

human health were evaluated with the assistance of the EPA Office of Research and Development and the Superfund Health Risk Technical Support Center. Uncertainties related to non-cancer effects pertaining to the risks posed by the semivolatile organic contaminants identified in surface and subsurface soil were reduced, though not entirely eliminated. The evaluation concluded that an overwhelming majority of the compounds analyzed were not detected. Those SVOCs that were present in surface and subsurface soil were found below preliminary remediation goals and a hazard index of 1.0. In addition, two rounds of groundwater sampling conducted during 2007 showed that the tentatively and unidentified semivolatile organic compounds are not present in the Site's groundwater.

Selected Remedy

EPA, in consultation with FDEP, selected a No Action Record of Decision (ROD) at the CSDS Site on September 12, 2007. As discussed above, this decision was based principally on the outcome of both human health and ecological risk assessments. The estimates of human risks under the various exposure scenarios found that cancer and non-cancer risks posed by the Site's media were well within the ranges found acceptable by EPA.

Five-Year Review

Although hazardous substances are not known to be present onsite above levels allowing for unlimited use and unrestricted exposure, a discretionary five year review will be conducted by EPA within five years of the signing of the 2007 ROD. The purpose of this review is to revisit the issue related to the presence of tentatively identified and unidentified semivolatile organic compounds believed to be present in the Site's soil.

Community Involvement

Community relations involvement efforts for the CSDS Site began in August 2000 when the Florida Department of Health, Agency for Toxic Substances and Disease Registry and EPA publicized and held a public availability session, for the purpose of communicating the results of the health consultation and to inform the community of the Site's status. In mid-2002, EPA finalized the Site's Community Involvement Plan. Area residents were contacted as part of the community involvement work. An information repository was established at the Lake Alfred Public Library. Documents supporting both the removal action and the 2007 ROD were made available to the public at the Site's information repository, prior to the issuance of this ROD. On July 6, 2007, EPA published a Notice of Proposed Plan Public Comment Period and offered a public meeting. Only one comment was received during the comment period. No requests for a Public Meeting or extension of the comment period were received. Information which EPA has relied on or considered in recommending this deletion are available for the public to review at the information repositories identified above.

Determination That the Site Meets the Criteria for Deletion in the NCP

All of the completion requirements for this Site have been met, as described in the December 2007 Final Close-Out Report. The State of Florida has concurred with the proposed deletion of this Site from the NPL.

The NCP specifies that EPA may delete a site from the NPL if, ''all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate.'' 40 CFR 300.425(e)(1)(ii). EPA with the concurrence of the State of Florida, through the FDEP, believes that this criterion for deletion has been met. Consequently, EPA is deleting this Site from the NPL. Documents supporting this action are available in the Site files.

V. Deletion Action

EPA, with concurrence of the State of Florida through the FDEP, has determined that all appropriate response actions under CERCLA, other than five-year reviews have been completed. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective August 4, 2009 unless EPA receives adverse comments by July 6, 2009. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: May 19, 2009.

J. Scott Gordon,

Acting Regional Administrator, EPA Region 4.

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''Callaway & Son Drum Service'', ''Lake Alfred, Florida.''

[FR Doc. E9–13165 Filed 6–4–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

47 CFR Part 400

[Docket No. NHTSA–2008–0142]

RIN 2127–AK37

E–911 Grant Program

AGENCIES: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT); National Telecommunications and Information Administration (NTIA), Department of Commerce (DOC).

ACTION: Final rule.

SUMMARY: This joint Final Rule implements the E–911 grant program authorized under the Ensuring Needed Help Arrives Near Callers Employing 911 (ENHANCE 911) Act of 2004 (Pub. L. 108–494, codified at 47 U.S.C. 942). The Act authorizes grants for the implementation and operation of Phase II enhanced 911 services and for migration to an IP-enabled emergency network. To qualify for a grant, an applicant must submit a State 911 plan and project budget, designate an E–911 coordinator, and certify, among other things, that the State and other taxing

jurisdictions within the State have not diverted E–911 charges for any other purpose within 180 days preceding the application date. This Final Rule establishes the requirements an applicant must meet and the procedures it must follow to receive an E–911 grant.

DATES: This Final Rule becomes effective on June 5, 2009.

FOR FURTHER INFORMATION CONTACT: *For program issues:* Mr. Drew Dawson, Director, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., NTI–140, Washington, DC 20590. Telephone: (202) 366–9966. E-mail: *Drew.Dawson@dot.gov.*

For legal issues: Ms. Jin Kim, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., NCC–113, Washington, DC 20590. Telephone: (202) 366–1834. E-mail: *Jin.Kim@dot.gov.*

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I. Background

Trends in telecommunications mobility and convergence have put the nation's 911 system at a crossroads. The growing market penetration of both wireless telephones (commonly known as mobile or cell phones) and Voice over Internet Protocol (VoIP) telephony have underscored the limitations of the current 911 infrastructure. The 911 system, based on decades-old technology, cannot handle the text, data, image and video that are increasingly common in personal communications and critical to emergency response.

Many of the limitations of the current 911 system stem from its foundation on 1970s circuit-switched network technology. Each introduction of a new access technology (*e.g.,* wireless) or expansion of system functions (*e.g.,* location determination) requires significant engineering and system modifications. There appears to be consensus within the 911 community on the shortcomings of the present 911 system and the need for a new, more capable system, based upon a digital, Internet-Protocol (IP) based infrastructure.

Today, there are approximately 255 million wireless telephones in use in the United States. About 80 percent of Americans now subscribe to wireless telephone service and 14 percent of American adults live in households with only wireless telephones, i.e., no landline telephones. Of the estimated 240 million 911 calls made each year, approximately one-third originate from wireless telephones. In many communities, at least half of the 911 calls come from wireless telephones. Unlike landline 911 calls, not all wireless 911 calls are delivered to dispatchers with Automatic Number Information (ANI) and Automatic Location Information (ALI), two pieces of information that aid in identifying the telephone number and geographic location of the caller. The increasing use of VoIP communications has compounded this problem because the location of the caller cannot automatically be determined when a 911 call is made on some interconnected VoIP services. Without this information, emergency response times may be delayed. Prompt and accurate location information is critical to delivering emergency assistance. Ensuring enhanced 911 (E–911) service for each caller, i.e., telephone number and location information of the caller, is increasingly important to public safety, given the vast number of 911 calls originating from wireless and VoIP telephones.

Successful E–911 service implementation requires the cooperation of multiple distinct entities: Wireless carriers, wireline telephone companies (also known as local exchange carriers), VoIP providers, and Public Safety Answering Points (PSAPs). A PSAP is a facility that has been designated to receive emergency calls and route them to emergency personnel. For example, when a 911 call is made from a wireless telephone, the wireless carrier must be able to determine the location of the caller, the local exchange carrier must transmit that location information from the wireless carrier to the PSAP, and the PSAP must be capable of receiving such information.

Currently, many PSAPs are not technologically capable of receiving ANI and ALI from wireless 911 calls. In order to receive this information, PSAPs must upgrade their operations centers and make appropriate trunking arrangements (i.e., establish a wired connection between the PSAP and the networks of the local wireline telephone companies) to enable wireless E–911 data to pass from the wireless carrier to the PSAP. Once a PSAP is technologically capable of receiving this information, the PSAP can submit requests to wireless carriers for E–911 service. Under Federal Communications Commission (FCC) regulations, this request triggers a wireless carrier's obligation to deploy E–911 service to a PSAP.

Upgrading the 911 system to an IP-enabled emergency network will enable E–911 calls from more networked communication devices, enable the transmission of text messages, photographs, data sets and video, enable geographically independent call access, transfer, and backup among and between PSAPs and other authorized emergency organizations, and support an ''interoperable internetwork'' of all emergency organizations.

Many PSAPs do not have the resources to make the upgrades necessary to request E–911 service. Some PSAPs are able to fund upgrades from their existing budgets, but other PSAPs must rely on funds collected by the State to maintain operation and make capital improvements to 911 services. While most States collect some type of wireless fee or surcharge on consumers' wireless telephone bills to help fund PSAP operations and upgrades, not all State laws ensure that such surcharges are dedicated to their intended use. In fact, some States have used E–911 surcharges to satisfy other State obligations that may be marginally related to public safety, even though PSAPs remain unable to receive E–911 service. *See, e.g.,* Government Accountability Office (GAO), States' Collection and Use of Funds for Wireless Enhanced 911 Services, GAO–

06–338 (March 2006); see also GAO, Survey on State Wireless E911 Funds, GAO–06–400sp (2006).

Recognizing the need for dedicated funding of E–911 services, the Ensuring Needed Help Arrives Near Callers Employing 911 (ENHANCE 911) Act of 2004 (Pub. L. 108–494, codified at 47 U.S.C. 942) was enacted ''to improve, enhance, and promote the Nation's homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 services, to further upgrade Public Safety Answering Point capabilities and related functions in receiving E–911 calls, and to support the construction and operation of a ubiquitous and reliable citizen activated system[.]'' This grant program was established to provide $43.5 million (less administrative costs) for the implementation and operation of Phase II E–911 services and for migration to an IP-enabled emergency network. 47 U.S.C. 942(b)(1).

II. Statutory Requirements

The ENHANCE 911 Act directs NHTSA and NTIA to issue joint implementing regulations prescribing the criteria for selection for grants. 47 U.S.C. 942(b)(4). The Act establishes certain minimum requirements for grant applications. An applicant must provide at least 50 percent of the cost of a project from non-Federal sources. 47 U.S.C. 942(b)(2). In addition, an applicant must certify that it has coordinated its application with the public safety answering points located within the jurisdiction; that the State has designated a single officer or governmental body to serve as the coordinator of implementation of E–911 services; that it has established a plan for the coordination and implementation of E–911 services; and that it has integrated telecommunications services involved in the implementation and delivery of Phase II E–911 services. 47 U.S.C. 942(b)(3).

The Act also requires applicants to certify that no portion of any designated E–911 charges imposed by the State or other taxing jurisdiction within the State is being or will be obligated or expended for any purpose other than E–911 purposes during the period at least 180 days immediately preceding the date of the application and continuing throughout the time grant funds are available to the applicant. 47 U.S.C. 942(c)(2). Applicants must agree to return any grant awarded if the State or other taxing jurisdiction diverts designated E–911 charges during the time period that grant funds are available. 47 U.S.C. 942(c)(3). Finally, applicants that knowingly provide false information on the certification are not eligible to receive grant funds and must return any grant funds awarded. 47 U.S.C. 942(c)(4).

III. Notice of Proposed Rulemaking

The agencies published a notice of proposed rulemaking (NPRM) to prescribe the criteria for grants under the E–911 grant program. See E–911 Grant Program, 73 FR 57567 (Oct. 3, 2008). The NPRM outlined the application and administrative requirements that States must meet to receive grant awards. In addition, the NPRM identified the minimum grant amount for each State qualifying for a grant award.

The NPRM proposed to permit only the 50 United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands to apply for grant funds on behalf of all eligible entities located within their borders. The NPRM also outlined the application requirements for States to apply for a grant under this program. Specifically, the NPRM identified the following components as the application requirements: A State 911 plan, a project budget, a supplemental project budget (if applicable), designation of an E–911 Coordinator, and certification of compliance with statutory and programmatic requirements.

The NPRM provided that the State 911 Plan must describe the projects and activities proposed to be funded with E–911 grant funds as well as establish performance metrics and timelines for grant project implementation, subject to E–911 Implementation Coordination Office (ICO) review and the agencies' approval. The NPRM also provided that the State 911 Plan must certify (1) coordination with local governments, tribal organizations, and PSAPs within the State's jurisdiction; (2) priority given to communities without 911 capability or an explanation of why priority would not be practicable; (3) involvement of integrated telecommunications service providers in the implementation and delivery of Phase II E–911 services or for migration to an IP-enabled emergency network; and (4) use of technologies to achieve compliance with Phase II E–911 services or for migration to an IP-enabled emergency network. In addition, the NPRM provided that States must demonstrate in the State 911 Plan that at least 90 percent of the grant funds would be used for the direct benefit of PSAPs. Finally, the NPRM specified that, in the State 911 Plan, the State must detail how it intended to employ technology to achieve compliance with the FCC description of Phase II E–911 services and/or how it intended to migrate to an IP-enabled emergency network.

The agencies proposed that States submit a project budget for the projects or activities proposed to be funded by the grant funds, including the identification of non-Federal sources that would fund 50 percent of the cost, if applicable. See 48 U.S.C. 1469a(d) (waiver for non-Federal matching funds under $200,000, including in-kind contributions, for the Territorial governments in American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands). The agencies specified that the project budget must account for the initial distribution of grant funds, as identified for each State in an appendix to the NPRM. The initial distribution of grant funds to each State, if all States applied and qualified for a grant, was based on the agencies' proposed formula, as follows: 50 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 50 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States, as shown by the latest available Federal Highway Administration data. However, each State would receive a minimum award of $500,000, except that the four territories—American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands—would each receive a minimum of $250,000.

In anticipation of some States not applying or qualifying for grant funds, the agencies proposed distributing unallocated funds to the pool of qualifying States in accordance with the same formula used for the initial distribution. In order to obligate any initially unallocated balances before the end of fiscal year 2009, the NPRM proposed that States interested in additional grant funds include a supplemental project budget identifying proposed projects or activities with their application. The supplemental project budget would identify the maximum amount that the State was able to match from non-Federal sources and include details of the proposed projects or activities to be funded.

The NPRM identified the eligible uses for the E–911 grant funds—implementation and operation of Phase II E–911 services or migration to an IP-enabled emergency network. Specifically, the agencies proposed that grant funds and matching funds be used

either for the acquisition and deployment of hardware and software that enables compliance with Phase II E–911 services or that enables migration to an IP-enabled emergency network, or for training in the use of such hardware and software.

The NPRM also proposed that, as part of the application, the State identify a single officer or governmental body designated by the Governor to serve as the coordinator of implementation of E–911 services and the certifying official on the certifications. The agencies proposed that the E–911 Coordinator would be responsible for certifying that the State coordinated its application with local governments, tribal organizations and PSAPs; established a plan for the coordination and implementation of E–911 services; would ensure that at least 90 percent of the grant funds were used for the direct benefit of PSAPs; had integrated telecommunications services involved in the implementation and delivery of Phase II E–911 services; and would provide at least 50 percent of the cost of each project funded under this grant from non-Federal sources (if applicable).

The proposal also provided that the E–911 Coordinator must certify that no designated E–911 charges imposed by the State or taxing jurisdiction within the State would be diverted for other purposes from the time period 180 days preceding the date of the application and continuing throughout the time period during which grant funds were available. The proposal further required States to agree to return all grant funds if any designated E–911 charges imposed by the State or any taxing jurisdiction within the State were diverted to other uses.

Finally, the NPRM identified the financial and administrative requirements for the grant program.

IV. Comments

The agencies received submissions from 13 commenters in response to the NPRM. Commenters included the following seven State agencies: the California 9–1–1 Emergency Communications Office (CA 911 Office); the State of Missouri 9–1–1 Coordinator (MO 911 Coordinator); the Nebraska Public Service Commission (NE PSC); the Pennsylvania Emergency Management Agency, Bureau of 911 Programs (PA EMA); the Georgia Emergency Management Agency (GA EMA); the Texas Commission on State Emergency Communications (TX CSEC); and the Washington State Enhanced 911 Program (WA E911 Office). Additional commenters included four associations and consortiums: CSI–911 (CSI–911); the National Emergency Number Association/National Association of State 911 Administrators (NENA/NASNA); the Alaska Chapter of the National Emergency Number Association (AK NENA); and the Colorado Public Utilities Commission 9–1–1 Task Force (CO 911). Two interested members of the public also provided comments.

A. In General

Some commenters sought clarification of specific aspects of the NPRM, while others requested amendments to the application requirements. The agencies received comments from NENA/NASNA and the CA 911 Office in support of the formula-based approach for distributing grant funds. The AK NENA requested additional grant distributions for States still deploying basic 911 services or lacking Statewide E–911. Several commenters requested clarification of the eligible uses of grant funds. The agencies address these comments below under the appropriate heading.

The agencies received a few comments concerning the sections on non-compliance (§ 400.8), financial and administrative requirements (§ 400.9), and close-out (§ 400.10), which were generally supportive. *See, e.g.,* WA E911 at 4; CA 911 Office at 5–6. Consequently, the Final Rule leaves these provisions unchanged. The agencies received one supportive comment concerning the proposed approval and award procedures (§ 400.5). CA 911 Office at 5. The agencies have added clarifying language in § 400.5 to highlight the importance of the State's response to the ICO's request for additional information. In the NPRM, the agencies stated that the ICO, upon review of a State's application, may request additional information from the State prior to making a recommendation of award in order to clarify compliance with the statutory and programmatic requirements. In the Final Rule, the agencies have added the following language: ''Failure to submit such additional information may preclude the State from further consideration for award.'' The agencies believe that this was implicit in the proposal, but add language to clarify this point.

B. Definition of IP-Enabled Emergency Network

The NENA/NASNA thought that the definition of ''IP-enabled emergency network'' was ''overly narrow,'' and requested that it be expanded to cover the ''larger NG9–1–1 system.'' See NENA/NASNA at 3–4. The NENA/NASNA described the system as including ''the software, applications, interfaces and databases that traverse, connect and enable effective routing over a network.'' According to the NENA/NASNA, only a ''system,'' of which a ''network'' is a key component, would enable ''the receipt and response to all citizen-activated emergency communications and improve information sharing among all emergency response entities'' as intended by the Act. The agencies did not intend to define IP-enabled emergency network narrowly, and thus, adopted most of the language suggested by NENA/NASNA. Accordingly, the definition of ''IP-enabled emergency network'' or ''IP-enabled emergency system'' in § 400.2 of the Final Rule now reads as follows: ''an emergency communications network or system based on a secured infrastructure that allows secured transmission of information, using Internet Protocol, among users of the network or system.''

C. States Applying on Behalf of All Eligible Entities

NENA/NASNA and the CA 911 Office generally supported the proposal to limit E–911 grant applications to States, on behalf of all eligible entities within the jurisdiction. The CA 911 Office, however, asked whether States must account for distribution of grant funds to each eligible entity in the State, warning that such a requirement would result in an ''administrative nightmare.'' See CA 911 Office at 1. The CA 911 Office suggested that States be allowed ''to apply for grant funds in a manner that demonstrates benefit to all eligible entities located within their borders.'' As explained in more detail in Section IV.D.2, the rule does not require grant funds to be distributed to every eligible entity within the State, so long as the ''direct benefit of PSAPs'' requirement is met. A State may distribute grant funds directly to one or more PSAPs or expend the funds in a manner that satisfies the requirement to benefit eligible entities within the State (as the CA 911 Office proposes), or it may follow a combination of these two approaches. Whatever approach is adopted, the State, as grant recipient, is responsible for accounting for the distribution and expenditure of all grant funds received under this program, in accordance with standard grant administration procedures.

One anonymous individual recommended that NHTSA collect all applications and review and award the funds to ensure that ''all of the money will be awarded directly to the individual agencies that need it as opposed to bleeding off the dollars to

admin/handling fees at the state level.'' The commenter states that this would ensure that ''national needs are met as opposed to what a State believes [are] important.'' While the agencies understand the commenter's concerns, the agencies continue to believe that limiting the applicant pool to States is necessary to streamline the grant process so that timely award is assured before the end of the program in fiscal year 2009. As discussed later, the agencies believe that the requirement for States to certify that 90 percent of the grant funds will be used for the direct benefit of PSAPs strikes the proper balance between State concerns and the overarching goals of the ENHANCE 911 Act to address the interests of PSAPs. The agencies have made no change to the rule in response to this comment.

D. Application: State 911 Plan

The CA 911 Office recommended that the following two additional planning elements be added to ensure project documentation that reflects quality control and basic project management principles: ''provide success parameters for the plan and identify any risks'' and ''include a deliverable to provide final documentation that shall include, as a minimum, the design, testing, monitoring and lessons learned for use by other public safety authorities in the country by means of public record requests.'' CA 911 Office at 3. The NPRM proposed that States provide a plan that details the projects and activities proposed to be funded for the implementation and operation of Phase II E–911 services or migration to an IP-enabled emergency network, establishes metrics and a time table for grant implementation, and describes the steps the State has taken to meet statutory and programmatic elements of the grant program. See § 400.4(a)(1). In addition, the NPRM proposed that States submit annual performance reports and quarterly financial reports. See § 400.9(b). The agencies believe that these requirements sufficiently address the need for project documentation that reflects quality control and basic project management principles. Consequently, the agencies have not adopted the suggestion for additional planning elements.

The PA EMA stated that the State 911 Plan should be more consistent with the requirements of the Model State 911 Plan (''Model Plan''). PA EMA at 2. The Model Plan, which was developed by NASNA as part of a cooperative agreement with NHTSA, is intended to be a comprehensive, long-term plan to coordinate the planning and implementation of E–911 services. In light of the relatively limited funding available under this grant program, the agencies do not expect States to develop this kind of comprehensive, long-term plan in order to apply for a grant. Therefore, the agencies decline to adopt the PA EMA's recommendation.

The agencies received no comments on two components of the State 911 Plan—priority to communities without 911 capability and employing the use of technologies. Consequently, the rule remains unchanged with regard to these components of the State 911 Plan.

1. Coordination

The MO 911 Coordinator commented that Missouri does not have any statutory provisions that allow coordination with PSAPs, and suggested removing the word ''statutory'' from the requirements. MO 911 Coordinator at 3. The preamble to the NPRM merely explained that the basis for the coordination requirement in the State 911 Plan was a statutory provision in the ENHANCE 911 Act. The proposal did not impose a requirement for a State to have statutory provisions concerning coordination. Moreover, the agencies do not agree with what Missouri appears to be implying—that such coordination cannot take place in the absence of a State statutory provision authorizing it. In any event, the ENHANCE 911 Act specifically requires such coordination. Consequently, States must coordinate their application with PSAPs in order to qualify for a grant award. The agencies make no change to the rule in response to this comment.

The GA EMA asked whether a 911 advisory committee appointed by the Governor, with PSAP directors' representation, would satisfy the coordination requirement, and the WA E911 Office suggested that States be able to meet the requirement to coordinate with PSAPs if the State coordinates with all governmental agencies representing or managing PSAPs within the State. GA EMA at 1; WA E911 Office at 5. Because States are applying on behalf of all eligible entities within their borders, the coordination requirement is intended to ensure that the needs of PSAPs are addressed in State 911 Plans. A 911 advisory committee would satisfy the coordination requirement, provided it included representation of PSAPs among its membership. Similarly, State coordination with all governmental agencies that represent or manage the PSAPs in the State would satisfy this coordination requirement. No change to the rule is necessary.

The PA EMA and WA E911 Office questioned the proposed requirement to coordinate the application with tribal organizations located within the State. See PA EMA at 2; WA E911 Office at 5. Both commenters asserted that the agencies were extending the coordination requirements beyond the proper reach of the ENHANCE 911 Act. NENA/NASNA suggested that ''the agencies may wish to consider how [tribal organizations], many of whom greatly need funding assistance, can be eligible for grant funds despite their separate governing structure that is fully severable from the state government.'' NENA/NASNA at 2, n. 6. The agencies disagree with these commenters. The ENHANCE 911 Act, as amended, directs the agencies to make grants to ''eligible entities,'' which specifically include tribal organizations. Short of expanding the applicant pool to include the many existing tribal organizations, which is administratively impracticable for reasons explained in the preamble to the NPRM, the coordination requirement is necessary.

The WA E911 Office expressed concern that the State might not have authority to coordinate with tribal organizations. WA E911 Office at 5. States need not have specific statutory authority to coordinate E–911 related services with tribal organizations. Most States have existing relationships with tribal organizations that would readily facilitate the coordination necessary to meet the objectives of the E–911 grant program. Consequently, the agencies have made no changes to the rule.

2. Direct Benefit of PSAPs

The agencies received comments from NENA/NASNA, CA 911 Office, GA EMA, WA E911 Office, and PA EMA requesting clarification of the meaning of ''direct benefit of PSAPs.'' The CA 911 Office, WA E911 Office and PA EMA asked whether Statewide activities or projects that benefited PSAPs would satisfy the ''direct benefit of PSAPs'' requirement or whether the term's meaning was limited to direct distribution to PSAPs. See CA 911 Office at 1–2; WA E911 Office at 5–6; PA EMA at 2. This proposed requirement is not intended to encourage the continuation of the traditional model of investment at the individual PSAP level, as the WA E911 Office suggested. Rather, the agencies intend the phrase ''direct benefit of PSAPs'' to cover both direct distribution to PSAPs at the individual PSAP level and Statewide projects in which multiple PSAPs would benefit from the investment of E–911 grant funds, as articulated by NENA/NASNA. NENA/NASNA at 4. In either case, the State must ensure that 90 percent of the grant funds are being used for the actual

implementation and operation of E–911 services or for migration to an IP-enabled emergency network. Because E–911 capabilities vary from State to State, the agencies believe that States, in coordination with the eligible entities within their borders, are best positioned to select between direct distribution to PSAPs and Statewide projects benefiting multiple PSAPs (or a combination of both approaches) to upgrade their E–911 capabilities. As noted by NENA/NASNA, some States with many PSAPs not capable of receiving Phase II E–911 information may choose to prioritize their grant funds to upgrade these PSAPs while other States may use their grant funds for Statewide projects that would benefit all PSAPs, such as establishing or enabling access to an emergency services IP network. NENA/NASNA at 5. The agencies believe that the existing language accommodates both approaches, and that no change to the Final Rule is necessary.

The MO 911 Coordinator requested clarification as to the use of the remaining 10 percent of the grant funds, after the 90 percent used for the direct benefit of PSAPs. MO 911 Coordinator at 2. The agencies intend that up to 10 percent of the grant funds be available to the State to manage the projects and activities approved under the E–911 grant program. To clarify this point, the agencies have added language in § 400.4(a)(1)(ii) stating that not more than 10 percent of the grant funds may be used for the State's administrative expenses.

The TX CSEC requested that the following language be added to the State's certification that 90 percent of the grant funds will be used for the direct benefit of PSAPs: ''[t]his requirement is presumed to have been met provided that all PSAPs in the State, through their respective 9–1–1 Governing Authorities as defined in NENA Master Glossary of 9–1–1 Terminology, have been involved in the development of the State 911 Plan. For purposes of this requirement, the term ''direct-benefit'' shall be liberally construed.'' TX CSEC at 2. As discussed above, the agencies intended the language ''direct benefit of PSAPs'' to require States to target the grant funds to meet the specific needs of PSAPs. The agencies did so to give proper weight to the broad eligibility criteria in the ENHANCE 911 Act. The agencies do not agree with the TX CSEC that the goal of directly benefiting PSAPs would be achieved merely by virtue of PSAP participation in the development of the State 911 plan, and the agencies decline to adopt the comment.

3. Involvement of Integrated Telecommunications Services

The agencies received two comments regarding the involvement of integrated telecommunications services. The PA EMA requested that a definition of this term be added to the rule, and the GA EMA asked how a State must involve integrated telecommunications services in the implementation and delivery of Phase II E–911 services. PA EMA at 1; GA EMA at 1. The Act requires applicants to certify that they have integrated telecommunications services involved in the implementation and delivery of E–911 services, but did not provide a definition for the term ''integrated telecommunications services.'' In response to these comments, the agencies have added a definition in § 400.2. The term ''integrated telecommunications services,'' also referred to as ''integrated telecommunications,'' as now defined in the Final Rule refers to ''those entities engaged in the provision of multiple services, such as voice, data, image, graphics, and video services, which make common use of all or part of the same transmission facilities, switches, signaling, or control devices.'' Integrated telecommunications services play a vital role in enabling PSAPs to upgrade their capability to receive E–911 services. To effectuate the statutory requirement, States should consult with integrated telecommunications services in the planning phase of implementing E–911 services.

E. Application: Project Budget and Supplemental Project Budget

The CA 911 Office described its understanding of the supplemental project budget as follows: ''[t]his is a proposed contingency plan in the event a state did not qualify for an E–911 Grant because they could not meet the certification, but they may be able to qualify for use of any remaining Grant funds.'' CA 911 Office at 3. That is a misunderstanding of the purpose of the supplemental project budget. A State that does not qualify for the initial distribution because it cannot make the required certifications will not be eligible for any E–911 grant funds. In the event funds remain because some States do not apply or fail to qualify, only a State that qualifies for an initial distribution will be eligible for a supplemental distribution. However, the State must submit a supplemental project budget as well as a project budget as part of its application in order to be eligible for the supplemental distribution. The agencies have added language in § 400.4(a)(3) to clarify this point.

F. Application: Match Requirement

The agencies received a number of comments regarding the 50 percent match requirement. The MO 911 Coordinator and the PA EMA asked whether the match requirement could be met with local as well as State funds. MO 911 Coordinator at 3; PA EMA at 3. The proposal specified only that matching funds must come from non-Federal sources meeting the requirements of 49 CFR 18.24 (the Department of Transportation's codification of the Common Grant Rule)—it did not restrict the match only to State funds. States may use both State and local funds to provide the match as long as these funds meet the requirements of 49 CFR 18.24. The agencies determined that no change to the rule is necessary.

The MO 911 Coordinator asked for guidance on what is considered a non-Federal source, and the GA EMA asked if funds from a State grant program funded with 911 fees could be used to meet the match requirement. *See* MO 911 Coordinator at 3; GA EMA at 1. The MO 911 Coordinator also asked whether the match requires a separate budget line item of funds specifically set aside for the grant match or whether existing operating budgets could be used to match. MO 911 Coordinator at 3–4. The agencies do not require a specific line item set aside for the grant match. The agencies refer both commenters to 49 CFR 18.24 for guidance on what is allowable to meet the match requirement. The TX CSEC requested that ''consistent with 49 CFR 18.24,'' be added to the certification regarding the matching funds. TX CSEC at 4. The agencies agree with this comment, and have added that similar language to the certification.

The NE PSC asked that States be allowed flexibility to match funds based on the overall cost of implementation rather than for specific projects. *See* NE PSC at 4. The NE PSC explained that NE's wireless fund could not be used for expenses that were not directly related to wireless service, such as rural addressing. As explained in Section IV.J., rural addressing, purchase of street signs and development of MSAG are not eligible uses for E–911 grant funds. For this reason, costs associated with rural addressing would not meet the match requirement for the E–911 grant funds. Although the agencies are aware that local counties need funds for rural addressing, it is not clear from NE PSC's comments how matching based on the overall cost of full implementation of E–

911 service rather than on a project basis would help local counties receive the financial assistance needed for those expenses that could not be funded by wireless surcharges.

The PA EMA asked whether the State could meet the matching requirement ''by leveraging funds already encumbered for wireless Phase II E9–1–1 or NG9–1–1 studies and/or planning.'' PA EMA at 3. According to the PA EMA, it would be difficult to find new funds to meet the match requirement because the timeline of the application does not line up with State or local budget cycles. While the agencies recognize the potential difficulties described by these commenters, the Act requires applicants to meet the match on ''a project'' basis. *See* 47 U.S.C. 942(b)(2). To allow States to match based on overall cost of implementation would be contrary to the statutory intent. The Act also requires applicants to have an already established plan for the coordination and implementation of E–911 services in order to apply for the grant program. *See* 47 U.S.C. 942(b)(4)(A)(iii). As explained in Section IV.J., grant funds may not be used to develop a plan for the implementation of E–911 services. The agencies believe that allowing the use of leveraged funds intended for developing a plan for matching purposes also would be contrary to the statutory intent. The agencies decline to amend the rule in response to these comments.

G. Application: Designation of E–911 Coordinator

The agencies received numerous comments regarding the proposed requirement that the Governor of the State designate an E–911 Coordinator to implement E–911 services and to sign the certifications. The CO 911 expressed concern that requiring a Governor-appointed E–911 Coordinator would disqualify States without a Statewide coordinator. CO 911 at 2. Three commenters asserted that some States by law or rule already have designated an E–911 Coordinator or an equivalent entity with the authority to manage or coordinate emergency communications, and that requiring the Governor to make another designation in such cases was not necessary and might have a negative impact on established State 911 programs. NENA/NASNA at 5; TX CSEC at 1–2; WA E911 Office at 6. In contrast, the AK NENA requested that the Governor be allowed to designate an entity other than the statutory 911 coordinator to apply on behalf of the State. AK NENA at 3.

In enacting the ENHANCE 911 Act, Congress stated that one of the purposes of the grant program was ''to coordinate 911 services and E–911 services, at the Federal, State, and local levels.'' Section 103, Public Law 108–494. Coordination of 911 services is traditionally managed by the executive branch of the State government. The agencies believe that the Governor of the State is best positioned to identify which agency or office is able to serve as the designated E–911 Coordinator. In light of the express statutory requirement that applicants must certify that the State has a designated E–911 Coordinator (47 U.S.C. 942(b)(4)(A)(ii) and (b)(4)(B)), the rule continues to require States to designate E–911 Coordinators. The agencies recognize that the ENHANCE 911 Act does not require the coordinator to have direct legal authority to implement E–911 services or manage emergency communications operations in order to meet the requirements of the proposal. *See* 47 U.S.C. 942(b)(4)(A)(ii). Because the rule does not require the E–911 Coordinator to have such direct legal authority, the agencies do not believe that adding language to that effect is necessary, as suggested by the TX CSEC. TX CSEC at 2.

The agencies did not intend to circumvent existing State authorities for 911 services in proposing that the Governor designate an E–911 Coordinator. In many States, the State 911 offices are the point of contact for E–911 services. The agencies believe that State 911 offices are well equipped to coordinate the implementation and operation of Phase II E–911 services and the migration to an IP-enabled emergency network. Accordingly, the agencies have made changes in the Final Rule to accommodate the commenters' concerns. If the State has established by law or regulation an office or coordinator with the authority to manage E–911 services, that office or coordinator must be identified as the designated E–911 Coordinator. However, if the State does not have such an office or coordinator established by law or regulation, the Governor must designate a single officer or governmental body to serve as the E–911 Coordinator. The agencies believe that giving States these two options for designating an E–911 Coordinator is the most reasonable and efficient approach to address these concerns. The agencies have made changes to the rule and corresponding changes to the certifications in Appendix B and Appendix C in response to these comments.

The AK NENA claims that Alaska's 911 Coordinator would be ''unable to develop a capable ENHANCE 911 Grant application within the currently stated timelines,'' and asks that the Governor be allowed to designate another coordinator. AK NENA at 3. The agencies decline to adopt this recommendation since allowing the Governor to appoint another officer or entity for purposes of the E–911 grant program where one already exists could lead to confusion and blurring of responsibilities, resulting in a negative impact on established 911 programs within the State.

Two commenters questioned the need for the Governor to make any designation when States already have designated a single point of contact for 911 under FCC procedures. PA EMA at 3–4; MO 911 Coordinator at 4–5. These commenters suggested that the agencies use this single point of contact instead. The agencies decline to adopt these suggestions, since there is an independent obligation to ensure the designation of an E–911 Coordinator for the specific purposes of this program. However, nothing precludes a State from using the same single officer or governmental body identified to the FCC to satisfy the designation requirement for the E–911 grant program.

One anonymous commenter and the WA E911 Office requested that the agencies publish a list of the E–911 Coordinators. WA E911 Office at 6. These comments are outside the scope of the rulemaking. This information will not be available until after all applications have been reviewed. At that time, the agencies will consider publishing a list of the E–911 Coordinators for the States that are awarded E–911 grants.

H. Application: Certification Concerning Diversion of Funds

The agencies received many comments regarding the requirement for certification that neither the State nor any taxing jurisdiction in the State has diverted designated E–911 charges. The ENHANCE 911 Act mandates that ''[e]ach applicant * * * shall certify * * * that no portion of any designated E–911 charges imposed by the State or other taxing jurisdiction within which the applicant is located are being obligated or expended for any purpose other than the purposes for which such charges are designated or presented from 180 days preceding the date of the application and continuing through the period in which grant funds are available * * *.'' 47 U.S.C. 942(c). In the NPRM, the agencies proposed certification language that is nearly identical to this statutory language.

The WA E911 Office claims that this certification process discourages

applications, especially if States must return all grant funds if false or inaccurate information is provided in the certification. *See* WA E911 Office at 3–4. The WA E911 Office also commented that if the State does not apply because it cannot make the certifications regarding the diversion of funds, then local taxing jurisdictions and tribal organizations will not be able to apply and receive E–911 grant funds. Similarly, CSI–911 commented that if the Governor of the State has diverted designated E–911 charges, then local 911 systems that are using such designated charges for appropriate purposes will be unfairly disqualified from receiving E–911 grant funds. CSI–911 at 1. Several commenters thought that the State should only certify to the State's use of designated E–911 charges and should not be required to certify to local taxing jurisdictions' use of designated E–911 charges. *See, e.g.,* WA E911 Office at 3–4; TX CSEC at 2; NENA/NASNA at 7; AK NENA at 3. Some of these commenters suggested having each local taxing jurisdiction certify individually to its own use of designated E–911 charges. The WA E911 Office suggested modifying the language to add ''to the best of my knowledge'' and allowing the State to provide a description of the measures the State has taken to ensure that local taxing jurisdictions are not diverting funds. WA E911 Office at 2.

Although the agencies understand these commenters' concerns, the statutory language and certification requirement are clear and provide no discretion. If the State, as applicant, is unable to certify that it is not diverting designated E–911 charges, then neither the State nor any eligible entity located in the State may receive E–911 grant funds. The Act requires ''*each* applicant'' to certify that the State is not diverting any designated E–911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented. 47 U.S.C. 942(c)(2) (emphasis added). This statutory certification is an affirmative requirement, and the agencies decline to make any of the changes recommended by the commenters regarding a State's diversion of E–911 funds.

The agencies, however, recognize the difficulty States may have in certifying that no taxing jurisdictions in the State are diverting E–911 charges and believe the Act provides discretion in one aspect. The MO 911 Coordinator and CSI–911 were concerned that a single taxing jurisdiction that independently diverts designated E–911 charges could preclude the entire State from receiving grant funds. *See* MO 911 Coordinator at 1; CSI–911 at 1. After careful consideration, the agencies have decided to amend the rule to allow States to qualify for E–911 grant funds even if a taxing jurisdiction is diverting designated E–911 charges, provided the State meets the following conditions: the State, itself, is not diverting and will not divert designated E–911 charges during the relevant time period and the State does not distribute E–911 grant funds to entities that are located in taxing jurisdictions where designated E–911 charges are being diverted during the relevant time period. For example, if a PSAP is located in a taxing jurisdiction where designated E–911 charges are being diverted for other purposes, the State may not distribute E–911 grant funds to that PSAP. However, the State may distribute grant funds to PSAPs in other taxing jurisdictions where designated E–911 charges are not being diverted, but must ensure that these taxing jurisdictions that receive E–911 grant funds do not divert designated E–911 charges while grant funds remain available. In addition, the State may use E–911 grant funds for a Statewide project or activity even though it may incidentally benefit PSAPs in a diverting jurisdiction as well as PSAPs in compliant jurisdictions. In any case, the State must certify that if a taxing jurisdiction that directly receives grant funds does divert E–911 charges, the State will ensure that those grant funds are returned to the government. The agencies have amended the rule and certification requirements to provide this flexibility. The amendments make no change to the requirement that the State certify that during the relevant time period, it has not diverted and will not divert designated E–911 charges imposed by the State for any other purpose, and that it will return all E–911 grant funds if the State diverts designated E–911 charges for any other purpose.

The NENA/NASNA commented that States that divert 911 fees after July 23, 2008 would not be in compliance with the NET 911 Act and asks that these States be ineligible for E–911 grant funds. NENA/NASNA at 7–8. The requirements of the NET 911 Act are separate from and unrelated to the requirements of the ENHANCE 911 Act. There is no statutory language in the NET 911 Act that would amend the explicit statutory requirement in the ENHANCE 911 Act that applicants must certify that during the 180 days before the date of the application and continuing through the time period that grant funds are available, the State and taxing jurisdictions did not divert designated E–911 charges for any other purpose. Consequently, the agencies decline to change the Final Rule in response to this comment.

I. Distribution of Grant Funds: Formula

The approach used in this formula is similar to formulae utilized by the Department of Transportation programs, including the Federal Transit Administration non-urbanized area grant formula and the Federal-Aid Highway Act of 1944 grant formula. Both programs utilize road infrastructure miles as a component of the formula for grant distribution. In this case, the road mileage serves as a proxy for the ''electronic information highway'' since many telecommunication and wireless carriers develop their systems along these routes. In the arena of wireless E–911, Phase II compliance would significantly improve emergency response along the highway system. The mileage aspect of this formula also serves as weight for coverage of geographic areas, including rural jurisdictions. The population aspects of the formula provide a balance to ensure that the funds would go to those areas in which the E–911 system would be improved to help as many Americans as possible. The agencies believe the result was an equitable distribution of the limited funds. The minimum was set based on the agencies' understanding that the cost of bringing at least one PSAP into Phase II compliance would be approximately $200,000–$250,000.

The comments about the proposed formula for distribution of E–911 grant funds were largely positive. However, one commenter, the AK NENA, requested that additional grant allocations be available for Alaska and other States that are still deploying basic 911 services as well as those lacking Statewide E–911 and wireless 911 capabilities. See AK NENA at 3. The AK NENA notes that States that have already achieved Statewide deployment of E–911 and wireless 911 capabilities have access to funding to support the deployment of Statewide emergency communications. Although the agencies recognize that States have varying levels of deployment, providing additional grant funds to those States that have not established funding to support the deployment of E–911 services unduly penalizes States that have taken steps to keep pace with advancing technologies. While the agencies also recognize the commenter's concerns about the greater needs of some communities, these needs are appropriately addressed through State planning, and that the formula distribution remains an equitable

approach. As a result, the agencies made no change to the formula.

J. Eligible Use of Funds

The agencies received numerous comments requesting clarification of the eligible uses of grant funds. In the NPRM, the agencies specified that grant funds could be used for the acquisition and deployment of hardware and software that enables compliance with Phase II E–911 services or that enables migration to an IP-enabled emergency network, or for training in the use of such hardware and software. The CA 911 Office asked whether grant funds could be used for all three activities. CA 911 Office at 5. The agencies intend that grant funds may be used for any or all of the three activities and have amended the rule to clarify this point.

Several commenters asked whether grant funds could be used to pay consultants. *See, e.g.,* NENA/NASNA at 8–9; MO 911 Coordinator at 5. In 47 CFR 400.9(a), the agencies identified the requirements of 49 CFR Part 18, including the cost principles referenced in 49 CFR 18.22, as applicable to the grants awarded under this program. In accordance with those cost principles, consultant costs are allowable provided that certain conditions are met. Commenters are directed to the applicable cost principles for detail. No change to the Final Rule is necessary in response to these comments.

Several commenters asked whether Statewide projects are eligible for funding under the E–911 grant program. *See, e.g.,* CA 911 Office at 2; WA E911 Office at 5–6; PA EMA at 2. Statewide E–911 projects are eligible, provided the State complies with the requirement that 90 percent of the funds be expended for the direct benefit of PSAPs, as discussed in Section IV.D.2. Although the agencies believe that States are in the best position to make specific deployment decisions, States are encouraged to consider those that would benefit the largest number of PSAPs when selecting Statewide projects. Some commenters specifically asked whether a Statewide project, such as establishing an emergency services IP network or ESInet, would be an eligible use. NENA/NASNA at 5; MO 911 Coordinator at 2. According to the NENA, ESInets ''are engineered, managed networks, and are intended to be multi-purpose, supporting extended Public Safety communications services, in addition to 9–1–1. ESInets use broadband, packet switched technology capable of carrying voice plus large amounts of varying types of data using Internet Protocols and standards.'' *See* NENA, ''A Policy Maker Blueprint for Transitioning to the Next Generation 9–1–1 System'' (September 2008). Based on this description, the agencies believe that establishing an ESInet would help enable PSAPs to migrate to an IP-enabled emergency network, and therefore, would be an eligible use.

The PA EMA requested a modification to allow grant applications to include a ''plan to plan'' and to allow grant funds to be used for the development of a more thorough State 911 plan. PA EMA at 4. The PA EMA noted that 60 days were insufficient to develop such a Statewide 911 plan in the manner envisioned by the NASNA Model State 9–1–1 Plan, the Act or the NPRM. As explained in Section IV.D. above, the State 911 Plan required under this grant program is not the comprehensive plan patterned after the Model Plan. The agencies believe that 60 days is adequate to establish the significantly less detailed coordination plan anticipated by the ENHANCE 911 Act. Moreover, the Act requires an applicant to certify that it has already established a plan for the implementation and coordination of E–911 services as a condition to apply for an E–911 grant. 47 U.S.C. 942(b)(3)(A)(iii). Allowing the E–911 grant funds to be used for plan development would be inconsistent with this statutory prerequisite. Consequently, the agencies decline to amend the rule to allow applicants to include a ''plan to plan'' and to use grant funds to develop a plan.

The NE PSC requested that eligible uses be expanded to include the costs incurred for rural addressing, purchase of street signs and the development of a master street address guide. NE PSC at 2. The agencies believe that such uses are only marginally related to the implementation and operation of E–911 services, and do not meet the purposes of the grant program. Consequently, the agencies decline to adopt this recommendation.

V. Statutory Basis for This Action

The Final Rule implements the grant program created by section 104 of the ENHANCE 911 Act of 2004, as amended (Pub. L. 108–494, codified at 47 U.S.C. 942), which requires the Administrator and the Assistant Secretary to issue joint implementing regulations prescribing the criteria for grant awards. Section 3011 of the Deficit Reduction Act of 2005 (Pub. L. 109–171, as amended by section 2301 of Pub. L. 110–53 and section 539 of Pub. L. 110–161) authorized funding for the ENHANCE 911 Act.

VI. Regulatory Analyses and Notices

A. Executive Order 12866 and Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review,'' provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. 58 FR 51735, Oct. 4, 1993. The Order defines a ''significant regulatory action'' as one 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.

This rule was not reviewed by the Office of Management and Budget under Executive Order 12866. The rule is not considered to be significant within the meaning of Executive Order 12866 or the agencies' regulatory policies and procedures.

The rule does not affect amounts over the significance threshold of $100 million each year. The rule sets forth application procedures and showings to be made to be eligible for a grant. The funds to be distributed under the rule total $43.5 million, well below the annual threshold of $100 million. The rule does not 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. The rule does not create an inconsistency or interfere with any actions taken or planned by other agencies. The rule does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Finally, the rule does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

In consideration of the foregoing, the agencies have determined that this rule is not significant. The impacts of the

rule are minimal and a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, whenever an agency publishes a notice of rulemaking for any proposed or Final Rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). 5 U.S.C. 601 *et seq.* The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' 13 CFR 121.105(a). No regulatory flexibility analysis is required if the head of an agency certifies the rulemaking action would not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act of 1996 amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that an action would not have a significant economic impact on a substantial number of small entities.

NHTSA and NTIA have considered the effects of this rule under the Regulatory Flexibility Act. States are the recipients of funds awarded under the E–911 grant program and they are not considered to be small entities under the Regulatory Flexibility Act. Therefore, the agencies certify that this rule would not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

Executive Order 13132, ''Federalism,'' requires the agencies to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' 64 FR 43255, August 10, 1999. ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, an agency may not issue a regulation with Federalism implications that imposes substantial direct compliance costs and that is not required by statute unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments or the agency consults with State and local governments in the process of developing the proposed regulation. An agency also may not issue a regulation with Federalism implications that preempts a State law without consulting with State and local officials.

The agencies have analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132, and have determined that this rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. Moreover, the Final Rule will not preempt any State law or regulation or affect the ability of States to discharge traditional State government functions.

D. Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, ''Civil Justice Reform,'' the agencies have considered whether this rulemaking would have any retroactive effect. 61 FR 4729, Feb. 7, 1996. This rule does not have any retroactive effect. This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. There are reporting requirements contained in the Final Rule that are considered to be information collection requirements under the Paperwork Reduction Act, as that term is defined by OMB in 5 CFR Part 1320. The use of Standard Forms 424, 424A, 424B, and SF–LLL have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, and 0348–0046. The submission of a State 911 Plan constitutes a new information collection under the Paperwork Reduction Act. The estimated total annual burden is 10,976 hours. The total estimated number of respondents is 56 (50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands).

Pursuant to the Act, the agencies solicited public comments on the proposed collection of information, with a 60-day comment period, in the notice of proposed rulemaking published on October 3, 2008 (73 FR 57567). In a **Federal Register** Notice published on May 19, 2009, the agencies announced that they submitted the information collection request to OMB for approval. (73 FR 23465). OMB approval for this information collection is pending.

F. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This rule does not meet the definition of a Federal mandate because the resulting annual State expenditures would not exceed the $100 million threshold. The program is voluntary and States that choose to apply and qualify would receive grant funds.

G. National Environmental Policy Act

The agencies have reviewed this rule for the purposes of the National Environmental Policy Act. The agencies have determined that this rule will not have a significant impact on the quality of the human environment.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribes)

The agencies have analyzed this rule under Executive Order 13175, and have determined that the rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

I. Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

J. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

You may review DOT's complete Privacy Act Statement in the **Federal Register**, 65 FR 19477, Apr. 11, 2000.

K. Congressional Review of Agency Rulemaking

The agencies have not submitted the Final Rule to the Congress and the Government Accountability Office under the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801 *et seq.* This rule is not a ''major rule'' within the meaning of the Act.

List of Subjects in 47 CFR Part 400

Grant programs, Telecommunications, Emergency response capabilities (911).

■ In consideration of the foregoing, the National Highway Traffic Safety Administration, Department of Transportation, and the National Telecommunications and Information Administration, Department of Commerce establish a new Chapter IV consisting of Part 400 in Title 47 of the Code of Federal Regulations to read as follows:

CHAPTER IV—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION, DEPARTMENT OF COMMERCE, AND NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 400—E–911 GRANT PROGRAM

Sec.
400.1 Purpose.
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Appendix B to Part 400—Initial Certification for E–911 Grant Applicants
Appendix C to Part 400—Annual Certification for E–911 Grant Recipients

Authority: 47 U.S.C. 942.

§ 400.1 Purpose.

This part establishes uniform application, approval, award, financial and administrative requirements for the grant program authorized under the ''Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004'' (ENHANCE 911 Act), as amended.

§ 400.2 Definitions.

As used in this part—

Administrator means the Administrator of the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

Assistant Secretary means the Assistant Secretary for Communications and Information, U.S. Department of Commerce, and Administrator of the National Telecommunications and Information Administration (NTIA).

Designated E–911 charges mean any taxes, fees, or other charges imposed by a State or other taxing jurisdiction that are designated or presented as dedicated to deliver or improve E–911 services.

E–911 Coordinator means a single officer or governmental body of the State that is responsible for implementing E–911 services in the State.

E–911 services mean both phase I and phase II enhanced 911 services, as described in 47 CFR 20.18.

Eligible entity means a State or local government or tribal organization, including public authorities, boards, commissions, and similar bodies created by such governmental entities to provide E–911 services.

ICO means the National E–911 Implementation Coordination Office established under 47 U.S.C. 942 for the administration of the E–911 grant program, located at the National Highway Traffic Safety Administration, US Department of Transportation, 1200 New Jersey Avenue, SE., NTI–140, Washington, DC 20590.

Integrated telecommunications services mean those entities engaged in the provision of multiple services, such as voice, data, image, graphics, and video services, which make common use of all or part of the same transmission facilities, switches, signaling, or control devices.

IP-enabled emergency network or IP-enabled emergency system means an emergency communications network or system based on a secured infrastructure that allows secured transmission of information, using Internet Protocol, among users of the network or system.

Phase II E–911 services mean phase II enhanced 911 services, as described in 47 CFR 20.18.

PSAP means a public safety answering point, a facility that has been designated to receive emergency calls and route them to emergency personnel.

State includes any State of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands.

§ 400.3 Who may apply.

In order to apply for a grant under this part, an applicant must be a State applying on behalf of all eligible entities within its jurisdiction.

§ 400.4 Application requirements.

(a) *Contents.* A State's application for funds for the E–911 grant program must consist of the following components:

(1) *State 911 Plan.* A plan that details the projects and activities proposed to be funded for the implementation and operation of Phase II E–911 services or migration to an IP-enabled emergency network, establishes metrics and a time table for grant implementation, and describes the steps the State has taken to—

(i) Coordinate its application with local governments, tribal organizations, and PSAPs within the State;

(ii) Ensure that at least 90 percent of the grant funds will be used for the direct benefit of PSAPs and not more than 10 percent of the grant funds will be used for the State's administrative expenses related to the E–911 grant program;

(iii) Give priority to communities without 911 capability as of August 3, 2007 to establish Phase II coverage by identifying the percentage of grant funds designated for those communities or provide an explanation why such designation would not be practicable in successfully accomplishing the purposes of the grant;

(iv) Involve integrated telecommunications services in the implementation and delivery of Phase II E–911 services or for migration to an IP-enabled emergency network; and

(v) Employ the use of technologies to achieve compliance with Phase II E–911 services or for migration to an IP-enabled emergency network.

(2) *Project budget.* A project budget for all proposed projects and activities to be funded by the grant funds identified for the State in Appendix A and matching funds. Specifically, for each project or activity, the State must:

(i) Demonstrate that the project or activity meets the eligible use requirement in § 400.7; and

(ii) Identify the non-Federal sources, which meet the requirements of 49 CFR 18.24, that will fund at least 50 percent of the cost; except that as provided in 48 U.S.C. 1469a, the requirement for non-Federal matching funds (including in-kind contributions) is waived for American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands for grant amounts up to $200,000.

(3) *Supplemental project budget.* States that meet the qualification requirements for the initial distribution of E–911 grant funds may also qualify for additional grant funds that may become available. To be eligible for any such additional grant funds that may become available in accordance with

§ 400.6, a State must submit, with its application, a supplemental project budget that identifies the maximum dollar amount the State is able to match from non-Federal sources meeting the requirements of 49 CFR 18.24, and includes projects or activities for those grant and matching amounts, up to the total amount in the project budget submitted under paragraph (a)(2) of this section. This information must be provided to the same level of detail as required under paragraph (a)(2) of this section and be consistent with the State 911 Plan required under paragraph (a)(1) of this section.

(4) *Designated E–911 Coordinator.* The identification of a single officer or government body to serve as the E–911 Coordinator of implementation of E–911 services and to sign the certifications required under this part. If the State has established by law or regulation an office or coordinator with the authority to manage E–911 services, that office or coordinator must be identified as the designated E–911 Coordinator and apply for the grant on behalf of the State. If the State does not have such an office or coordinator established, the Governor of the State must appoint a single officer or governmental body to serve as the E–911 Coordinator in order to qualify for an E–911 grant. If the designated E–911 Coordinator is a governmental body, an official representative of the governmental body shall be identified to sign the certifications for the E–911 Coordinator. The State must notify NHTSA in writing within 30 days of any change in appointment of the E–911 Coordinator.

(5) *Certifications.* (i) The certification in Appendix B to this part, signed by the E–911 Coordinator, certifying that the State has complied with the required statutory and programmatic conditions in submitting its application. The State must certify that during the time period 180 days preceding the application date, the State has not diverted any portion of designated E–911 charges imposed by the State for any purpose other than the purposes for which such charges are designated, that no taxing jurisdiction in the State that will be a recipient of E–911 grant funds has diverted any portion of designated E–911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated, and that neither the State nor any taxing jurisdiction in the State that is a recipient of E–911 grant funds will divert designated E–911 charges for any purpose other than the purposes for which such charges are designated throughout the time period during which grant funds are available.

(ii) Submitted on an annual basis 30 days after the end of each fiscal year during which grant funds are available, the certification in Appendix C to this part, signed by the E–911 Coordinator, making the same certification as required under paragraph (a)(5)(i) of this section concerning the diversion of designated E–911 charges.

(b) *Due date.* The State must submit the application documents identified in this section so that they are received by the ICO no later than August 4, 2009. Failure to meet this deadline will preclude the State from receiving consideration for an E–911 grant award.

§ 400.5 Approval and award.

(a) The ICO will review each application for compliance with the requirements of this part.

(b) The ICO may request additional information from the State, with respect to any of the application submission requirements of § 400.4, prior to making a recommendation for an award. Failure to submit such additional information may preclude the State from further consideration for award.

(c) The Administrator and Assistant Secretary will jointly approve and announce, in writing, grant awards to qualifying States no later than September 30, 2009.

§ 400.6 Distribution of grant funds.

(a) *Initial distribution.* Subject to paragraph (b) of this section, grant funds for each State that meets the requirements in § 400.4 will be distributed—

(1) 50 percent in the ratio which the population of the State bears to the total population of all the States, as shown by the latest available Federal census; and

(2) 50 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States, as shown by the latest available Federal Highway Administration data.

(b) *Minimum distribution.* The distribution to each qualifying State under paragraph (a) of this section shall not be less than $500,000, except that the distribution to American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands shall not be less than $250,000.

(c) *Supplemental distribution.* Grant funds that are not distributed under paragraph (a) of this section will be redistributed among qualifying States that have met the requirements of § 400.4, including the submission of a supplemental project budget as provided in § 400.4(a)(3), in accordance with the formula in paragraph (a) of this section.

§ 400.7 Eligible uses for grant funds.

Grant funds awarded under this part may be used only for the acquisition and deployment of hardware and software that enables the implementation and operation of Phase II E–911 services, for the acquisition and deployment of hardware and software to enable the migration to an IP-enabled emergency network, for the training in the use of such hardware and software, or for any combination of these uses, provided such uses have been identified in the State 911 Plan.

§ 400.8 Non-compliance.

In accordance with 49 U.S.C. 942(c), where a State provides false or inaccurate information in its certification related to the diversion of E–911 charges, the State shall be required to return all grant funds awarded under this part.

§ 400.9 Financial and administrative requirements.

(a) *General.* The requirements of 49 CFR part 18, the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, including applicable cost principles referenced at 49 CFR 18.22, govern the implementation and management of grants awarded under this part.

(b) *Reporting requirements.*

(1) *Performance reports.* Each grant recipient shall submit an annual performance report to NHTSA, following the procedures of 49 CFR 18.40, within 90 days after each fiscal year that grant funds are available, except when a final report is required under § 400.10(b)(2).

(2) *Financial reports.* Each grant recipient shall submit quarterly financial reports to NHTSA, following the procedures of 49 CFR 18.41, within 30 days after each fiscal quarter that grant funds are available, except when a final voucher is required under § 400.10(b)(1).

§ 400.10 Closeout.

(a) *Expiration of the right to incur costs.* The right to incur costs under this part expires on September 30, 2012. The State and its subgrantees and contractors may not incur costs for Federal reimbursement past the expiration date.

(b) *Final submissions.* Within 90 days after the completion of projects and activities funded under this part, but in no event later than the expiration date identified in paragraph (a) of this section, each grant recipient must submit—

(1) A final voucher for the costs incurred. The final voucher constitutes

the final financial reconciliation for the grant award.

(2) A final report to NHTSA, following the procedures of 49 CFR 18.50(b).

(c) *Disposition of unexpended balances.* Any funds that remain unexpended by the end of fiscal year 2012 shall cease to be available to the State and shall be returned to the government.

APPENDIX A TO PART 400—MINIMUM GRANT AWARDS AVAILABLE TO QUALIFYING STATES

State name	Minimum E–911 grant award
Alabama	$686,230.25
Alaska	500,000.00
American Samoa	250,000.00
Arizona	627,067.26
Arkansas	594,060.05
California	2,841,352.77
Colorado	662,637.98
Connecticut	500,000.00
Delaware	500,000.00
District of Columbia	500,000.00
Florida	1,579,728.30
Georgia	1,063,089.13

APPENDIX A TO PART 400—MINIMUM GRANT AWARDS AVAILABLE TO QUALIFYING STATES—Continued

State name	Minimum E–911 grant award
Guam	250,000.00
Hawaii	500,000.00
Idaho	500,000.00
Illinois	1,343,670.10
Indiana	783,700.36
Iowa	668,545.47
Kansas	770,896.23
Kentucky	584,385.38
Louisiana	511,974.11
Maine	500,000.00
Maryland	500,000.00
Massachusetts	527,000.57
Michigan	1,108,704.89
Minnesota	874,841.32
Mississippi	500,000.00
Missouri	891,711.03
Montana	500,000.00
Northern Mariana Islands	250,000.00
Nebraska	508,655.45
Nevada	500,000.00
New Hampshire	500,000.00
New Jersey	666,876.13
New Mexico	500,000.00
New York	1,603,343.25
North Carolina	971,280.91

APPENDIX A TO PART 400—MINIMUM GRANT AWARDS AVAILABLE TO QUALIFYING STATES—Continued

State name	Minimum E–911 grant award
North Dakota	500,000.00
Ohio	1,203,583.60
Oklahoma	700,339.78
Oregon	500,000.00
Pennsylvania	1,242,455.97
Puerto Rico	500,000.00
Rhode Island	500,000.00
South Carolina	541,705.79
South Dakota	500,000.00
Tennessee	751,822.46
Texas	2,702,727.44
Utah	500,000.00
Vermont	500,000.00
Virgin Islands	250,000.00
Virginia	758,028.12
Washington	734,176.40
West Virginia	500,000.00
Wisconsin	820,409.48
Wyoming	500,000.00
Total Available E–911 Grant Funds	41,325,000.00

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Appendix B To Part 400 --

Initial Certification For E-911 Grant Applicants

(To be submitted as part of the application)

I. On behalf of [*State or Territory*], I, [*print name*], hereby certify that:

(check **only one** box below)

☐ [*State or Territory*] has established by law or regulation [*name of 911 office/coordinator*] with the authority to manage E-911 services in the State, and I am its representative. *See* [*citation to State law or rule*]. [*Name of 911 office/coordinator*] will serve as the designated E-911 Coordinator.

☐ [*State or Territory*] does not have an office or coordinator with the authority to manage E-911 services, and the Governor of [*State or Territory*] has designated

(check **only one** circle below)

- o me as the State's single officer to serve as the E-911 Coordinator of E-911 services implementation; or
- o [*governmental body*] as the State's single governmental body, to serve as the E-911 Coordinator of E-911 services implementation, and I am its representative.

(check **all** boxes below)

☐ The State has coordinated the application with local governments, tribal organizations and PSAPs within the State.

☐ The State has established a State 911 Plan, consistent with the implementing regulations, for the coordination and implementation of E-911 services or for migration to an IP-enabled emergency network.

☐ The State will ensure that at least 90 percent of the grant funds are used for the direct benefit of PSAPs.

☐ The State has integrated telecommunications services involved in the implementation and delivery of Phase II E-911 services or migration to an IP-enabled emergency network.

☐ The State will provide at least 50 percent of the cost of each project funded under this grant from non-Federal sources or the Territory will comply with the

matching requirement of 47 C.F.R. § 400.4(a)(2)(ii) (as applicable), consistent with the requirements of 49 C.F.R. § 18.24.

II. I further certify that the State has not diverted and will not divert any portion of designated E-911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing throughout the time period during which grant funds are available.

I further certify that no taxing jurisdiction in the State that will receive E-911 grant funds has diverted any portion of the designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application.

I further certify that the State will ensure that each taxing jurisdiction in the State that receives E-911 grant funds does not divert any portion of designated E-911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the State will return all grant funds if the State obligates or expends, at any time for the full duration of this grant, designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented, and that the State will ensure that if a taxing jurisdiction in the State that receives E-911 grant funds diverts any portion of designated E-911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available, the State will ensure that E-911 grant funds distributed to that taxing jurisdiction are returned.

III. I further certify that the State will comply with all applicable laws and regulations and financial and programmatic requirements for Federal grants.

_____ _____

Signature of State E-911 Coordinator (or representative of single governmental body) — Date

_____

Title

APPENDIX C TO PART 400 --

ANNUAL CERTIFICATION FOR E-911 GRANT RECIPIENTS

(To be submitted annually after grant award while grant funds are available)

On behalf of [*State or Territory*], I, [*print name*], hereby certify that:

(check **only one** box below)

☐ [*State or Territory*] has established by law or regulation [*name of 911 office/coordinator*] with the authority to manage E-911 services in the State, and I am its representative. *See* [*citation to State law or rule*]. [*Name of 911 office/coordinator*] will serve as the designated E-911 Coordinator.

☐ [*State or Territory*] does not have an office or coordinator with the authority to manage E-911 services, and the Governor of [*State or Territory*] has designated

(check **only one** circle below)

- o me as the State's single officer to serve as the E-911 Coordinator of E-911 services implementation; or
- o [*governmental body*] as the State's single governmental body, to serve as the E-911 Coordinator of E-911 services implementation, and I am its representative.

I further certify that the State has not diverted and will not divert any portion of designated E-911 charges imposed by the State for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application and continuing throughout the time period during which grant funds are available.

I further certify that no taxing jurisdiction in the State that will receive E-911 grant funds has diverted any portion of the designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented from the time period 180 days preceding the date of the application.

I further certify that the State will ensure that each taxing jurisdiction in the State that receives E-911 grant funds does not divert any portion of designated E-911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available.

I agree that, as a condition of receipt of the grant, the State will return all grant funds if the State obligates or expends, at any time for the full duration of this grant, designated E-911 charges for any purpose other than the purposes for which such charges are designated or presented, and that the State will ensure that if a taxing jurisdiction in the

State that receives E-911 grant funds diverts any portion of designated E-911 charges imposed by the taxing jurisdiction for any purpose other than the purposes for which such charges are designated during the time period which grant funds are available, the State will ensure that E-911 grant funds distributed to that taxing jurisdiction are returned.

Signature of State E-911 Coordinator (or representative of single governmental body) _____ Date _____

Title _____

Issued on: June 2, 2009.

Ronald Medford,

Acting Deputy Administrator, National Highway Traffic Safety Administration.

Anna M. Gomez,

Acting Assistant Secretary for Communications and Information.

[FR Doc. E9–13206 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 22, and 52

[FAC 2005–29, Amendment–4; FAR Case 2007–013; Docket 2008–0001; Sequence 19]

RIN 9000–AK91

Federal Acquisition Regulation; FAR Case 2007–013, Employment Eligibility Verification

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

ACTION: Amendment to final rule; delay of applicability date.

SUMMARY: The Department of Defense, General Services Administration, and National Aeronautics and Space Administration have agreed to delay the applicability date of FAR Case 2007–013, Employment Eligibility Verification, to September 8, 2009.

DATES: *Applicability Date*: The applicability date of FAC 2005–29, Amendment–3, published April 17, 2009, 74 FR 17793, is delayed until September 8, 2009.

Contracting officers shall not include the new clause at 52.222–54, Employment Eligibility Verification, in any solicitation or contract prior to the applicability date of September 8, 2009.

On or after September 8, 2009, contracting officers—

• Shall include the clause in solicitations, in accordance with the clause prescription at 22.1803 and FAR 1.108(d)(1); and

• Should modify, on a bilateral basis, existing indefinite-delivery/indefinite-quantity contracts in accordance with FAR 1.108(d)(3) to include the clause for future orders if the remaining period of performance extends **beyond March 8, 2010**, and the amount of work or number of orders expected under the remaining performance period is substantial.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755 for further information pertaining to status or publication schedule. Please cite FAC 2005–29 (delay of applicability date).

SUPPLEMENTARY INFORMATION: This document extends to September 8, 2009, the applicability date of the E-Verify rule, in order to permit the new Administration an adequate opportunity to review the rule.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005–29, Amendment–4, is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

The Federal Acquisition Regulation (FAR) contained in FAC 2005–29 was effective January 19, 2009, and is applicable September 8, 2009.

Dated: May 29, 2009.

Amy G. Williams,

Acting Deputy Director, Defense Procurement and Acquisition Policy (Defense Acquisition Regulations System).

Dated: June 1, 2009.

Rodney P. Lantier,

Acting Senior Procurement Executive & Acting Deputy Chief Acquisition Officer, Office of the Chief Acquisition Officer, U.S. General Services Administration.

Dated: May 29, 2009.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. E9–13124 Filed 6–4–09; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Part 1

[Docket No. DOT–OST–1999–6189]

RIN 9991–AA55

Organization and Delegation of Powers and Duties: Federal Railroad Administrator and Federal Transit Administrator

AGENCY: Office of the Secretary of Transportation (OST), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule delegates all of the authorities vested in the Secretary of Transportation (Secretary) by the Rail Safety Improvement Act of 2008 to the Administrator of the Federal Railroad Administration (FRA). This final rule also delegates the authorities vested in

the Secretary by the Passenger Rail Investment and Improvement Act of 2008 to the Administrator of FRA, except for the authorities vested in the Secretary by Title VI of that Act, which are delegated in this final rule to the Administrator of the Federal Transit Administration (FTA).

DATES: *Effective Date:* June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Bonnie Angermann, Office of General Counsel, Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590; Telephone (202) 366–9166.

SUPPLEMENTARY INFORMATION: This final rule updates the Code of Federal Regulations (CFR) section that sets forth authorities delegated from the Secretary of Transportation to other Departmental officials. Specifically, all authorities vested in the Secretary by the Rail Safety Improvement Act of 2008, Div. A of Public Law 110–432; 122 Stat. 4848 *et seq.* (Oct. 16, 2008), are delegated to the Administrator of FRA. This final rule also delegates the authorities vested in the Secretary by the Passenger Rail Investment and Improvement Act of 2008, Div. B of Public Law 110–432; 122 Stat. 4907 *et seq.* (Oct. 16, 2008), to the Administrator of FRA, except for the authorities vested in the Secretary under one title of that Act, which are delegated in this final rule to the Administrator of FTA.

Part 1 of Title 49 of the CFR describes the organization of DOT and provides for the performance of duties imposed upon, and the exercise of powers vested in, the Secretary. This final rule corrects a typographical error in section 1 (''Purpose'') of this part.

Section 1.49 of this part delegates to the Administrator of FRA the authority to carry out various functions and activities related to the mission of the agency. This rule delegates all authorities vested in the Secretary by the Rail Safety Improvement Act of 2008 to the Administrator of FRA. In addition, this rule delegates the authorities vested in the Secretary by Titles I through V of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4907 *et seq.*) to the Administrator of FRA. These titles address intercity rail passenger services and related programs. This final rule adds paragraphs (oo) and (pp) to 49 CFR 1.49 to reflect these delegations to the Administrator of FRA.

Section 1.51 of this part delegates to the Administrator of FTA the authority to carry out various functions and activities related to the mission of the agency. This rule delegates the authority vested in the Secretary by Title VI of the Passenger Rail Investment and Improvement Act of 2008 (122 Stat. 4968), as it relates to capital and preventive maintenance projects for the Washington Metropolitan Area Transit Authority, to the Administrator of FTA. The FTA is responsible for mass transportation programs. This rule adds paragraph (j) to 49 CFR 1.51 to reflect these delegations.

Since these amendments relate to DOT management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 553(b). Further, since the final rule expedites DOT'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 Analysis 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 the Regulatory Policies and Procedures of DOT (44 FR 11034). There are no costs associated with this final rule because it simply delegates authority from one DOT official to another.

B. 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''). For the reasons previously stated, this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs; therefore, the funding and consultation requirements of Executive Order 13175 do not apply.

C. 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 DOT official to another. Therefore, I certify this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

E. Unfunded Mandates Reform Act

DOT 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, part 1, subtitle A of title 49, Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub. L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597; Pub. L. 107–295, 116 Stat. 2064; Pub. L. 108–136, 117 Stat. 1392; Pub. L. 101–115, 103 Stat. 691; Pub. L. 108–293, 118 Stat. 1028; Pub. L. 109–364, 120 Stat. 2083; Pub. L. 110–140, 121 Stat. 1492; Pub. L. 110–432, 122 Stat. 4848.

■ 2. Revise § 1.1 to read as follows:

§ 1.1 Purpose.

This part describes the organization of the Department of Transportation and provides for the performance of duties imposed upon, and the exercise of powers vested in, the Secretary of Transportation by law.

■ 3. Amend § 1.49 by adding paragraphs (oo) and (pp) as follows:

§ 1.49 Delegations to Federal Railroad Administrator.

* * * * *

(oo) Carry out the functions and exercise the authority vested in the Secretary by the Rail Safety Improvement Act of 2008 (Pub. L. 110–432, Div. A, 122 Stat. 4848).

(pp) Carry out the functions and exercise the authority vested in the Secretary by the Passenger Rail Investment and Improvement Act of 2008 (Pub. L. 110–432, Div. B, 122 Stat. 4907), except Title VI (122 Stat. 4968) as it relates to capital and preventive maintenance projects for the Washington Metropolitan Area Transit Authority.

■ 4. Amend § 1.51 by adding paragraph (j) as follows:

§ 1.51 Delegations to Federal Transit Administrator.

* * * * *

(j) Title VI of the Passenger Rail Investment and Improvement Act of

2008 (Pub. L. 110–432, Div. B, 122 Stat. 4968).

Ray LaHood,

Secretary of Transportation.

[FR Doc. E9–13021 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 090428799–9802–01]

RIN 0648–XP43

Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Suspension of the Primary Pacific Whiting Season for the Shore-based Sector South of 42° North Latitude

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

ACTION: Fishing restrictions.

SUMMARY: NMFS announces the suspension of the primary season for Pacific whiting (whiting) fishery for the shore-based sector south of 42° N. lat. at noon local time (l.t.) May 14, 2009. ''Per trip'' limits for whiting were reinstated until 0001 hours June 15, 2009, at which time the primary season for the shore-based sector opens coastwide. This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. This action is intended to keep the harvest of whiting at the 2009 allocation levels.

DATES: Effective from noon l.t. May 14, 2009, until 0001 hours June 15, 2009.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: The regulations at 50 CFR 660.323(a) established separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. The 2009 commercial Optimum Yield (OY) for Pacific whiting is 81,939 mt. This is calculated by deducting the 50,000–mt tribal set-aside and 4,000–mt for research catch and bycatch in non-groundfish fisheries from the 135,939 mt total catch OY. Each sector receives a portion of the commercial OY, with the catcher/processors getting 34 percent (27,859 mt), motherships getting 24 percent (19,665 mt), and the shore-based sector getting 42 percent (34,414 mt). The regulations further divide the shore-based allocation so that no more than 5 percent (1,721 mt) of the shore-based allocation may be taken in waters off the State of California before the primary season begins north of 42° N. lat.

The primary season for the shore-based sector is the period or periods when the large-scale target fishery is conducted, and when ''per trip'' limits are not in effect for vessels targeting Pacific whiting with mid-water gear. Because whiting migrate from south to north during the fishing year, the shore-based primary whiting season begins earlier south of 42° N. lat. than north. For 2009: the primary season for the shore-based sector between 42°-40°30' N. lat. began on April 1; south of 40°30' N. lat., the primary season began on April 15; and the fishery north of 42° N. lat. is scheduled to begin June 15. Although the fishery opened in April, the vessels choose to delay fishing until May 1, 2009.

Because the 1,721 mt allocation for the early season fishery off California was estimated to be reached, NMFS is announcing the suspension of the primary whiting season south of 42° N. lat. Regulations at 50 CFR 660.323 (b)(4) allow this action to be taken. The 20,000–lb (9,072 kg) trip limit that was in place before the start of the southern primary season was reinstated remains in effect until the primary June 15. A trip limit of 10,000 lb (4,536 kg) of whiting is in effect year-round (unless landings of whiting are prohibited) for vessels that fish in the Eureka area shoreward of the 100–fm(183–m) contour at any time during a fishing trip. This smaller limit is intended to minimize incidental catch of Chinook salmon, which are more likely to be caught shallower than 100 fm (183 m) in the Eureka area.

To prevent an allocation from being exceeded, regulations at 50 CFR 660.323 (e) allow closure of the commercial whiting fisheries by actual notice to the fishery participants. Actual notice includes e-mail, internet, phone, fax, letter or press release. NMFS provided actual notice by e-mail, internet, and fax on May 13, 2009.

NMFS Action

This action announces achievement of the shore-based sector allocation specified at 50 CFR 660.323(a) for the fishery south of 42° N. lat. The best available information on May 13, 2009, indicated that 1,119 metric tons (mt) of whiting was taken through May 11,2009 and that the 1,721 mt shore-based allocation for the early season fishery south of 42° N. lat would be reached by noon May 14, 2009. For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(b)(4), NMFS herein announces: Effective noon May 14, 2009 until 0001 l.t., June 15, 2009, the primary whiting season south of 42° N. lat is suspended. No more than 20,000–lb (9,072 kg) of whiting may be taken and retained, possessed or landed by a catcher vessel participating in the shore-based sector of the whiting fishery. If a vessel fishes shoreward of the 100 fm (183 m) contour in the Eureka area (43° – 40° 30' N. lat.) at any time during a fishing trip, the 10,000–lb (4,536 kg) trip limit applies.

Classification

This action is authorized by the regulations implementing the groundfish FMP. The determination to take these actions is based on the most recent data available. The aggregate data upon which the determinations are based are available for public inspection at the office of the Regional Administrator (see **ADDRESSES**) during business hours. The Assistant Administrator for Fisheries (AA), NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on this action pursuant to 5 U.S.C. 553 (3)(b)(B), because providing prior notice and opportunity would be impracticable. It would be impracticable because if this restriction were delayedin order to provide notice and comment, it would allow the allocation for the shore-based fishery south of 42° N. lat. to be exceeded. Similarly, the AA finds good cause to waive the 30–day delay in effectiveness requirement of 5 U.S.C. 553 (d)(3), as such a delay would cause the fishery south of 42° N. lat. to exceed its allocation. Allowing the early season fishery to continue would result in a disproportionate shift in effort, which could result in greater impacts on Endangered Species Act listed Chinook salmon and overfished groundfish species that had been considered when the 2009 Pacific Coast groundfish harvest specifications were established.

This action is taken under the authority of 50 CFR 660.323(b)(4), and is exempt from review under Executive Order 12866.

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

Dated: May 29, 2009.

Kristen C. Koch,

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

[FR Doc. E9–13178 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 107
Friday, June 5, 2009

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1209

[Doc. No. AMS–FV–08–0047; FV–08–702–PR 2]

RIN 0581–AC82

Amendments to Mushroom Promotion, Research, and Consumer Information Order and Referendum Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This rule proposes to amend provisions of the Mushroom Promotion, Research, and Consumer Information Order (Order) to reapportion membership of the Mushroom Council (Council) to reflect shifts in United States mushroom production as well as to add language to the powers and duties section of the Order allowing the Council the power to develop and propose good agricultural and handling practices and related activities for mushrooms. Section 10104 of the Food, Conservation and Energy Act of 2008 (2008 Farm Bill) (Pub. L. No. 110–246) amended sections 1925(b)(2) and (c) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) [7 U.S.C. 6101–6112]. Specifically, section 10104 changes the Act's requirements for geographic regions used to appoint producer members of the Council from four to three, and adjusts the pounds required by each region for Council membership, which will reallocate Council member representation in two of the three producer geographic regions (Regions 1 and 2). Section 10104 also added language to the powers and duties section of the Act that authorizes the Council to develop and propose good agricultural practices and related activities for mushrooms. This rule proposes changes to the Order based on these amendments to the Act. A referendum will be conducted among eligible producers and importers of mushrooms to determine whether they favor the amendments to the Order.

DATES: To be eligible to vote, mushroom producers and importers must have produced or imported on average over 500,000 pounds of mushrooms annually from January 1, 2007, through December 31, 2008. The referendum will be conducted by mail ballot from July 6, 2009 through July 17, 2009. Ballots must be received by the referendum agents no later than the close of business, Eastern daylight-standard time, July 17, 2009, to be counted.

ADDRESSES: Copies of the Order may be obtained from: Referendum Agent, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0244, Room 0632–S, Washington, DC 20250–0244; fax: (202) 205–2800; toll free (888) 720–9917 or at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, Research and Promotion Branch (RPB), Fruit and Vegetable Programs (FVP), AMS, USDA, 1400 Independence Avenue, SW., Room 0632, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915 or (888) 720–9917 (toll free); or facsimile: (202) 205–2800; or e-mail: *Jeanette.Palmer@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under the Mushroom Promotion, Research, and Consumer Information Order (Order) [7 CFR part 1209]. The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 (Act) [7 U.S.C. 6101–6112].

A proposed rule was published in the **Federal Register** on April 7, 2009 [74 FR 15677], with a thirty-day comment period which closed on May 7, 2009.

Pursuant to section 1209.300 of the Order, a referendum will be conducted among mushroom producers and importers to determine whether the reapportion of membership on the Council reflecting shifts in United States mushroom production as well as to add language to the powers and duties section of the Order allowing the Council the power to develop and propose good agricultural and handling practices and related activities for mushrooms is favored by persons voting in the referendum.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1, 2007, through December 31, 2008. Section 1924(b)(3) of the Act requires that the Order be approved by a majority of producers and importers voting in the referendum which majority, on average, annually produces and imports into the United States more than 50 percent of mushrooms annually produced and imported by all those persons voting in the referendum. Only mushroom producers and importers who either produced or imported, on average, over 500,000 pounds of mushrooms annually during the representative period will be eligible to vote in the referendum. Mushroom producers and importers who have received an exemption from assessment for the entire representative period are ineligible to vote. The referendum shall be conducted by mail ballot from July 6, 2009 through July 17, 2009. Ballots must be received by the referendum agents no later than the close of business, Eastern daylight-standard time, July 17, 2009, to be counted.

Executive Order 12866

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect and will not effect or preempt any State, Federal, or local laws, regulations, or policies authorizing promotion or research relating to an agricultural commodity, unless they represent an irreconcilable conflict with this rule.

Under section 1927 of the Act, a person subject to an Order may file a written petition with the Department stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order, or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision, or obligation subject to challenge in the

petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Department will issue a ruling on the petition. The Act provides that the district court of the United States in any district in the petitioner resides or carries on business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Department's final ruling.

Initial Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) [5 U.S.C. 601–612], the Agricultural Marketing Service (AMS) has examined the economic impact of this rule on small entities that would be affected by this rule. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (importers) as having receipts of no more than $7,000,000. There are approximately 107 producers and 18 importers subject to the Order, and thus, eligible to serve on the Council. The majority of these producers and importers would not be considered small entities as defined by the Small Business Administration. Producers and importers of 500,000 pounds or less on average of mushrooms for the fresh market are exempt from the Order.

The current Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. Currently, for importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceeds 35,000,000 pounds of mushrooms annually. The Order also specifies that the Council will review—at least every five years and not more than every three years—the geographic distribution of United States mushroom production volume and import volume, and recommend changes accordingly.

Section 10104 of the 2008 Farm Bill amended sections 1925(b)(2) and (c) of the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101–6112]. Specifically, section 10104 reapportioned the Act's requirements for geographic regions that represent the geographic distribution of mushroom production in order to appoint producer members of the Council from four to three, and adjusted the pounds required by each region (including importers) for Council membership. This proposal would change the current five geographic regions to four as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers. Finally, section 10104 added language to the powers and duties section of the Act that authorizes the Council to develop and propose good agricultural and handling practices, and related activities for mushrooms.

In 1990, there were 466 mushroom farms in 26 states, as reported by the National Agricultural Statistics Service (NASS). Mushrooms farms, like many other agricultural sectors, have experienced significant consolidation. In 2007, NASS reported 279 mushroom farms in 18 states. Pennsylvania, the largest mushroom producing state, produced 332.5 million pounds in 1990. Last year, NASS reported that Pennsylvania produced 496.6 million pounds accounting for 61 percent of the total volume of sales in the United States. According to the Council, changing economic conditions over the past 18 years, coupled with innovations in production methods, advancements in cold chain management and long-range transportation options have all contributed to mushroom farming operations becoming larger, but fewer in number. Currently, there are 107 entities in 11 states which are subject to the Act, and therefore eligible for nomination to the Council. Several of these entities are owned by companies which have multiple operations in different states. The Act states that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

According to NASS, at present 73 percent of all domestic producers subject to the Act are located in the state of Pennsylvania. The value of sales for mushrooms shipped from Pennsylvania grew 16 percent from July 1, 2004 to June 30, 2008. Of the remaining 29 producers subject to the Act, not located in Pennsylvania, 59 percent reside in the state of California, with the remaining 12 producers scattered among 9 states. The value of sales for mushrooms shipped from California increased 8 percent from July 1, 2004 to June 30, 2008, while the value of sales for mushrooms shipped from the rest of the United States (excluding Pennsylvania) declined 3 percent. Pennsylvania and California alone account for 77 percent of all domestic producers subject to the Act and are growing in terms of fresh pounds produced and shipped, and thus are likely to remain viable regions for the foreseeable future. Pennsylvania's designation as one of the three regions in the United States ensures that it receives representation relative to its production. With nearly 60 percent of the remaining producers subject to the Act and growing, California would also benefit from a regional designation. In reviewing the geographical regions, the Department also reviewed the importer seats to ensure that importers are adequately represented based on annual production numbers. Importers have a four year average annual production from January 1, 2004, through December 31, 2007, of 68 million pounds. Therefore, according to the changes made to the Act and the proposed changes to the Order, importer representation on the Council will remain the same.

Section 1925(b)(2) of the Act, Appointments, states that in making appointments of members to the Council, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

According to the Council, the reduction in the number of regions from four to three for domestic production and the increase in pounds required for seats in each region will more accurately reflect the current status of mushroom production in the United States.

This rule proposes to change the five current geographic regions as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers.

In accordance with amendments to the Act, this proposed rule would also increase the threshold for regional representation on the Council from a production average of at least 35 million pounds to at least 50 million pounds annually. Each region that produces on average, at least 50 million pounds of

mushrooms annually shall be entitled to one representative on the Council.

This proposed rule would also change the way additional members are appointed to the Council. Pursuant to the amendments to the Acts made by the 2008 Farm Bill, and subject to the 9-member limit of members on the Council, the Secretary shall appoint additional members to the council from a region that attains additional pounds of production as follows:

(i) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

(ii) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

(iii) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.

Should, in the aggregate, regions be entitled to levels of representation that would exceed the nine-member limit on the Council under the Act, the seat or seats assigned would be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

With regard to alternatives, this proposed rule reflects the provisions of the Act as amended.

Section 1925(c) of the Act was also amended by the 2008 Farm Bill to include language that authorizes the Council to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms. Therefore, this proposed rule recommends an amendment to Section 1209.38 of the Order to include the following language: ''to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms''.

The overall impact of the amendments will be favorable for producers and importers because the producers and importers would have more equitable representation on the Council based on United States mushroom production volume and import volume.

Section 1924(b)(3) of the Act provides for referenda to be conducted to ascertain approval of changes to the Order prior to going into effect. Such amendments to the Order become effective, if the Secretary determines that the Order has been approved by a majority of the producers and importers of mushrooms voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of mushrooms annually produced and imported by all those voting in the referendum. Accordingly, before these changes are made to the Order, a referendum will be conducted among eligible producers and importers of mushrooms.

In accordance with the Office of Management and Budget (OMB) regulation [5 CFR part 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], there are no new information collection requirements contained in this rule because the number of producer members will remain unchanged at nine producer members. The information collection requirements have been previously approved by the Office of Management and Budget (OMB) under OMB control number 0581–0093.

There are no federal rules that duplicate, overlap, or conflict with this rule.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed amendment to the Order on small entities. We did not receive any comments on the Regulatory Flexibility Analysis.

Background

The Order is authorized under the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101–6112], and is administered by the Council. Under the Order, the Council administers a nationally coordinated program of research, development, and information designed to strengthen the fresh mushroom's position in the market place and to establish, maintain, and expand markets for fresh mushrooms. The program is financed by an assessment of $0.005 cents per pound on any person who produces or imports over 500,000 pounds of mushrooms for the fresh market annually. Under the Order, handlers collect and remit producer assessments to the Council, and assessments paid by importers are collected and remitted by the United States Customs and Border Protection.

The Order provides for the establishment of a Council consisting of at least four members and not more than nine members. For the purpose of nominating and appointing producers to the Council, the United States is divided into four geographic regions (Regions 1, 2, 3, and 4) with Council member representation allocated for each region based on the geographic distribution of mushroom production. For importers (referred to as Region 5), one Council member seat is allocated when imports, on average, exceeds 35 million pounds of mushrooms annually.

Section 1209.30(d) of the Order provides that at least every five years, and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years. Based on the review, the Council is required to recommend reapportionment of the regions or modification of the number of members from such regions, or both, to reflect shifts in the geographic distribution of mushroom production volume and importer representation.

Under section 1209.230 of the regulations, current regions and Council member representation for each region are as follows: Region 1: Colorado, Oklahoma, Wyoming, Washington, Oregon, Florida, Illinois, Tennessee, Texas and Utah—3 producer members; Region 2: the State of Pennsylvania—3 producer members; Region 3: the State of California—2 producer members; Region 4: all other States including the District of Columbia and the Commonwealth of Puerto Rico—0 producer members; and Region 5: importers—1 member. Based on data from the Council, from the period beginning January 1, 2004, through December 31, 2007, there is approximately 746 million pounds of mushrooms assessed on average annually under the Order. Currently, the Order's Regions 1, 2, 3, 4, and 5 represent 172 million pounds, 363 million pounds, 110 million pounds, 15 million pounds, and 68 million pounds, respectively, based on a four year average from January 1, 2004, through December 31, 2007. Since Region 4 represents 15 million pounds of mushroom production, the region no longer qualifies for member representation because production within the region falls below the 35 million pounds Order requirement.

Based on the amendments to the Act made by section 10104 of the Farm Bill, and a review of United States mushroom production volume and import volume, this proposal would change the current five geographic regions to four as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers.

The current Order also provides that each producer region that produces, on average, at least 35 million pounds of mushrooms annually is entitled to one member. The current Order also states that importers shall be represented by a single, separate region, and are also entitled to one representative, if on average, at least 35 million pounds of mushrooms are imported annually. Further, the current Order states that each region shall be entitled to representation by an additional Council member for each 50 million pounds of annual production or imports, on average, in excess of the initial 35 million pounds required to qualify the region for representation, until the nine seats on the Council are filled. Section 1209.12 of the Order provides that ''on average'' means a rolling average of production or imports during the last two fiscal years, or such other period as may be determined by the Secretary. For purposes of this rule, and as provided under the Order, ''on average'' reflects a rolling average of production or imports during the last four fiscal years.

Section 1209.30(e)(4)(iii) of the current Order, provides that should regions be entitled to levels of representation that would exceed the nine-member limit on the Council under the Act, the regions shall be entitled to representation on the Council as follows: Each region with 50 million pounds of annual production or imports, on average, in excess of the initial 35 million pounds required to qualify the region for representation shall be assigned one additional representative on the Council, except that if under such assignments all five regions, counting importers as a region, if applicable, would be entitled to additional representatives, that region with the smallest on-average volume, in terms of production or imports, will not be assigned an additional representative. According to section 1209.30(f) of the current Order, in determining the volume of mushrooms produced in the United States or imported into the United States, the Council and the Secretary shall: (1) Only consider mushrooms produced or imported by producers and importers, respectively, as those terms are defined in sections 1209.8 and 1209.15; and (2) used the information received by the Council under section 1209.60, and data published by the Department.

In addition, the current Order provides that if after members are assigned to the regions, less than the entire nine seats on the Council have been assigned to regions, the remaining seats on the Council shall be assigned to each region for each 50 million pound increment of annual production or import volume, on average, in excess of 85 million pounds until all the seats are filled. If for any such 50 million pound increment, more regions are eligible for seats than there are seats available, the seat or seats assigned for such increment shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

Pursuant to the amendments made to the Act made by the 2008 Farm Bill, this proposed rule would increase the threshold for regional representation on the Council from a production average of at least 35 million pounds to at least 50 million pounds annually. Each region that produces on average, at least 50 million pounds of mushrooms annually shall be entitled to one representative on the Council.

In addition, this proposed rule would also change language in the Order regarding how additional members are added to the Council. Additional members from each region that attains additional pounds of production would now be appointed to the Council as follows:

(i) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

(ii) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

(iii) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.

This proposed amendment to the Order would change the number of regions and Council member representatives as follows: Region 1—all other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California; Region 2—the State of Pennsylvania; Region 3—the State of California; and Region 4—importers.

Should, in the aggregate, regions be entitled to levels of representation that would exceed the nine-member limit on the Council under the Act, the seat or seats assigned shall be assigned to that region or those regions with greater on-average production or import volume than the other regions otherwise eligible at that increment level.

Section 1925(c) of the Act was also amended by the 2008 Farm Bill to insert language allowing the Council to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms. Therefore, this proposed rule recommends an amendment to section 1209.38 of the Order to include the following line: ''to develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms.''

For changes to the Order to become effective, the proposed amendments to the Order must be approved by a majority of the producers and importers of mushrooms voting in a referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of mushrooms annually produced and imported by all those voting in the referendum. Accordingly, a referendum will be conducted among eligible producers and importers of mushrooms. The referendum will be conducted by mail ballot from July 6, 2009 through July 17, 2009. The representative period to be eligible to vote in the referendum is January 1, 2007, through December 31, 2008.

Ballots must be received by the referendum agents no later than the close of business, Eastern daylight-standard time, July 17, 2009, to be counted.

Finally, any final rule published as a result of this action would terminate section 1209.230 of the regulations concerning reallocation of Council members.

A thirty-day comment period was provided to allow interested persons to respond to this proposal which was published in the **Federal Register** on April 7, 2009 [74 FR 15677]. Copies of the rule were made available through the Internet by the Department and the Office of the Federal Register. That rule provided a thirty-day comment period which ended May 7, 2009. Three comments were received by the deadline.

Two commenters stated that they agreed with the proposed amendment to the Order since it will make representation on the Council more equitable and expand the powers and duties of the Council. However, both commenters disagreed that a referendum be conducted to implement the proposed amendments. One of these commenters stated that section 1924(b)(3) of the Act was misinterpreted as requiring a referendum. The commenters also stated that a referendum would be costly and time consuming and would delay implementation of the amendments.

The Department disagrees with the two commenters. Section 1924(b)(3) of the Act provides for referenda to be

conducted to ascertain approval of the Order prior to going into effect.

Section 1924(c)(2) of the Act states that provisions of this subtitle applicable to an order shall be applicable to amendments to the Order. In order to implement the Order, a referendum had to be conducted, accordingly, a referendum is necessary before making changes to the Order based on the amendment to the Act.

Such amendments to the Order become effective, if the Secretary determines that the Order has been approved by a majority of the producers and importers of mushrooms voting in the referendum, which a majority, on average, annually produces and imports in the United States more than 50 percent of mushrooms annually produced and imported by those voting in the referendum. In addition, the Department will make every effort to conduct the referendum in the most expedited and cost effective manner.

The third comment received opposed the program in general and therefore was not within the scope of this rule.

For the proposed amendments to the Order to become effective, it must be approved by a majority of the eligible producers and importers voting in the referendum.

Referendum Order

It is hereby directed that a referendum be conducted among eligible mushroom producers and importers to determine whether the favor to amend provisions of the Mushroom Promotion, Research, and Consumer Information Order (Order) to reapportion membership of the Mushroom Council (Council) to reflect shifts in United States mushroom production as well as to add language to the powers and duties section of the Order allowing the Council the power to develop and propose good agricultural and handling practices and related activities for mushrooms.

The referendum shall be conducted from July 6, 2009 through July 17, 2009. The referendum agents will mail the ballots to be cast in the referendum and voting instructions to all known mushroom producers and importers prior to the first day of the voting period. Only mushroom producers and importers who either produced or imported, on average, over 500,000 pounds of mushrooms annually during the representative period will be eligible to vote in the referendum. Mushroom producers and importers who received an exemption from assessments during the entire representative period are ineligible to vote. Any eligible mushroom producers and importers who do not receive a ballot should contact the referendum agent no later than one week before the end of the voting period. Ballots must be received by the referendum agents no later than the close of business, Eastern daylight-standard time, July 17, 2009, to be counted.

Jeanette Palmer and Sonia Jimenez, RPB, FVP, AMS, USDA, Stop 0244, Room 0632–S, 1400 Independence Avenue, SW., Washington, DC 20250–0244, are designated as the referendum agents of the Department to conduct this referendum. The referendum procedures 7 CFR 1209.300 through 1209.307, which were issued pursuant to the Act, shall be used to conduct the referendum.

List of Subjects in 7 CFR Part 1209

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mushroom promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1209 of the Code of Federal Regulations be amended as follows:

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR part 1209 continues to read as follows:

Authority: 7 U.S.C. 6101–6112; 7 U.S.C. 7401.

2. In § 1209.30, paragraphs (a), (b), (c), (d), and (e) are revised to read as follows:

§ 1209.30 Establishment and membership.

(a) There is hereby established a Mushroom Council of not less than four or more than nine members. The Council shall be composed of producers appointed by the Secretary under § 1209.33, except that, as provided in paragraph (c) of this section, importers shall be appointed by the Secretary to the Council under § 1209.33 once imports, on average, reach at least 50,000,000 pounds of mushrooms annually.

(b) For purposes of nominating and appointing producers to the Council, the United States shall be divided into three geographic regions and the number of Council members from each region shall be as follows:

(1) *Region 1:* All other States including the District of Columbia and the Commonwealth of Puerto Rico except for Pennsylvania and California—2 Members.

(2) *Region 2:* The State of Pennsylvania—4 Members.

(3) *Region 3:* The State of California—2 Members.

(c) Importers shall be represented by a single, separate region, referred to as Region 4, consisting of the United States when imports, on average, equal or exceed 50,000,000 pounds of mushrooms annually.

(d) At least every five years, and not more than every three years, the Council shall review changes in the geographic distribution of mushroom production volume throughout the United States and import volume, using the average annual mushroom production and imports over the preceding four years, and, based on such review, shall recommend to the Secretary reapportionment of the regions established in paragraph (b) of this section, or modification of the number of members from such regions, as determined under the rules established in paragraph (e), of this section or both, as necessary to best reflect the geographic distribution of mushroom production volume in the United States and representation of imports, if applicable.

(e) Subject to the nine-member maximum limitation, the following procedure will be used to determine the number of members for each region to serve on the Council under paragraph (d) of this section:

(1) Each region that produces, on average, at least 50,000,000 pounds of mushrooms annually shall be entitled to one representative on the Council.

(2) As provided in paragraph (c) of this section, importers shall be represented by a single, separate region, which shall be entitled to one representative, if such region imports, on average, at least 50,000,000 pounds of mushrooms annually.

(3) If the annual production of a region is greater than 110,000,000 pounds, but less than or equal to 180,000,000 pounds, the region shall be represented by 1 additional member.

(4) If the annual production of a region is greater than 180,000,000 pounds, but less than or equal to 260,000,000 pounds, the region shall be represented by 2 additional members.

(5) If the annual production of a region is greater than 260,000,000 pounds, the region shall be represented by 3 additional members.

(6) Should, in the aggregate, regions be entitled to levels of representation under paragraphs (e)(1), (2), (3), (4) and (5) of this section that would exceed the nine-member limit on the Council under the Act, the seat or seats assigned shall be assigned to that region or those regions with greater on-average production or import volume than the

other regions otherwise eligible at that increment level.

* * * * *

3. In § 1209.38, paragraphs (l) and (m) are redesignated as paragraphs (m) and (n) respectively and new paragraph (l) is added to read as follows:

§ 1209.38 Powers.

* * * * *

(l) To develop and propose to the Secretary programs for good agricultural and good handling practices and related activities for mushrooms.

* * * * *

§ 1209.230 [Removed and Reserved]

4. Section 1209.230 is removed and reserved.

Dated: June 2, 2009.

David R. Shipman,

Acting Administrator.

[FR Doc. E9–13152 Filed 6–4–09; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1230

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1770

RIN 2590–AA12

Executive Compensation

AGENCIES: Federal Housing Finance Agency; Office of Federal Housing Enterprise Oversight.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: The Federal Housing Finance Agency (FHFA) is proposing to issue an Executive Compensation regulation. The proposed regulation sets forth requirements and processes with respect to compensation provided to executive officers by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Banks, and the Office of Finance, consistent with the safety and soundness responsibilities of FHFA under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended by the Housing and Economic Recovery Act of 2008.

DATES: Comments on the Notice of Proposed Rulemaking must be received on or before August 4, 2009. For additional information, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may submit your comments on the proposed regulation, identified by regulatory identifier number (RIN) 2590–AA12 by any of the following methods:

- *U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA12, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2590–AA12, Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *E-mail:* Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail at *RegComments@FHFA.gov*. Please include ''RIN 2590–AA12'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by e-mail to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Executive Compensation Proposed Rule, RIN 2590–AA12.

FOR FURTHER INFORMATION CONTACT: Daniel E. Coates, Associate Director Risk Analysis and Research, Office of Federal Home Loan Bank Regulation, (202) 408–2959, Patrick Lawler, Associate Director, Office of Policy Analysis and Research, Chief Economist, (202) 414–3746, or Tina Dion, Associate General Counsel, (202) 414–3838 (not toll free numbers), Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed regulation and will take all comments into consideration before issuing the final regulation. Copies of all comments will be posted without change, including any personal information you provide, such as your name and address, on the FHFA Internet Web site at *http://www.fhfa.gov*.

In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414–3751.

II. Background

The Federal Housing Finance Agency (FHFA) was created on July 30, 2008, when the President signed into law the Housing and Economic Recovery Act of 2008 (HERA).[1] HERA created a regulator with all of the authorities necessary to oversee vital components of our country's secondary mortgage markets—the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks (Banks). In addition, this law combined the staffs of the Office of Federal Housing Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the GSE mission office at the Department of Housing and Urban Development (HUD). By pooling the expertise of the staffs of OFHEO, FHFB, and HUD, Congress strengthened the regulatory and supervisory oversight of the 14 housing-related Government-Sponsored Enterprises (GSEs). Such regulation of the GSEs will promote a stronger, safer U.S. housing finance system.

More specifically, HERA amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) (Safety and Soundness Act or Act) to establish FHFA as an independent agency of the Federal Government.[2] FHFA was established to oversee the prudential operations of Fannie Mae, Freddie Mac (collectively, Enterprises), and the Banks (collectively, regulated entities) and to ensure that they operate in a safe and sound manner including being capitalized adequately; foster liquid, efficient, competitive and resilient national housing finance markets; comply with the Act and rules, regulation, guidelines and orders issued under the Act, and the respective authorizing statutes of the regulated entities; and carry out their missions through activities authorized and consistent with the Act and their authorizing statutes; and that the activities and operations of the regulated entities are consistent with the public interest.

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[1] Public Law 110–289, 122 Stat. 2654.

[2] *See* Division A, titled the ''Federal Housing Finance Regulatory Reform Act of 2008,'' Title I, Section 1101 of HERA.

OFHEO and FHFB will be abolished one year after enactment of HERA. However, the regulated entities continue to operate under regulations promulgated by OFHEO and FHFB until such regulations are superseded by regulations promulgated by FHFA.

III. Proposed Regulation

The proposed regulation, when published in its final form, would supersede the OFHEO Executive Compensation regulation, 12 CFR part 1770. The proposed regulation is issued to effect sections 1113 and 1117 of HERA. Section 1113 addresses the authority of the Director to prohibit and withhold compensation of executive officers of the regulated entities. Section 1117 provides the Director with temporary authority to approve, disapprove, or modify the executive compensation of the regulated entities.

The proposed regulation also continues the Director's authority under the charter acts of the Enterprises to prior approve agreements or contracts of executive officers that provide compensation in connection with termination of employment. A similar prior approval authority for the Director of termination benefits of executive officers provided by the Banks is not set forth under the Federal Home Loan Bank Act or HERA. However, the total payment or value derived from termination benefits are included in the FHFA's review of compensation provided by the Banks to their executive officers to determine whether the overall compensation is reasonable and comparable. This is because the term ''compensation'' is broadly defined to include benefits to an executive officer that are derived from post-employment benefit plans or programs and other compensatory benefit arrangements containing termination benefits, which affect the executive officer individually or as part of a group. As a result, FHFA reviews the value of benefits provided under such plans, programs and arrangements on an ongoing basis in exercising its review authority. FHFA aggregates the benefits provided under such plans, programs and arrangement with all other payments of money or any other thing of current or potential value to determine whether an officer's overall ''compensation'' is reasonable and comparable.

Additionally, the proposed regulation is issued to ensure that the regulated entities and the Office of Finance comply with processes used by FHFA in its oversight of executive compensation. The processes require the submission of relevant information by the regulated entities and the Office of Finance on a timely basis, in a format deemed appropriate by FHFA, to enable FHFA to efficiently carry out its executive compensation functions. For reasons noted above, as with the Enterprises, information required to be submitted to FHFA for its review and consideration by the Banks includes information relating to termination benefits for their executive officers. Additionally, although the Office of Finance is not directly covered by section 1113 of HERA, it is subject to the Director's ''general regulatory authority'' under section 1311(b)(2) of the Safety and Soundness Act (12 U.S.C. 4511(b)(2)), as amended by HERA. Therefore, in order to ensure safety and soundness, and to comply with the Director's authority relating to golden parachutes and indemnification payments (noted below), information submission requirements under the proposed regulation also apply to the Office of Finance, as does the Director's authority to prohibit excessive compensation.

Notably, in addition to the Director's authority under section 1113 of HERA to prohibit and withhold compensation of executive officers of the regulated entities (as effected in the proposed regulation), section 1114 of HERA provides the Director with additional authority to address golden parachutes and indemnification payments by the Enterprises and the Banks to entity-affiliated parties. FHFA has issued an interim final rule that clarifies the standards it will employ in exercising its authority regarding golden parachute payments.[3] FHFA also has issued a final rule on golden parachute payments that sets forth factors to be considered by the Director of FHFA in acting upon the Director's authority to limit golden parachute payments to entity-affiliated parties in connection with the regulated entities.[4]

Section 1313(f) of the Act (12 U.S.C. 4513(f)), as amended by section 1201 of HERA, requires the Director, when promulgating regulations relating to the Banks, to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; and joint and several liability. The Director may also consider any other differences that are deemed appropriate. In preparing the proposed rule, the Director considered the differences between the Banks and the Enterprises as they relate to the above factors.

The Director recognizes that there are differences between the Enterprises and the Banks in size, complexity, and function. Therefore, the approach by FHFA to oversight of executive compensation may differ in certain aspects between the Enterprises and the Banks. For example, in order to take into account the Banks' size and structure, FHFA may consider the Federal Reserve Banks and the Farm Credit Banks as examples of appropriate comparators to assess the reasonableness and comparability of executive compensation provided by the Banks. Also, in consideration of the Banks' size and structure, the Director's oversight of compensation may cover a smaller number of positions in comparison to covered executive officer positions for the Enterprises. To accommodate any differences in aspects of executive compensation between the Enterprises and the Banks, FHFA will address such differences through an establishment of policies for appropriate compensation packages and termination benefits, and will provide routine guidance to the regulated entities. Except to the extent that the proposed rule distinguishes between the Enterprises and the Banks, the Director believes that the differences related to the factors set forth in 12 U.S.C. 4513(f) do not result in the need for substantively dissimilar coverage under the proposed regulation as both the Enterprises and the Banks, as ''regulated entities,'' are subject to the same statutory requirements with respect to oversight of their executive compensation by the Director. However, the Director requests comments from the public about whether differences related to these factors should result in a revision to the proposed regulation as they relate to the Banks.

IV. Section-by-Section Analysis

Section 1230.1 Purpose

Proposed § 1230.1 provides that the purpose of the regulation is to implement requirements relating to the supervisory authority of FHFA under the Act with respect to compensation provided by the regulated entities and the Office of Finance to their executive officers. Additionally, the regulation would codify the structured process established by the Director for submission of relevant information by

[3] *See* Golden Parachute Payments and Indemnification Payments—Interim Final Regulation with Request for Comments, 73 FR 53356 (September 16, 2008), with Correcting Amendments at 73 FR 54309 (September 19, 2008) and 73 FR 54673 (September 23, 2008), codified at 12 CFR 1231. *See also,* Proposed Amendment for Golden Parachute and Indemnification Payments, 73 FR 67424 (November 14, 2008).

[4] *See* Golden Parachute Payments, 74 FR 5101 (January 29, 2009), to be codified at 12 CFR 1231.

the regulated entities, and the Office of Finance, in order to facilitate and enhance the efficiency of oversight of executive compensation by FHFA.

Section 1230.2 Definitions

Proposed § 1230.2 would define certain terms as used in the regulation.

Section 1230.3 Prohibition and Withholding of Executive Compensation

Proposed § 1230.3 addresses the Director's authority to prohibit and withhold compensation provided by a regulated entity and the Office of Finance to an executive officer that is not reasonable and comparable; the prohibition of a regulated entity and the Office of Finance from providing compensation to an executive officer that is not reasonable and comparable; the type of factors that the Director may take into consideration in determining whether compensation to an executive officer is reasonable and comparable; certain prohibitions applicable to and during the Director's review of compensation; the effect of prior approval of an agreement or contract pursuant to § 1230.4 with respect to any subsequent determination under the Director's authority to prohibit and withhold executive compensation; and the form and manner in which the Director shall provide approval pursuant to paragraph (e)(1) of this section.

Paragraph (e)(2) of this section limits the requirement for Director's prior approval set forth in paragraph (e)(1) by specifying the types and circumstances of compensation subject to the requirement. Paragraph (e)(2)(i) states that approval is necessary for certain written arrangements: (a) A written arrangement that provides an executive officer a term of employment of six months or more; or (b) a written arrangement that provides compensation in connection with the termination of employment; or establishes a policy of compensation in connection with the termination of employment. It is noted that if the Director has approved a corporate-wide or ''Top Hat'' policy for a Bank or the Office of Finance that provides termination benefits to its executive officers, any individual written arrangement that does not exceed termination benefits provided under such a policy would not require prior approval of the Director.

Paragraph (e)(2)(ii) of § 1230.3 requires the prior approval of annual compensation, bonuses, and other incentive pay provided by a Bank to the president or by an Enterprise to the chief executive officer. Finally, paragraph (e)(2)(iii) states that prior approval would be required in the event that the Director provides the regulated entity or the Office of Finance with written notice of a specific review of compensation to be provided to an executive officer.

Section 1230.4 Prior Approval of Termination Benefits

Proposed § 1230.4 provides the general requirement that an Enterprise must obtain the prior approval of the Director with respect to agreements or contracts that provide termination benefits to an executive officer. The proposed section also clarifies the agreements or contracts subject to the prior approval requirement, as well as factors that the Director may consider in determining whether to approve or disapprove the termination benefits. Additionally, the section provides an exception to the prior approval requirement.

Section 1230.5 Submission Requirements

Proposed § 1230.5 describes the information, *i.e.,* the types of materials and timeframe for submission, that the regulated entities, as well as the Office of Finance, would be required to provide to FHFA in order to facilitate the exercise of the Director's oversight of executive compensation under the Act. The section provides that the information shall be submitted in a format, *i.e.,* hardcopy or electronic, as deemed appropriate by FHFA.

Section 1230.6 Temporary Power in Connection With Executive Compensation

Proposed § 1230.6 provides that, notwithstanding any provision of this part, effective July 30, 2008, through December 31, 2009, the Director may approve, disapprove, or modify the executive compensation of a regulated entity. For purposes of the proposed section, the term ''executive compensation'' has the same meaning as defined under Regulation S–K, 17 CFR part 229. This section implements the authority granted the Director by section 1117 of HERA.

Section 1230.7 Compliance

Proposed § 1230.7 provides that failure by a regulated entity or the Office of Finance to comply with the requirements of this part may result in supervisory action by FHFA. Such action may be taken in the form determined appropriate by the Director and may be taken separately from, in conjunction with, or in addition to any other corrective or remedial action, including an enforcement action to require an individual to make restitution to or reimbursement of excessive compensation or inappropriately paid termination benefits.

Regulatory Impacts

Paperwork Reduction Act

The proposed regulation does not contain any information collection requirement that requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed regulation under the Regulatory Flexibility Act. FHFA certifies that the proposed regulation, if adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the regulated entities, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 1230

Administrative practice and procedure, Compensation, Confidential business information, Government-sponsored enterprises, Reporting and recordkeeping requirements.

12 CFR Part 1770

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

Authority and Issuance

Accordingly, for the reasons stated in the preamble, under the authority of 12 U.S.C. 4526, the Federal Housing Finance Agency proposes to amend Chapters XII and XVII of Title 12 of the Code of Federal Regulations, as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

SUBCHAPTER B—ENTITY REGULATIONS

1. Add part 1230 to Subchapter B to read as follows:

PART 1230—EXECUTIVE COMPENSATION

Sec.
1230.1 Purpose.
1230.2 Definitions.
1230.3 Prohibition and withholding of executive compensation.
1230.4 Prior approval of termination benefits.
1230.5 Submission requirements.
1230.6 Temporary power in connection with executive compensation.
1230.7 Compliance.

Authority: 12 U.S.C. 1427, 1431(l)(5), 1452(h), 1455(l)(5), 4502(6), 4502(12), 4513, 4514, 4517, 4518, 4526, 4631, 4632, 4636, 1719(g)(5), 1723a(d).

§ 1230.1 Purpose.

The purpose of this part is to implement requirements relating to the supervisory authority of FHFA under the Safety and Soundness Act with respect to compensation provided by the regulated entities and the Office of Finance to their executive officers. This part also codifies the structured process established by the Director for submission of relevant information by the regulated entities, and the Office of Finance, in order to facilitate and enhance the efficiency of the FHFA's oversight of executive compensation.

§ 1230.2 Definitions.

The following definitions apply to the terms used in this part:

Charter acts mean the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act, which are codified at 12 U.S.C. 1716 through 1723i and 12 U.S.C. 1451 through 1459, respectively.

Compensation means any payment of money or the provision of any other thing of current or potential value in connection with employment. Compensation includes all direct and indirect payments of benefits, both cash and non-cash, granted to or for the benefit of any executive officer, including, but not limited to, payments and benefits derived from an employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, post-employment benefit or other compensatory arrangement.

Director means the Director of FHFA, or his or her designee.

Enterprise means the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, Enterprises) and, except as provided by the Director, any affiliate thereof.

Entity-affiliated party means—

(1) Any director, officer, employee, or controlling stockholder of, or agent for, a regulated entity;

(2) Any shareholder, affiliate, consultant, or joint venture partner of a regulated entity, and any other person, as determined by the Director (by regulation or on a case-by-case basis) that participates in the conduct of the affairs of a regulated entity, provided that a member of a Bank shall not be deemed to have participated in the affairs of that Bank solely by virtue of being a shareholder of, and obtaining advances from, that Bank;

(3) Any independent contractor for a regulated entity (including any attorney, appraiser, or accountant), if—

(i) The independent contractor knowingly or recklessly participates in—

(A) Any violation of any law or regulation;

(B) Any breach of fiduciary duty; or

(C) Any unsafe or unsound practice; and

(ii) Such violation, breach, or practice caused, or is likely to cause, more than a minimal financial loss to, or a significant adverse effect on, the regulated entity;

(4) Any not-for-profit corporation that receives its principal funding, on an ongoing basis, from any regulated entity; and

(5) The Office of Finance.

Executive officer means—

(1) With respect to an Enterprise:

(i) The chairman of the board of directors, chief executive officer, chief financial officer, chief operating officer, president, vice chairman, any executive vice president, and any individual who performs functions similar to such positions whether or not the individual has an official title; and

(ii) Any senior vice president (SVP) or other individual with similar responsibilities, without regard to title:

(A) Who is in charge of a principal business unit, division or function, or

(B) Who reports directly to the regulated entity's chairman of the board of directors, vice chairman, president or chief operating officer.

(2) The Director shall inform the Enterprises of those officers covered by this definition.

(3) With respect to a Bank:

(i) Executive officers about whom the Banks must publicly disclose detailed compensation information under Regulation S–K, 17 CFR part 229, issued by the Securities and Exchange Commission;

(ii) Any other executive who occupies one of the following positions or is in charge of one of the following subject areas:

(A) Overall Bank operations, such as the Chief Operating Officer or equivalent;

(B) Chief Financial Officer or equivalent;

(C) Chief Administrative Officer or equivalent;

(D) Chief Risk Officer or equivalent;

(E) Asset and Liability Management, or equivalent;

(F) Chief Accounting Officer or equivalent;

(G) General Counsel or equivalent;

(H) Strategic Planning or equivalent;

(I) Internal Audit or equivalent;

(J) Chief Information Officer or equivalent; or

(iii) Any other individual, without regard to title:

(A) Who is in charge of a principal business unit, division or function, or

(B) Who reports directly to the Bank's chairman of the board of directors, vice chairman, president or chief operating officer.

(4) The Director may add or remove persons, positions, or functions to or from the list set forth in paragraph (3)(ii) of this definition by communication to the Banks or a Bank from time to time.

(5) With respect to the Office of Finance:

(i) Any individual who occupies a position in any of the top five pay bands; or

(ii) Any individual, without regard to title, who is in charge of a principal business unit, division, or function.

Federal Home Loan Bank or *Bank* means a bank established under the Federal Home Loan Bank Act; the term ''Federal Home Loan Banks'' or ''Banks'' means, collectively, all the Federal Home Loan Banks.

FHFA means the Federal Housing Finance Agency.

Office of Finance means the Office of Finance of the Federal Home Loan Bank System (or any successor thereto).

Reasonable and comparable means compensation that is—

(1) *Reasonable*—compensation, taken in whole or in part, that would be customary and appropriate for the position and based on a review of relevant factors including, but not limited to:

(i) Unique duties and responsibilities of the position as contrasted with comparable positions at other firms;

(ii) Absence of duties and responsibilities of the position as contrasted with comparable positions at other firms;

(iii) Compensating factors that indicate added or diminished risks,

constraints, or aids in carrying out the responsibilities of the position relative to comparable positions at other firms as well as within the entity; and

(iv) Performance of the regulated entity or the specific employee with respect to achievement of goals and compliance with applicable law, regulation, guidance, and internal rules of the entity.

(2) *Comparable*—compensation that, taken in total or in part, does not materially exceed benefits paid at similar institutions for similar duties and responsibilities. In particular, comparable includes consideration of benefit levels and comparability of duties and responsibilities.

(i) Benefit levels—FHFA generally considers comparable to be at or below the median compensation for a given position at similar institutions. In particular circumstances, consideration, as described in paragraph (1) of this definition, may indicate the appropriateness of higher or lower benefit amounts to which FHFA would not object.

(ii) Similar institutions—FHFA considers similar institutions for the Banks and Enterprises to be institutions that are similar in size, complexity and function, and may communicate such institutions or types of institutions to the Banks and Enterprises from time to time.

Regulated entity means the Federal National Mortgage Association and any affiliate thereof; the Federal Home Loan Mortgage Corporation and any affiliate thereof; or any Federal Home Loan Bank; the term ''regulated entities'' means, collectively, the Federal National Mortgage Association and any affiliate thereof; the Federal Home Loan Mortgage Corporation and any affiliate thereof; and any Federal Home Loan Bank.

Safety and Soundness Act or Act means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, (12 U.S.C. 4501 *et seq.*), as amended by the Housing and Economic Recovery Act of 2008 (HERA), Public Law No. 110–289, 122 Stat. 2654 (2008).

§ 1230.3 Prohibition and withholding of executive compensation.

(a) *In general.* The Director may review the compensation arrangements for any executive officer of a regulated entity or the Office of Finance at any time, and shall prohibit the regulated entity or the Office of Finance from providing compensation to any such executive officer that the Director determines is not reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities. No regulated entity or the Office of Finance shall pay compensation to an executive officer that is not reasonable and comparable with compensation paid by such similar businesses involving similar duties and responsibilities.

(b) *Factors to be taken into account.* In determining whether compensation provided by a regulated entity or the Office of Finance to an executive officer is not reasonable and comparable, the Director may take into consideration any factors the Director considers relevant, including any wrongdoing on the part of the executive officer, such as any fraudulent act or omission, breach of trust or fiduciary duty, violation of law, rule, regulation, order, or written agreement, and insider abuse with respect to the regulated entity or the Office of Finance.

(c) *Withholding of compensation.* During a review under paragraph (a) of this section, the Director may require a regulated entity or the Office of Finance to withhold any payment, transfer, or disbursement of compensation to an executive officer, or to place such compensation in an escrow account.

(d) *Prohibition of setting compensation by Director.* In carrying out paragraph (a) of this section, the Director may not prescribe or set a specific level or range of compensation.

(e) *Prohibition of payment or agreement by regulated entity.* (1) Subject to paragraph (e)(2) of this section, a regulated entity or the Office of Finance shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed by the Director under § 1230.3.

(2) For purposes of paragraph (e)(1) of this section, the requirement for the Director's prior approval applies only to:

(i) Any written arrangement that:

(A) Provides an executive officer a term of employment for a term of six months or more; or

(B) Provides compensation in connection with the termination of employment, or establishes a policy of compensation in connection with the termination of employment.

(ii) Annual compensation, bonuses, and other incentive pay provided by a Bank to the president or by an Enterprise to the chief executive officer; or

(iii) Any compensation to be provided to an executive officer for whom the Director has provided the regulated entity or the Office of Finance with written notice that the compensation is subject to a specific review by the Director.

(f) *Effect of prior approval of an agreement or contract.* The Director's approval of an executive officer's termination of employment benefits pursuant to § 1230.4 shall not preclude the Director from making any subsequent determination under this section to prohibit and withhold executive compensation.

(g) *Form of approval.* The Director's approval pursuant to paragraph (e)(1) of this section may occur in such form and manner as the Director shall provide through written notice to the regulated entities or the Office of Finance.

§ 1230.4 Prior approval of termination benefits.

(a) *In general.* An Enterprise may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of an executive officer unless the agreement or contract is approved in advance by the Director.

(b) *Covered agreements or contracts.* An agreement or contract that provides for termination payments to an executive officer of an Enterprise that was entered into before October 28, 1992, is not retroactively subject to approval or disapproval by the Director. However, any renegotiation, amendment, or change to such an agreement or contract entered into on or before October 28, 1992, shall be considered as entering into an agreement or contract that is subject to approval by the Director.

(c) *Factors to be taken into account.* In making the determination whether to approve or disapprove termination benefits, the Director may consider—

(1) Whether the benefits provided under the agreement or contract are comparable to benefits provided under such agreements or contracts for officers of other public or private entities involved in financial services and housing interests who have comparable duties and responsibilities;

(2) The factors set forth in § 1230.3(b); and

(3) Such other information as deemed appropriate by the Director.

(d) *Exception to prior approval.* An employment agreement or contract subject to prior approval of the Director under this section may be entered into prior to that approval, provided that such agreement or contract specifically provides notice that termination benefits under the agreement or contract

shall not be effective and no payments shall be made under such agreement or contract unless and until approved by the Director. Such notice should make clear that alteration of benefit plans subsequent to FHFA approval under this section, which affect final termination benefits of an executive officer, requires review at the time of the individual's termination from the Enterprise and prior to the payment of any benefits.

§ 1230.5 Submission requirements.

(a) *In general.* Any information required to be submitted for purposes of obtaining approval of the Director under this part must be provided in a timely fashion by each regulated entity and the Office of Finance to the Director or as otherwise specified in guidance or other issuances of FHFA.

(b) *Information relating to prohibition and withholding of executive compensation.* The following materials, unless otherwise specified, shall be provided by each regulated entity and the Office of Finance to FHFA, in a format deemed appropriate by FHFA, for review within one week after the specified action or event—

(1) Resolutions, with no redactions, including supporting materials and related reports, from meetings of the board committee responsible for compensation when the committee takes any action regarding a compensation matter that under the committee's authority is effective without further action by the committee or the board of directors of the regulated entity;

(2) Resolutions, with no redactions, including supporting materials and related reports, not otherwise provided to FHFA under paragraph (b)(1) of this section, from meetings of the board of directors relating to executive compensation when the board of directors takes any action regarding a compensation matter that is effective without any further action by the board of directors;

(3) Minutes, with no redactions, including supporting materials and related reports, when adopted by the committee responsible for compensation and those portions of minutes of the board of directors, including supporting materials and related reports, related to compensation matters, except for materials previously provided under paragraphs (b)(1) or (2) of this section;

(4) General benefit plans applicable to executive officers when adopted or amended;

(5) Any study conducted by or on behalf of a regulated entity or the Office of Finance with respect to compensation of executive officers, when delivered;

(6) With respect to an Enterprise, the annual compensation report to Congress when submitted to Congress;

(7) A current organizational chart when changes occur affecting the status of executive officers under this part;

(8) Proxy statements when issued; and

(9) Such other information as deemed appropriate by the Director.

(c) *Timing of submissions related to prior approval of termination benefits.* An Enterprise shall provide all relevant information to FHFA, unless already provided under paragraph (b) of this section:

(1) Except as provided in § 1230.4(d), before an Enterprise enters into any agreement or contract with a new or existing executive officer that includes termination benefits;

(2) Before an Enterprise makes any extension or other amendment to such an agreement or contract;

(3) Before an Enterprise takes any other action to provide termination benefits to a specific executive officer, regardless of how effected; or

(4) When an Enterprise makes any changes to the termination provisions of any compensation or benefit program affecting multiple executive officers.

(d) *Specific information required for calculation of termination benefits.* For submissions relating to termination benefits, a regulated entity and the Office of Finance shall submit to FHFA, in a format deemed appropriate by FHFA, the following materials:

(1) The details of the agreement or program change, *e.g.,* employment agreements, termination agreements, severance agreements, and portions of minutes of the board of directors relating to executive compensation and minutes and supporting materials of the committee of the board of directors responsible for compensation;

(2) All information, data, assumptions and calculations for the potential total dollar value or range of values of the benefits provided, such as, but not limited to salary, bonus opportunity, short-term incentives, long-term incentives, special incentives and pension provisions or related contract or benefit terms; and

(3) Such other information deemed appropriate by the Director, except that information required to be submitted under paragraph (c) of this section or under this paragraph shall not include information on benefit plans of general applicability.

§ 1230.6 Temporary power in connection with executive compensation.

Notwithstanding any provision of this part, effective July 30, 2008, through December 31, 2009, the Director may approve, disapprove, or modify the executive compensation of a regulated entity. For purposes of this section, the term ''executive compensation'' has the same meaning as defined under Regulation S–K, 17 CFR part 229.

§ 1230.7 Compliance.

Failure by a regulated entity or the Office of Finance to comply with the requirements of this part may result in supervisory action by FHFA. Such action may be taken in the form determined appropriate by the Director and may be taken separately from, in conjunction with, or in addition to any other corrective or remedial action, including an enforcement action to require an individual to make restitution to or reimbursement of excessive compensation or inappropriately paid termination benefits.

CHAPTER XVII—OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PART 1770—[REMOVED]

2. Remove part 1770.

May 29, 2009.

James B. Lockhart III,

Director, Federal Housing Finance Agency.

[FR Doc. E9–13117 Filed 6–4–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0509; Directorate Identifier 2009–CE–029–AD]

RIN 2120–AA64

Airworthiness Directives; PILATUS Aircraft Ltd. Model PC–7 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

This Airworthiness Directive (AD) is prompted due to reported corrosion on the

bolts and in the bores of the attachment fittings for the engine mounting frame. The corrosion is caused by damaged cadmium plating of the bolts or damaged surface finish of the attachment fitting.

Such a condition, if left uncorrected, could lead to crack initiation at the bolt and the fitting bore and subsequently to the failure of the engine attachment fitting.

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

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

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0509; Directorate Identifier 2009–CE–029–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The Federal Office of Civil Aviation (FOCA), which is the aviation authority for Switzerland, has issued FOCA AD HB–2009–004, dated May 12, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

This Airworthiness Directive (AD) is prompted due to reported corrosion on the bolts and in the bores of the attachment fittings for the engine mounting frame. The corrosion is caused by damaged cadmium plating of the bolts or damaged surface finish of the attachment fitting.

Such a condition, if left uncorrected, could lead to crack initiation at the bolt and the fitting bore and subsequently to the failure of the engine attachment fitting.

In order to correct and control the situation, this AD requires a visual inspection of the relevant bolts and fittings. Additionally, the replacement of the bolts is required.

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

Relevant Service Information

PILATUS Aircraft Ltd. has issued Pilatus PC–7 Service Bulletin No. 53–006, dated November 17, 2008, and Pilatus PC–7 Maintenance Manual Chapter 05–10–20, page 4, dated November 30, 2008. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

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

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 10 products of U.S. registry. We also estimate that it would take about 4.5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $300 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $6,600, or $660 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

PILATUS Aircraft Ltd.: Docket No. FAA–2009–0509; Directorate Identifier 2009–CE–029–AD.

Comments Due Date

(a) We must receive comments by July 6, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to PC–7 airplanes, all manufacturer serial numbers, certificated in any category.

Subject

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

Reason

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

This Airworthiness Directive (AD) is prompted due to reported corrosion on the bolts and in the bores of the attachment fittings for the engine mounting frame. The corrosion is caused by damaged cadmium plating of the bolts or damaged surface finish of the attachment fitting.

Such a condition, if left uncorrected, could lead to crack initiation at the bolt and the fitting bore and subsequently to the failure of the engine attachment fitting.

In order to correct and control the situation, this AD requires a visual inspection of the relevant bolts and fittings. Additionally, the replacement of the bolts is required.

Actions and Compliance

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

(1) Visually inspect the bolts and the bores (with boroscope) of the attachment fittings for the engine mounting frame following paragraph 3.A of PILATUS Aircraft Ltd. Pilatus PC–7 Service Bulletin No. 53–006, dated November 17, 2008, at whichever of the following occurs later:

(i) Upon accumulating 5,000 hours total time-in-service (TIS) or 5 years from the date of manufacture, whichever occurs first; or

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

(2) If no sign of corrosion is found during the inspection required in paragraph (f)(1) of this AD, before further flight, replace the bolts. Repetitively inspect thereafter at intervals not to exceed every 5 years following PILATUS Aircraft Ltd. Pilatus PC–7 Maintenance Manual Chapter 05–10–20, page 4, dated November 30, 2008.

(3) If any sign of corrosion is found during any of the inspections required in paragraphs (f)(1) and (f)(2) of this AD, before further flight, do the corrective actions following paragraph 3.A. of PILATUS Aircraft Ltd. Pilatus PC–7 Service Bulletin No. 53–006, dated November 17, 2008. Repetitively inspect thereafter at intervals not to exceed every 5 years following PILATUS Aircraft Ltd. Pilatus PC–7 Maintenance Manual Chapter 05–10–20, page 4, dated November 30, 2008.

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: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; 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 FOCA AD HB–2009–004, dated May 12, 2009; PILATUS Aircraft Ltd. Pilatus PC–7 Service Bulletin No. 53–006, dated November 17, 2008; and Pilatus PC–7 Maintenance Manual Chapter 05–10–20, page 4, dated November 30, 2008, for related information.

Issued in Kansas City, Missouri, on May 29, 2009.

Scott A. Horn,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–13139 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA93

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations; Defining Mutual Funds as Financial Institutions

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: FinCEN is proposing to include mutual funds within the general definition of ''financial institution'' in rules implementing the Bank Secrecy Act (''BSA''). The proposal would subject mutual funds to rules under the BSA on the filing of Currency Transaction Reports (''CTRs'') and on the creation, retention, and transmittal of records or information for transmittals of funds.

DATES: Written comments on all aspects of this notice are welcome and must be received on or before September 3, 2009.

ADDRESSES: Those submitting comments are encouraged to do so via the Internet. Comments submitted via the Internet may be submitted at *http://www.regulations.gov/search/index.jsp* with the caption in the body of the text, Attention: Comment Request; Defining Mutual Funds as Financial Institutions. Comments also may be submitted by written mail to: Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, VA 22183, Attention: Comment Request; Defining Mutual Funds as Financial Institutions. Please submit comments by one method only. All comments submitted in response to this notice of proposed rulemaking will become a

matter of public record; therefore, you should submit only information that you wish to make publicly available.

Inspection of comments: Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (Not a toll free call). In general, FinCEN makes all comments publicly available by posting them on *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: The FinCEN regulatory helpline at (800) 949–2732 and select Option 6.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Provisions

The Bank Secrecy Act, Public Law 91–508, codified as amended at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314; 5316–5332, authorizes the Secretary of the Treasury (''Secretary'') to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism, and to implement anti-money laundering programs and compliance procedures.[1] Regulations implementing the BSA appear at 31 CFR Part 103. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

The definition of ''financial institution'' in the BSA includes investment companies.[2] FinCEN has the authority to issue rules defining investment companies as financial institutions. The Investment Company Act of 1940, codified at 15 U.S.C. 80a–1 *et seq.* (the ''Investment Company Act''), defines ''investment company''[3] and subjects investment companies to regulation by the Securities and Exchange Commission (''SEC'').

B. Overview of Current Regulatory Provisions

Regulations implementing the BSA currently apply only to investment companies that are ''open-end companies,'' as the term is defined in the Investment Company Act. More commonly known as mutual funds, open-end companies are the predominant type of investment company. Open-end companies are management companies that offer or have outstanding securities that are redeemable at net asset value.[4]

On April 29, 2002, FinCEN issued a rule under section 352 of the USA PATRIOT Act prescribing minimum standards for the development of anti-money laundering programs by mutual funds.[5] On May 9, 2003, FinCEN issued jointly with the SEC a rule under section 326 of the USA PATRIOT Act requiring mutual funds to implement customer identification programs.[6] On May 4, 2006, FinCEN issued a rule requiring mutual funds to report suspicious transactions.[7] On August 9, 2007, FinCEN completed the anti-money laundering rules required with respect to certain financial institutions, including mutual funds, under section 312 of the USA PATRIOT Act.[8] These rules require mutual funds to establish due diligence programs for correspondent and private banking accounts.

Although FinCEN has issued individual rules that apply to mutual funds, FinCEN has not included mutual funds within the definition of ''financial institution'' at 31 CFR 103.11(n). The definition of ''financial institution'' at 31 CFR 103.11(n) is less inclusive than the definition in the BSA itself.[9] The regulatory definition determines the scope of rules that require the filing of CTRs and the creation, retention, and transmittal of records or information on transmittals of funds and other specified transactions.[10]

II. Section-by-Section Analysis

A. Sections 103.11(n)(10) and 103.11(ccc)—Mutual Funds Move From Filing Form 8300 to the Currency Transaction Report

The proposed amendment would add mutual funds to the regulatory definition of ''financial institution'' at 31 CFR 103.11(n)(10). FinCEN is also proposing to add a general definition of a ''mutual fund'' at 31 CFR 103.11(ccc). The definition of ''mutual fund'' would cover only those entities registered or required to register with the SEC. Specifically, ''mutual fund'' would be defined as:

> An ''investment company'' (as the term is defined in section 3 of the Investment Company Act (15 U.S.C. 80a–3)) that is an ''open-end company'' (as that term is defined in section 5 of the Investment Company Act (15 U.S.C. 80a–5)) registered or required to register with the Securities and Exchange Commission under section 8 of the Investment Company Act (15 U.S.C. 80a–8).

Mutual funds currently file reports on Form 8300 for the receipt of more than $10,000 in currency.[11] The requirement applies to currency received in one transaction or two or more related transactions.[12] The proposed amendment would replace this requirement with a requirement to file CTRs under 31 CFR 103.22.[13] A mutual fund would file a CTR for a transaction involving a transfer of more than $10,000 in currency by, through, or to the mutual fund.[14] The CTR filing

[1] Language expanding the scope of the BSA was added by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (''USA PATRIOT Act''), Public Law 107–56.

[2] 31 U.S.C. 5312(a)(2)(I).

[3] *See* 15 U.S.C. 80a–3.

[4] 15 U.S.C. 80a–4; 15 U.S.C. 80a–5(a)(1); 15 U.S.C. 80a–2(a)(32). Face-amount certificate companies and unit investment trusts are excluded from the definition of ''management company.'' 15 U.S.C. 80a–4(3).

[5] *Anti-Money Laundering Programs for Mutual Funds,* 67 FR 21117 (April 29, 2002).

[6] *Customer Identification Programs for Mutual Funds,* 68 FR 25131 (May 9, 2003).

[7] *Amendment to the Bank Secrecy Act Regulations—Requirement That Mutual Funds Report Suspicious Activity,* 71 FR 26213 (May 4, 2006).

[8] *Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts,* 71 FR 496 (January 4, 2006); *Anti-Money Laundering Programs; Special Due Diligence Programs for Certain Foreign Accounts,* 72 FR 44768 (August 9, 2007).

[9] *See* 31 U.S.C. 5312(a)(2).

[10] *See* 31 CFR 103.22; 31 CFR 103.28; 31 CFR 103.29; 31 CFR 103.33; and 31 CFR 103.38. Defining a business as a financial institution also could make the business ineligible for exemption from the requirement to file CTRs. *See* 31 CFR 103.22(d)(5)(viii).

[11] 31 CFR 103.30(a)(1)(i). In addition to coin and currency of the United States or of any other country, ''currency'' includes cashier's checks, bank drafts, traveler's checks, and money orders in face amounts of $10,000 or less, if the instruments are received in a ''designated reporting transaction.'' 31 CFR 103.30(c)(1)(ii)(A). A ''designated reporting transaction'' is defined as the retail sale of a consumer durable, collectible, or travel or entertainment activity. 31 CFR 103.30(c)(2). In addition, a mutual fund would need to treat the instruments as currency if the mutual fund knows that a customer is using the instruments to avoid the reporting of a transaction on Form 8300. 31 CFR 103.30(c)(1)(ii)(B).

[12] 31 CFR 103.30(a). The rule defines ''related transactions'' to include transactions conducted between a payer or its agent and the recipient of the currency in a 24-hour period. 31 CFR 103.30(c)(12)(ii). Transactions conducted during a period of more than 24 hours are related if the recipient knows or has reason to know that each transaction is one of a series of connected transactions. 31 CFR 103.30(c)(12)(ii). In addition, the rule includes provisions on the treatment of multiple deposits or installment payments relating to a single transaction. *See* 31 CFR 103.30(b).

[13] 31 CFR 103.30(a)(1)(ii) (the requirement to file a Form 8300 does not apply to transactions reported under 31 CFR 103.22).

[14] *See* 31 CFR 103.22(b)(1) and 31 CFR 103.11(h) (currency is defined as the coin and paper of the United States or of any other country that is designated as legal tender and that circulates and

Continued

obligation covers incoming, outgoing, and exchange transactions in currency. The definition of ''currency'' for purposes of the CTR rule is different from and less inclusive than the definition of ''currency'' in the rule for Form 8300; therefore, mutual funds would only be required to file CTRs on cash transactions. The threshold in 31 CFR 103.22 applies to transactions conducted during a single business day.[15] Under the CTR rule, a financial institution must treat multiple transactions as a single transaction if the financial institution has knowledge that the transactions are conducted by or on behalf of the same person.[16]

Because mutual funds would no longer be required to file Form 8300s, mutual funds would be freed from having to report applicable transactions involving certain negotiable instruments.[17] Although FinCEN recognizes that there may be some threat of financial criminals using negotiable instruments such as money orders to move illicit funds into mutual funds, the volume of Form 8300s filed is relatively low when compared to the overall volume of transactions.[18] Because mutual funds rarely receive from or disburse to shareholders significant amounts of currency, FinCEN believes they are not as likely as depository institutions to be used during the initial ''placement'' stage of the money laundering process.[19]

FinCEN requests comment on whether mutual funds are less likely to be used during the initial placement stage of money laundering than a depository institution and therefore present a lower risk for money laundering. Furthermore, since mutual funds are subject to SAR reporting requirements, the ability to report suspicious transactions on Form 8300 is redundant.[20] FinCEN requests comment on whether the filing of CTRs as opposed to Form 8300s is more appropriate when considering the anti-money laundering program requirement and the information technology changes that mutual funds may be required to make.

B. Section 103.33—The Travel Rule and Related Recordkeeping Requirements

In addition, the proposed amendment would subject mutual funds to requirements regarding the creation and retention of records for transmittals of funds, and the requirement to transmit information on these transactions to other financial institutions in the payment chain.[21] These requirements are often referred to as the ''Travel Rule.''

The Travel Rule applies to transmittals of funds in amounts that equal or exceed $3,000. A ''transmittal of funds'' includes funds transfers processed by banks, as well as similar payments where one or more of the financial institutions processing the payment—the transmittor's financial institution, an intermediary financial institution, or the recipient's financial institution—is not a bank.[22] Such payments processed by mutual funds would be ''transmittals of funds.'' If the mutual fund is processing a payment sent by or to its customer, then the mutual fund would be either the ''transmittor's financial institution'' or the ''recipient's financial institution.''

The Travel Rule requires the transmittor's financial institution to obtain and retain name, address, and other information on the transmittor and the transaction.[23] The Travel Rule also requires the recipient's financial institution—and in certain instances, the transmittor's financial institution—to obtain or retain identifying information on the recipient.[24] The Travel Rule requires that certain information obtained or retained by the transmittor's financial institution ''travel'' with the transmittal order through the payment chain.[25]

The proposed amendment would include mutual funds within an existing exception designed to exclude from coverage of these requirements funds transfers or transmittal of funds in which certain categories of financial institution are the transmitter, originator, recipient, or beneficiary.[26] The proposed inclusion of mutual funds within the exceptions is intended to provide mutual funds with treatment similar to that of banks, brokers or dealers in securities, futures commission merchants, and introducing brokers in commodities. Finally, the proposed amendment would subject mutual funds to requirements on the creation and retention of records for extensions of credit and cross-border transfers of currency, monetary instruments, checks, investment securities, and credit.[27] These requirements apply to transactions in amounts exceeding $10,000.

Mutual funds are already subject to the record retention requirements of the rules promulgated under the Investment Company Act of 1940 and mutual fund transfer agents are subject to recordkeeping requirements under the Securities Exchange Act of 1934.[28] FinCEN believes that the requirements of 31 CFR 103.33 and 31 CFR 103.38 would have a *de minimus* impact on mutual funds and their transfer agents.[29] Furthermore, rules under the BSA on the establishment of customer identification programs by mutual funds and on the reporting by mutual funds of suspicious transactions impose requirements to create and retain records.[30]

is customarily used as a medium of exchange in a foreign country).

[15] *See* 31 CFR 103.22(c)(2).

[16] 31 CFR 103.22(c)(2). The obligation to file a CTR is conditioned on knowledge that the transactions are conducted by or on behalf of the same person and result in either cash in or cash out totaling more than $10,000 during any one business day.

[17] In determining whether to file a Form 8300, a mutual fund may need to treat instruments as currency if the mutual fund knows that a customer is using the instruments to avoid the reporting of a transaction on Form 8300, in which case the mutual fund also may need to file a suspicious activity report (''SAR''). *See* 31 CFR 103.30(c)(1)(ii)(B) and 31 CFR 103.15(a)(2).

[18] A review of BSA data revealed that while hundreds of millions of transactions involving mutual funds were conducted in calendar years 2004, 2005, 2006, and 2007, fewer than 19,500 Form 8300s were filed by mutual funds over the same period.

[19] *Anti-Money Laundering Programs for Mutual Funds,* 67 FR 21117, 21118 (April 29, 2002).

[20] A mutual fund could report a suspicious transaction voluntarily by checking box 1(b) in the Form 8300. A mutual fund is required to file a SAR reporting the transaction, however, if the transaction exceeds the threshold set forth in the rule requiring mutual funds to report suspicious transactions. *See* 31 CFR 103.15(a)(2).

[21] *See* 31 CFR 103.33(f) and (g). Financial institutions must retain records for a period of five years. 31 CFR 103.38(d).

[22] Rules under the BSA define a ''transmittal of funds'' and the persons or institutions involved in a ''transmittal of funds.'' *See* 31 CFR 103.11(d), (e), (q), (r), (s), (v), (w), (cc), (dd), (jj), (kk), (ll), and (mm).

[23] *See* 31 CFR 103.33(f)(1)(i) and (f)(2).

[24] *See* 31 CFR 103.33(f)(3) (information that the recipient's financial institution must obtain or retain).

[25] *See* 31 CFR 103.33(g) (information that must ''travel'' with the transmittal order); 31 CFR 103.11(kk) (defining ''transmittal order'').

[26] *See* 31 CFR 103.33(e)(6)(i) and 31 CFR 103.33(f)(6)(i).

[27] *See* 31 CFR 103.33(a)–(c). Financial institutions must retain these records for a period of five years. 31 CFR 103.38(d).

[28] *See, e.g.,* 15 U.S.C. 80a–30 (mutual funds); 15 U.S.C. 78q(a)(3) (transfer agents).

[29] Mutual fund transfer agents are not subject to the Travel Rule or related recordkeeping requirements. Nevertheless, FinCEN has noted the role of transfer agents in performing BSA compliance functions. *See e.g.,* 71 FR 26213, (May 4, 2006) (adopting release for mutual fund SAR rule), 68 FR 25131, (May 9, 2003) (adopting release for mutual fund Customer Identification Program rule). Many mutual funds contractually delegate their BSA compliance functions, including recordkeeping, to transfer agents, although the mutual fund remains responsible under the BSA for ensuring compliance.

[30] *See* 31 CFR 103.131 (mutual funds must obtain and record identifying information for persons opening new accounts, and verify the identity of persons opening new accounts); 31 CFR 103.15(c) (mutual funds must maintain records of documentation that supports the filing of a SAR).

IV. Request for Comment

All comments submitted in response to this notice will become a matter of public record. FinCEN welcomes written comment on all aspects of this notice, and FinCEN especially encourages comments on the following issues:

- The anticipated time and monetary savings that could result from replacing the requirement to file reports on Form 8300 with a requirement to file CTRs.
- The nature, volume, content, and value of any potentially lost information to law enforcement, tax, regulatory, and counter-terrorism investigations or activities that could result from the filing of CTRs, rather than Form 8300s, by mutual funds.
- The anticipated impact of subjecting mutual funds to rules under the BSA that require the creation, retention, and transmittal of records or information for transmittals of funds and other specified transactions.

V. Proposed Location in Chapter X

As per its November 7, 2008 notice of proposed rulemaking pertaining to a restructuring of its regulations in a new chapter in the Code of Federal Regulations,[31] FinCEN is separately proposing to remove Part 103 of Chapter I of Title 31, Code of Federal Regulations, and add Parts 1000 to 1099 (Chapter X). As such and if finalized, the proposed changes herein would be reorganized according to the changes proposed in that rulemaking. The planned reorganization would have no substantive effect on the proposed regulatory changes herein. The proposed regulatory changes herein would be renumbered according to the structure established via the finalization of the Chapter X rule.

VI. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act (''RFA'') (5 U.S.C. 601 *et seq.*), FinCEN certifies that the proposed rule in this notice would not have a significant economic impact on a substantial number of small entities. The economic impact of the proposed rule on small entities should not be significant. Mutual funds, regardless of their size, are already required to comply with most of the existing BSA rules required of financial institutions. While all mutual funds are captured under this rulemaking, the estimated burden associated with defining mutual funds as financial institutions is minimal. FinCEN believes that mutual funds rarely receive from or disburse to shareholders significant amounts of currency. New recordkeeping obligations, if not already being performed by mutual funds in accordance with other law or as a matter of prudent business practice, are likely to be commensurate with the size of the fund. FinCEN seeks comment on whether the proposed rule would have a significant economic impact on a substantial number of small entities.

VII. Executive Order 12866

It has been determined that the proposed rule is not a ''significant regulatory action'' for purposes of Executive Order 12866. Accordingly, a regulatory impact analysis is not required.

VIII. Paperwork Reduction Act

The collection of information contained in the proposed rule is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 (or by e-mail to *oira_submission@omb.eop.gov*), with a copy to FinCEN by mail or by Internet submission at the addresses previously specified. In accordance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR part 1320, the following information concerning the collection of information as required by 31 CFR 103.22 and 31 CFR 103.33 is presented to assist those persons wishing to comment on the information collection. The collection of information in the proposed rule is in 31 CFR 103.22 and 31 CFR 103.33.

Description of Affected Financial Institutions: Mutual funds as defined in 31 CFR 103.11(ccc).

Estimated Number of Affected Financial Institutions: 8,029.[32]

Estimated Average Annual Burden Hours per Affected Financial Institution: The estimated average burden associated with the collection of information in this notice is one hour recordkeeping per response per affected financial institution.[33]

Estimated Total Annual Burden: 8,029 hours.[34]

FinCEN specifically invites comment on: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information will have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information required to be maintained; (d) ways to minimize the burden of the required collection of information, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to maintain the information.

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

List of Subjects in 31 CFR Part 103

Administrative practice and procedure, Banks and banking, Brokers, Currency, Investigations, Penalties, Reporting and recordkeeping requirements, Securities, Terrorism.

Amendment

For the reasons set forth above in the preamble, 31 CFR part 103 is proposed to be amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, secs. 311, 312, 313, 314, 319, 326, 352, Public Law 107–56, 115 Stat. 307.

Subpart A—Definitions

2. Amend § 103.11 by revising paragraph (n)(9) and by adding paragraphs (n)(10) and (ccc) to read as follows:

[31] *Transfer and Reorganization of Bank Secrecy Act Regulations,* 73 FR 66414 (November 7, 2008).

[32] *See* Investment Company Institute (ICI) 2008 *Investment Company Fact Book,* at 110 (2008), available at: *http://www.icifactbook.org/pdf/2008_factbook.pdf* (number of mutual funds in the U.S. in 2007).

[33] The single hour is based on an estimate of 45 minutes to complete the CTR form and 15 minutes for recordkeeping and archiving.

[34] While it is not industry practice for mutual funds to accept cash, there is no restriction on mutual funds that prohibits mutual funds from accepting cash. Therefore, for purposes of estimating the annual burden the filing of CTRs will have on mutual funds, FinCEN estimates that each mutual fund will file one CTR per year.

§ 103.11 Meaning of terms.

* * * * *

(n) * * *

(9) An introducing broker in commodities;

(10) A mutual fund.

* * * * *

(ccc) *Mutual fund* means an ''investment company'' (as the term is defined in section 3 of the Investment Company Act (15 U.S.C. 80a–3)) that is an ''open-end company'' (as that term is defined in section 5 of the Investment Company Act (15 U.S.C. 80a–5)) registered or required to register with the Securities and Exchange Commission under section 8 of the Investment Company Act (15 U.S.C. 80a–8).

Subpart C—Records Required To Be Maintained

3. Amend § 103.33 by revising paragraphs (e)(6)(i)(I) and (f)(6)(i)(I) and by adding paragraphs (e)(6)(i)(J) and (f)(6)(i)(J) to read as follows:

§ 103.33 Records to be made and retained by financial institutions.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(I) A Federal, State or local government agency or instrumentality; or

(J) A mutual fund; and

* * * * *

(f) * * *

(6) * * *

(i) * * *

(I) A Federal, State or local government agency or instrumentality; or

(J) A mutual fund; and

* * * * *

Dated: June 1, 2009.

William F. Baity,

Acting Director, Financial Crimes Enforcement Network.

[FR Doc. E9–13136 Filed 6–4–09; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket No. USCG–2008–0852]

RIN 1625–AA01

Disestablishing Special Anchorage Area 2; Ashley River, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to disestablish the Ashley River Anchorage 2 in Charleston, South Carolina. The removal of the anchorage would accommodate an expansion to the Ripley Light Yacht Club.

DATES: Comments and related material must be received by the Coast Guard on or before August 4, 2009. Requests for public meetings must be received by the Coast Guard on or before July 6, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2008–0852 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov*.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant Julie Miller, Sector Charleston Office of Waterways Management, at (843) 720–3273 or *Julie.E.Miller@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0852), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert ''USCG–2008–0852'' in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–0852 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor

union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But, you may submit a request for a public meeting on or before July 6, 2009, using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Ashley River Properties and the Ripley Light Yacht Club submitted a permit with the Army Corps of Engineers to construct additional boat slips at the Ripley Light Yacht Club; however, the expansion would extend into an area currently designated as the Ashley River Anchorage 2. Removal of the anchorage would allow for the expansion to continue. The marina plans to add additional floating dock space to accommodate approximately 200 additional pleasure craft. Ripley Light Yacht Club intends to reserve a portion of the new boat slips for transient recreational boaters. The remaining anchorage, currently designated Ashley River Anchorage 1, remains a viable and convenient location for recreational vessel anchorage.

Discussion of Proposed Rule

The proposed rule would disestablish the Ashley River Anchorage 2 set forth in 33 CFR 110.72d(b). The planned expansion of the Ripley Light Yacht Club extends into Ashley River Anchorage 2. In order to complete the expansion project, the anchorage must be disestablished.

The proposed rule also would update the name of the marina used in describing the remaining anchorage.

Regulatory Analyses

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

Regulatory Planning and Review

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The limited geographic area impacted by this disestablishment will not restrict the movement or routine operation of a large number of commercial or recreational vessels in the Ashley River. Furthermore, a second and larger anchorage already exists nearby.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of recreational vessels intending to anchor in the Charleston harbor. This rule would not have a significant impact on a substantial number of small entities because the current anchorage is small and cannot accommodate many vessels, there is another nearby location in which small vessels can anchor, and the marina expansion will accommodate at least as many transient vessels as could fit in the current anchorage.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Julie Miller, listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination under the Instruction that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the disestablishment of a special anchorage area, which is categorically excluded under section 2.B.2 Figure 2–1, paragraph 34(f), of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

2. Revise section 110.72d to read as follows:

§ 110.72d Ashley River Anchorage Area, SC.

The following location is a special anchorage area: The waters lying within an area across the Ashley River Channel from the Charleston City Marina bounded by the southwest side of the channel beginning at latitude 32°46′42.7″ N, longitude 079°57′19.3″ W; thence to latitude 32°46′38.0″ N, longitude 079°57′24.0″ W; thence to latitude 32°46′32.0″ N, longitude 079°57′15.5″ W; thence to latitude 32°46′29.0″ N, longitude 079°57′00.9″ W; thence back to the beginning following the southwest boundary of the Ashley River Channel. All coordinates referenced use datum: NAD 1983.

Dated: May 6, 2009.

R.S. Branham,

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

[FR Doc. E9–13108 Filed 6–4–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2008–0348; FRL–8913–7]

RIN 2060–AO58

Methods for Measurement of Filterable PM_{10} and $PM_{2.5}$ and Measurement of Condensable Particulate Matter Emissions From Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; announcement of reopening of comment period.

SUMMARY: EPA is reopening the comment period for the proposed rule entitled ''Methods for Measurement of Filterable PM_{10} and $PM_{2.5}$ and Measurement of Condensable Particulate Matter Emissions From Stationary Sources'' that was proposed in the **Federal Register** on March 25, 2009. The 60-day comment period in the proposed rule ended on May 26, 2009. The reopened comment period will close on June 26, 2009. EPA is reopening the comment period because of a request we received in a timely manner.

DATES: *Comments:* The comment period for the proposed rule published March 25, 2009 (74 FR 12970), is reopened. Comments must be received on or before June 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–HQ–OAR–2008–0348, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail:* Send your comments via electronic mail to *a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Methods for Measurement of Filterable PM_{10} and $PM_{2.5}$ and Measurement of Condensable Particulate Matter Emissions from Stationary Sources, Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center EPA Headquarter Library, Room 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are accepted only 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–2008–0348. 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.regulation.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 instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document or 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 Methods for Measurement of Filterable PM_{10} and $PM_{2.5}$ and Measurement of Condensable Particulate Matter Emissions from Stationary Sources Docket, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room/Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For general information, contact Ms. Candace Sorrell, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (E143–02), Research Triangle Park, NC 27711; telephone number: (919) 541–1064; fax number: (919) 541–0516; e-mail address: *sorrell.candace@epa.gov.* For technical questions, contact Mr. Ron Myers, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Measurement Policy Group (D243–05), Research Triangle Park, NC 27711; telephone number: (919) 541–5407; fax number: (919) 541–1039; e-mail address: *myers.ron@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. What Should I Consider as I Prepare My Comments for EPA?

Do not submit information containing CBI to EPA through *http://www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, Attention Docket ID No. EPA–HQ–OAR–2008–0348. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on 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.

B. Where Can I Obtain a Copy of This Action and Other Related Information?

In addition to being available in the docket, an electronic copy of today's proposed amendments is also available on the Worldwide Web (*http://www.epa.gov/ttn/*) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed amendment will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control.

Dated: May 28, 2009.

Jenny N. Edmonds,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. E9–13164 Filed 6–4–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2000–0007; FRL–8912–2]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete the Callaway & Son Drum Services Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 is issuing a Notice of Intent to Delete the Callaway & Son Drum Services Superfund Site (Site) located in Lake Alfred, Polk County, Florida, from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Florida, through the Florida Department of Environmental Protection, have determined that all appropriate response actions under CERCLA, other than five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by July 6, 2009.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–2000–0007, by one of the following methods:

- *http://www.regulations.gov.* Follow on-line instructions for submitting comments.
- *E-mail: jackson.galo@epa.gov.*
- *Fax:* (404) 562–8842.
- *Mail:* 61 Forsyth Street, SW., Atlanta, GA 30303–8960.
- *Hand delivery:* 61 Forsyth Street, SW., Atlanta, GA 30303–8960. Such deliveries are only accepted during the Docket's normal hours of operation (8

a.m. to 4:30 p.m.), and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–2000–0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the Docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

U.S. EPA Record Center, attn: Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960, Phone: (404) 562–8862, Hours: 8 a.m. to 4 p.m., Monday through Friday, By Appointment Only,

or

Lake Alfred Public Library, 195 East Pomelo Street, Lake Alfred, Florida 33850, Phone: (863) 291–5378, Hours: 10 a.m. to 6 p.m., Monday through Friday, 9 a.m. to 2 p.m., Saturday, closed, Sunday.

FOR FURTHER INFORMATION CONTACT: Galo Jackson, Remedial Project Manager, Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, GA 30303–8960, (404) 562–8937, e-mail: *jackson.galo@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Callaway & Son Drum Services Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the *Rules* section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: May 19, 2009.

J. Scott Gordon,

Acting Regional Administrator, EPA Region 4.

[FR Doc. E9–13166 Filed 6–4–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R1–ES–2007–0024; 92210–1113–0000–C6]

RIN 1018–AU96

Endangered and Threatened Wildlife and Plants; Removing the Hawaiian Hawk From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearings; reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the schedule of public hearings on the proposed rule to remove (delist) the Hawaiian hawk (*Buteo solitarius*) from the Federal List of Endangered and Threatened Wildlife and the reopening of the public comment period on this proposed action. The public is invited to review and comment on the proposed rule and on the draft post-delisting monitoring plan (draft PDM Plan) for the Hawaiian hawk at the scheduled public hearings or in writing.

DATES: We will hold public hearings on the Island of Hawaii on June 30, 2009, at the Pu'ueo Community Center, 145 Wainaku Street, Hilo, Hawaii, from 6 p.m. to 8 p.m., and on July 1, 2009, at Yano Hall, 82–6156 Mamalahoa Highway, Captain Cook, Hawaii, from 6 p.m. to 8 p.m. The public hearings are being held to provide interested parties an opportunity to comment on the proposed rule and draft PDM Plan. We will also accept written comments on or before August 4, 2009.

ADDRESSES: The proposed rule to delist the Hawaiian hawk and the draft PDM Plan may be downloaded from our Web site at *http://www.fws.gov/pacificislands*. To request a hardcopy of the proposed rule or the draft PDM Plan, write to: Field Supervisor, Attention: Hawaiian Hawk Proposed Delisting/Draft PDM Plan, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Rm. 3–122, Box 50088, Honolulu, Hawaii 96850; or call 808–792–9400, or send an e-mail request to *jay_nelson@fws.gov*.

You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments to docket number FWS–R1–ES–2007–0024.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: RIN 1018–AU96; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.
- Verbal testimony or delivery of written comments to hearing officials at the public hearing.

We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Availability of Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Pacific Islands Fish and Wildlife Office, P.O. Box 50088, Honolulu, HI 96850; (telephone 808/792–9400). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800/877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

Background

We published a proposed rule to remove (delist) the Hawaiian hawk from the Federal List of Endangered and Threatened Wildlife, due to recovery, on August 6, 2008, with a 60-day comment period that closed on October 6, 2008 (73 FR 45680). In response to public requests for additional dialogue on our proposed rule we held two public information meetings, one on January 28, 2009, at the Pu'ueo Community Center, in Hilo, Hawaii, and the second on January 29, 2009, in Captain Cook, Hawaii. At those public meetings we presented information on our proposed delisting rule and draft PDM Plan and responded to questions. On February 11, 2009, we formally announced the availability of the draft PDM Plan for the Hawaiian hawk and reopened a 60-day public comment period that closed on April 13, 2009 (74 FR 6853). At the public meetings held on January 28 and 29, 2009, we received requests to hold a public hearing regarding our proposed delisting rule for the hawk. In response, we have scheduled two public hearings on the Island of Hawaii (see **DATES**) and are reopening the public comment period.

Viewing Documents

Comments and materials we receive, as well as supporting documentation we used in preparing the draft PDM Plan and proposed rule, will be available for public inspection on *http://www.regulations.gov* docket number FWS–R1–ES–2007–0024, or by appointment, during normal business hours at the U.S. Fish and Wildlife Service Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section above).

Public Comments Solicited

We intend that any final action resulting from the proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule or draft PDM plan. If you previously submitted comments on the proposed delisting rule or draft PDM plan, please do not resubmit them, as we have already incorporated them into the public record and will fully consider them in our final decision.

Public Availability of Comments

Before including your address, phone number, electronic mail address, or other personal identifying information in your comment, you should be aware that your entire document—including your personal identifying information—may be publicly available at any time. While you may request at the top of your document that we withhold this information from public review, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: May 28, 2009.

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E9–13116 Filed 6–4–09; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 74, No. 107

Friday, June 5, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2008–0121]

Notice of Determination of the High Pathogenicity Avian Influenza Subtype H5N1 Status of Germany and Poland

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination regarding the high pathogenicity avian influenza (HPAI) subtype H5N1 status of Germany and Poland following outbreaks in 2006 and 2007. Based on assessments of the animal health status of the two countries, which we made available to the public for review and comment through a previous notice, the Administrator has determined that the importation of live birds, poultry carcasses, parts or products of poultry carcasses, and eggs (other than hatching eggs) of poultry, game birds, and other birds from either Germany (except Saxony, Germany) or Poland presents a low risk of introducing HPAI H5N1 into the United States.

DATES: *Effective Date:* This determination will be effective on June 22, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–0756.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2009, we published in the **Federal Register** (74 FR 69–70) a notice [1] in which we announced the availability for review and comment of assessments of the animal health status of Germany and Poland relative to high pathogenicity avian influenza (HPAI) subtype H5N1. In the assessments, titled ''APHIS' Evaluation of the Status of High Pathogenicity Avian Influenza H5N1 (HPAI H5N1) in Germany'' (October 2008) and ''APHIS' Evaluation of the Status of High Pathogenicity Avian Influenza H5N1 virus in Poland'' (October 2008), we presented the results of our evaluation of the prevalence of HPAI H5N1 in domestic poultry in the two countries in light of the actions taken by German and Polish animal health authorities during and since the outbreaks of HPAI H5N1 that occurred in those two regions in 2006 and 2007.

Our assessments concluded that both Germany and Poland had adequate detection and control measures in place at the time of the outbreaks, that they have been able to effectively control and eradicate HPAI H5N1 in their domestic poultry populations since that time, and that both German and Polish animal health authorities have control measures in place to rapidly identify, control, and eradicate the disease should it be reintroduced into Germany or Poland in either wild birds or domestic poultry.

In our January 2009 notice we stated that, if we could identify no additional risk factors that would indicate that domestic poultry in either Germany or Poland continue to be affected with HPAI H5N1 by the end of the comment period, we would conclude that the importation of live birds, poultry carcasses, parts of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from regions of Germany and Poland presents a low risk of introducing HPAI H5N1 into the United States.

We solicited comments on the notice for 30 days ending on February 2, 2009. We received one comment on our assessments, from the Ministry of Agriculture and Rural Development of the Republic of Poland. The commenter agreed with our findings. Based on the comment we received, no changes were made to the evaluations.

Therefore we are removing our prohibition on the importation of these products from Germany (except Saxony, Germany) and Poland into the United States. Specifically:

- We are no longer requiring that processed poultry products from Germany (except Saxony, Germany) and Poland be accompanied by a Veterinary Service import permit and government certification confirming that the products have been treated according to APHIS requirements;
- We are allowing unprocessed poultry products from Germany (except Saxony, Germany) and Poland to enter the United States in passenger luggage; and
- We are removing restrictions regarding the regions in Germany (except Saxony, Germany) and Poland from which processed poultry products may originate in order to be allowed entry into the United States in passenger luggage.

However, live birds from Germany and Poland are still subject to the inspections at ports of entry and post-importation quarantines set forth in 9 CFR part 93, unless granted an exemption by the Administrator or destined for diagnostic purposes and accompanied by a limited permit.

Additionally, in our January 2009 notice, we stated that for Germany, we would maintain the restrictions we imposed in response to a subsequent October 2008 outbreak until the European Commission lifted the restrictions it had imposed in response to that outbreak, at which point we would reevaluate the HPAI H5N1 status of the district of Görlitz in Saxony.

The restrictions put in place by the European Commission on October 9, 2008, in response to the presence of HPAI H5N1 in a single flock of mixed species of domestic poultry in the district of Görlitz in Saxony, were lifted on November 13, 2008, following extensive surveillance and epidemiologic investigations. Accordingly, we are publishing a notice in today's issue of the **Federal Register**, in which we make available, for review and comment, our assessment of the HPAI H5N1 status of Saxony, Germany.

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

[1] To view the notice, the assessments, and the comment we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0121*.

Done in Washington, DC, this 1st day of June 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–13154 Filed 6–4–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of New Fee Site; Federal Lands Recreation Enhancement Act (Title VIII, Pub. L. 108–447)

AGENCY: Coronado National Forest, USDA Forest Service, Tucson, Arizona.

ACTION: Notice of new fee site.

SUMMARY: The Coronado National Forest proposes to begin charging a new $150.00 per day fee for rental of the Kent Springs Cabin, located in Madera Canyon, 15 miles west of Green Valley, Arizona. Rental of the Cabin includes overnight use. Rental of other facilities within the Arizona National Forests has shown that the public appreciates and enjoys the availability of historic rental facilities. Funds from the rentals will be used for the continued operation and maintenance of the Kent Springs Cabin.

DATES: Kent Springs Cabin will become available for rent April, 2010.

ADDRESSES: Coronado National Forest, 300 West Congress, Tucson, AZ 85701.

FOR FURTHER INFORMATION CONTACT: Kathy Makansi, Archaeologist, Coronado National Forest, (520) 760–2502.

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established.

The Coronado National Forest currently has three other rental facilities. These facilities are booked regularly throughout the rental season. A business analysis for the rental of the Kent Springs Cabin shows that people desire having this sort of recreation experience on the Coronado National Forest. A market analysis indicates that the $150.00 daily fee is both reasonable and acceptable for this sort of unique recreation experience.

People wanting to rent the Kent Springs Cabin will need to do so through the National Recreation Reservation Service, at *http://www.recreation.gov* by calling 1–877–444–6777. The National Recreation Reservation Service charges a $9 fee per reservation.

Dated: May 28, 2009.

Jeanine A. Derby,

Forest Supervisor, Coronado National Forest.

[FR Doc. E9–13026 Filed 6–4–09; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

June 2, 2009.

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement.

EFFECTIVE DATE: June 5, 2009.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain cotton-polyester circular knit fleece fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf. Reference number: 108.2009.04.24.Fabric.ST&RforGaran Mfg.

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA-DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Implementation Act), Pub. Law 109-53; the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Implementation Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25 of the CAFTA-DR Agreement; see also section 203(o)(4)(C) of the CAFTA-DR Act.

The CAFTA-DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Implementation Act for modifying the Annex 3.25 list. On September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA-DR (Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200, September 15, 2008) (''procedures'').

On April 24, 2009, the Chairman of CITA received a Request for a Commercial Availability Determination (''Request'') from Sandler, Travis & Rosenberg, P.A., on behalf of Garan Manufacturing Corp., for certain cotton-polyester circular knit fleece fabric. On April 28, 2009, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA-DR Commercial Availability proceedings. In its notifications, CITA advised that a Response with an Offer to Supply (''Response'') to the Request must be submitted by May 8, 2009, and any Rebuttal to a Response (''Rebuttal'') be submitted by May 14, 2009. On May 8, 2009, Elasticos Centroamericanos y Textile S.A. de C.V. (''Elcatex'') submitted a Response. On May 14, 2009, Garan Manufacturing Corp. submitted its Rebuttal.

In accordance with Section 203(o) of the CAFTA-DR Implementation Act, Article 3.25 of the CAFTA-DR, and Section 8(c)(4) of CITA's procedures, should CITA determine that it has insufficient information to make a determination, CITA will extend its time period for consideration of the Request by an additional 14 U.S. business days. As the requestor and respondent disagreed on the respondent's ability to supply the subject product, on May 20, 2009, the Chairman determined that there was insufficient information to recommend a determination, and therefore extended

the deadline by an additional 14 U.S. business days. On May 27, 2009, Elcatex submitted a letter of withdrawal from the proceeding. As a result, there is no Response to the pending Request for CITA's consideration.

In accordance with section 203(o)(4)(C) of the CAFTA-DR Implementation Act, and Section 8(c)(2) of CITA's procedures, as no interested entity submitted a Response objecting to the Request and demonstrating its ability to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Cotton-Polyester Circular Knit Fleece Fabric

HTSUS: 6001.21
Fiber Content: 67-73% cotton / 27-33% polyester
Average Yarn Number:
- Face yarn - 100% combed cotton; 47/1 to 58/1 metric (28/1 to 34/1)
- Tie yarn - 100% filament polyester, 110-125 metric/ 36 filaments; (72-82 denier / 36 filaments)
- Fleece yarn - 57-63% combed cotton/37-43% polyester; 12/1 to 24/1 metric (7/1 to 14/1)

Gauge: 18
Weight: 271 to 300 grams per square meter (8.0 to 8.85 ounces per square yard)
Width: 152 to 183 centimeters (60 to 72 inches)
Finish: (Piece) dyed; printed
In addition, technical back must be heavily napped to produce a fabric thickness of not less than 4.5 millimeters, including the napped pile. Additionally, a portion of the fabric is brushed on the technical face to produce a sueded hand and appearance and a portion is treated with a stain release finish. Finally, the following performance criteria must be satisfied:
- Vertical and horizontal shrinkage must be less than 5%
- Torque may not exceed 4%
- All fabrics must have a Class 1 flammability rating
- For optimum fabric integrity and stitch definition, this fabric must be knit on machines whose number of yarn feeds is a multiple of 3.

Janet E. Heinzen,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E9–13169 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

June 2, 2009.

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement.

EFFECTIVE DATE: June 5, 2009.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain cotton-polyester circular knit fleece fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf. Reference number: 107.2009.04.24.Fabric.ST&RforGaran Mfg.

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA-DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Implementation Act), Pub. Law 109-53; the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Implementation Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25 of the CAFTA-DR Agreement; see also section 203(o)(4)(C) of the CAFTA-DR Act.

The CAFTA-DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Implementation Act for modifying the Annex 3.25 list. On September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA-DR (Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200, September 15, 2008) (''procedures'').

On April 24, 2009, the Chairman of CITA received a Request for a Commercial Availability Determination (''Request'') from Sandler, Travis & Rosenberg, P.A., on behalf of Garan Manufacturing Corp., for certain cotton-polyester circular knit fleece fabric. On April 28, 2009, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA-DR Commercial Availability proceedings. In its notifications, CITA advised that a Response with an Offer to Supply (''Response'') to the Request must be submitted by May 8, 2009, and any Rebuttal to a Response (''Rebuttal'') be submitted by May 14, 2009. On May 8, 2009, Elasticos Centroamericanos y Textile S.A. de C.V. (''Elcatex'') submitted a Response. On May 14, 2009, Garan Manufacturing Corp. submitted its Rebuttal.

In accordance with Section 203(o) of the CAFTA-DR Implementation Act, Article 3.25 of the CAFTA-DR, and Section 8(c)(4) of CITA's procedures, should CITA determine that it has insufficient information to make a determination, CITA will extend its time period for consideration of the Request by an additional 14 U.S. business days. As the requestor and respondent disagreed on the respondent's ability to supply the subject product, on May 20, 2009, the Chairman determined that there was insufficient information to recommend a determination, and therefore extended the deadline by an additional 14 U.S. business days. On May 27, 2009, Elcatex submitted a letter of withdrawal from the proceeding. As a result, there is no Response to the pending Request for CITA's consideration.

In accordance with section 203(o)(4)(C) of the CAFTA-DR Implementation Act, and Section 8(c)(2) of CITA's procedures, as no interested entity submitted a Response objecting to the Request and demonstrating its ability to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Cotton-Polyester Circular Knit Fleece Fabric

HTSUS: 6001.21
Fiber Content: 67-73% cotton / 27-33% polyester
Average Yarn Number:
Face yarn - 100% combed cotton; 47/1 to 58/1 metric (28/1 to 34/1)
Tie yarn - 100% filament polyester, 167-196 metric/ 48 filaments; (46-54 denier / 48 filaments)
Fleece yarn - 57-63% combed cotton/37-43% polyester; 12/1 to 20/1 metric (7/1 to 12/1)
Gauge: 21
Weight: 271 to 300 grams per square meter (8.0 to 8.85 ounces per square yard)
Width: 152 to 183 centimeters (60 to 72 inches)
Finish: (Piece) dyed; printed
In addition, technical back must be heavily napped to produce a fabric thickness of not less than 4.5 millimeters, including the napped pile. Additionally, a portion of the fabric is brushed on the technical face to produce a sueded hand and appearance and a portion is treated with a stain release finish. Finally, the following performance criteria must be satisfied:
- Vertical and horizontal shrinkage must be less than 5%
- Torque may not exceed 4%
- All fabrics must have a Class 1 flammability rating
- For optimum fabric integrity and stitch definition, this fabric must be knit on machines whose number of yarn feeds is a multiple of 3.

Janet E. Heinzen,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E9–13179 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

June 2, 2009

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement.

EFFECTIVE DATE: June 5, 2009.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain cotton-polyester circular knit fleece fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf. Reference number: 106.2009.04.24.Fabric.ST&RforGaran Mfg.

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA-DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Implementation Act), Pub. Law 109-53; the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Implementation Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25 of the CAFTA-DR Agreement; see also section 203(o)(4)(C) of the CAFTA-DR Act.

The CAFTA-DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Implementation Act for modifying the Annex 3.25 list. On September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA-DR (Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200, September 15, 2008) (''procedures'').

On April 24, 2009, the Chairman of CITA received a Request for a Commercial Availability Determination (''Request'') from Sandler, Travis & Rosenberg, P.A., on behalf of Garan Manufacturing Corp., for certain cotton-polyester circular knit fleece fabric. On April 28, 2009, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA-DR Commercial Availability proceedings. In its notifications, CITA advised that a Response with an Offer to Supply (''Response'') to the Request must be submitted by May 8, 2009, and any Rebuttal to a Response (''Rebuttal'') be submitted by May 14, 2009. On May 8, 2009, Elasticos Centroamericanos y Textile S.A. de C.V. (''Elcatex'') submitted a Response. On May 14, 2009, Garan Manufacturing Corp. submitted its Rebuttal.

In accordance with Section 203(o) of the CAFTA-DR Implementation Act, Article 3.25 of the CAFTA-DR, and Section 8(c)(4) of CITA's procedures, should CITA determine that it has insufficient information to make a determination, CITA will extend its time period for consideration of the Request by an additional 14 U.S. business days. As the requestor and respondent disagreed on the respondent's ability to supply the subject product, on May 20, 2009, the Chairman determined that there was insufficient information to recommend a determination, and therefore extended the deadline by an additional 14 U.S. business days. On May 27, 2009, Elcatex submitted a letter of withdrawal from the proceeding. As a result, there is no Response to the pending Request for CITA's consideration.

In accordance with section 203(o)(4)(C) of the CAFTA-DR Implementation Act, and Section 8(c)(2) of CITA's procedures, as no interested entity submitted a Response objecting to the Request and demonstrating its ability to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated website for

CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Cotton-Polyester Circular Knit Fleece Fabric

HTSUS: 6001.21
Fiber Content: 67-73% cotton / 27-33% polyester
Average Yarn Number:
Face yarn - 100% combed cotton; 47/1 to 58/1 metric (28/1 to 34/1)
Tie yarn - 100% filament polyester; 167-196 metric/48 filaments (46-54 denier / 48 filaments)
Fleece yarn - 57-63% combed cotton /37-43% polyester; 12/1 to 20/1 metric (7/1 to 12/1)
Gauge: 20
Weight: 271 to 300 grams per square meter (8.0 to 8.85 ounces per square yard)
Width: 152 to 183 centimeters (60 to 72 inches)
Finish: (Piece) dyed; printed
In addition, the technical back must be heavily napped to produce a fabric thickness of not less than 4.5 millimeters, including the napped pile. Additionally, a portion of the fabric is brushed on the technical face to produce a sueded hand and appearance and a portion is treated with a stain release finish. Finally, the following performance criteria must be satisfied:
- Vertical and horizontal shrinkage must be less than 5%
- Torque may not exceed 4%
- All fabrics must have a Class 1 flammability rating
- For optimum fabric integrity and stitch definition, this fabric must be knit on machines whose number of yarn feeds is a multiple of 3.

Janet E. Heinzen,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E9–13181 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

June 2, 2009.

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

EFFECTIVE DATE: June 5, 2009.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain cotton-polyester circular knit fleece fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf. Reference number: 105.2009.04.24.Fabric.ST&RforGaran Mfg.

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA-DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Implementation Act), Pub. Law 109-53; the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Implementation Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25 of the CAFTA-DR Agreement; see also section 203(o)(4)(C) of the CAFTA-DR Act.

The CAFTA-DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Implementation Act for modifying the Annex 3.25 list. On September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA-DR (Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200, September 15, 2008) (''procedures'').

On April 24, 2009, the Chairman of CITA received a Request for a Commercial Availability Determination (''Request'') from Sandler, Travis & Rosenberg, P.A., on behalf of Garan Manufacturing Corp., for certain cotton-polyester circular knit fleece fabric. On April 28, 2009, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA-DR Commercial Availability proceedings. In its notifications, CITA advised that a Response with an Offer to Supply (''Response'') to the Request must be submitted by May 8, 2009, and any Rebuttal to a Response (''Rebuttal'') be submitted by May 14, 2009. On May 8, 2009, Elasticos Centroamericanos y Textile S.A. de C.V. (''Elcatex'') submitted a Response. On May 14, 2009, Garan Manufacturing Corp. submitted its Rebuttal.

In accordance with Section 203(o) of the CAFTA-DR Implementation Act, Article 3.25 of the CAFTA-DR, and Section 8(c)(4) of CITA's procedures, should CITA determine that it has insufficient information to make a determination, CITA will extend its time period for consideration of the Request by an additional 14 U.S. business days. As the requestor and respondent disagreed on the respondent's ability to supply the subject product, on May 20, 2009, the Chairman determined that there was insufficient information to recommend a determination, and therefore extended the deadline by an additional 14 U.S. business days. On May 27, 2009, Elcatex submitted a letter of withdrawal from the proceeding. As a result, there is no Response to the pending Request for CITA's consideration.

In accordance with section 203(o)(4)(C) of the CAFTA-DR Implementation Act, and Section 8(c)(2) of CITA's procedures, as no interested entity submitted a Response objecting to the Request and demonstrating its ability to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Cotton-Polyester Circular Knit Fleece Fabric

HTSUS: 6001.21
Fiber Content: 67-73% cotton / 27-33% polyester
Average Yarn Number:
Face yarn - 100% combed cotton; 47/1 to 58/1 metric (28/1 to 34/1)
Tie yarn - 100% filament polyester, 167-196 metric/ 48 filaments; (46-54 denier / 48 filaments)
Fleece yarn - 57-63% combed cotton/37-43% polyester; 12/1 to 20/1 metric (7/1 to 12/1)
Gauge: 19
Weight: 271 to 300 grams per square meter (8.0 to 8.85 ounces per square yard)
Width: 152 to 183 centimeters (60 to 72 inches)

Finish: (Piece) dyed; printed

In addition, technical back must be heavily napped to produce a fabric thickness of not less than 4.5 millimeters, including the napped pile. Additionally, a portion of the fabric is brushed on the technical face to produce a sueded hand and appearance and a portion is treated with a stain release finish. Finally, the following performance criteria must be satisfied:

- Vertical and horizontal shrinkage must be less than 5%
- Torque may not exceed 4%
- All fabrics must have a Class 1 flammability rating
- For optimum fabric integrity and stitch definition, this fabric must be knit on machines whose number of yarn feeds is a multiple of 3.

Janet E. Heinzen,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E9–13183 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

June 2, 2009.

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement.

EFFECTIVE DATE: June 5, 2009.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain cotton-polyester circular knit fleece fabric, as specified below, is not available in commercial quantities in a timely manner in the CAFTA-DR countries. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Maria Dybczak, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3651.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf. Reference number: 109.2009.04.24.Fabric.ST&RforGaran Mfg.

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA-DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Implementation Act), Pub. Law 109-53; the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Implementation Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. See Annex 3.25 of the CAFTA-DR Agreement; see also section 203(o)(4)(C) of the CAFTA-DR Act.

The CAFTA-DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of CAFTA-DR Implementation Act for modifying the Annex 3.25 list. On September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA-DR (Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement, 73 FR 53200, September 15, 2008) (''procedures'').

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In accordance with Section 203(o) of the CAFTA-DR Implementation Act, Article 3.25 of the CAFTA-DR, and Section 8(c)(4) of CITA's procedures, should CITA determine that it has insufficient information to make a determination, CITA will extend its time period for consideration of the Request by an additional 14 U.S. business days. As the requestor and respondent disagreed on the respondent's ability to supply the subject product, on May 20, 2009, the Chairman determined that there was insufficient information to recommend a determination, and therefore extended the deadline by an additional 14 U.S. business days. On May 27, 2009, Elcatex submitted a letter of withdrawal from the proceeding. As a result, there is no Response to the pending Request for CITA's consideration.

In accordance with section 203(o)(4)(C) of the CAFTA-DR Implementation Act, and Section 8(c)(2) of CITA's procedures, as no interested entity submitted a Response objecting to the Request and demonstrating its ability to supply the subject product, CITA has determined to add the specified fabric to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject product has been added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA-DR Commercial Availability proceedings.

Specifications: Certain Cotton-Polyester Circular Knit Fleece Fabric

HTSUS: 6001.21

Fiber Content: 67-73% cotton / 27-33% polyester

Average Yarn Number:

Face yarn - 100% combed cotton; 47/1 to 58/1 metric (28/1 to 34/1)

Tie yarn - 100% filament polyester, 110-125 metric/ 36 filaments; (72-82 denier / 36 filaments)

Fleece yarn - 57-63% combed cotton/37-43% polyester; 12/1 to 24/1 metric (7/1 to 14/1)

Gauge: 20

Weight: 271 to 300 grams per square meter (8.0 to 8.85 ounces per square yard)

Width: 152 to 183 centimeters (60 to 72 inches)

Finish: (Piece) dyed; printed

In addition, technical back must be heavily napped to produce a fabric thickness of not less than 4.5 millimeters, including the napped pile. Additionally, a portion of the fabric is brushed on the technical face to produce a sueded hand and appearance and a portion is treated with a stain release finish. Finally, the following performance criteria must be satisfied:

- Vertical and horizontal shrinkage must be less than 5%
- Torque may not exceed 4%
- All fabrics must have a Class 1 flammability rating
- For optimum fabric integrity and stitch definition, this fabric must be knit on machines whose number of yarn feeds is a multiple of 3.

Janet E. Heinzen,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E9–13168 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2009–2011 Company Organization Survey

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before August 4, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Cynthia M. Wrenn-Yorker, U.S. Census Bureau, Room 8K319, Washington, DC 20233–6100 (or by e-mail at *Cynthia.M.Wrenn-Yorker@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts the annual Company Organization Survey (COS) to update and maintain a central, multipurpose Business Register (BR). In particular, the COS supplies critical information on the composition, organizational structure, and operating characteristics of multi-location companies.

The BR serves two fundamental purposes:

—First, and most important, it provides sampling populations and enumeration lists for the Census Bureau's economic surveys and censuses, and it serves as an integral part of the statistical foundation underlying those programs. Essential for this purpose is the BR's ability to identify all known United States business establishments and their parent companies. Further, the BR must accurately record basic business attributes needed to control sampling and enumeration. These attributes include industrial and geographic classifications, and name and address information.

—Second, it provides establishment data that serve as the basis for the annual County Business Patterns (CBP) statistical series. The CBP reports present data on number of establishments, first quarter payroll, annual payroll, and mid-March employment summarized by industry and employment size class for the United States, the District of Columbia, Puerto Rico, counties, and county-equivalents. No other annual or more frequent series of industry statistics provides comparable detail, particularly for small geographic areas.

II. Method of Collection

The Census Bureau will conduct the 2009–2011 COS in a similar manner as the 2008 COS. These collections will direct inquiries to approximately 43,000 multi-establishment companies, which operate over 1.2 million establishments. This panel will be drawn from the BR universe of nearly 200,000 multi-establishment companies, which operate 1.6 million establishments. Additionally, the panel will include approximately 5,000 large single-establishment companies that may have added locations during the year.

The mailing list for the 2009–2011 COS will include a certainty component, consisting of all multi-establishment companies with 250 or more employees, and those multi-establishment companies with administrative record values that indicate organizational changes. A non-certainty component will be drawn from the remaining multi-establishment companies based on employment size. The mailing list also will include entities that are most likely to have added establishments at other locations.

The primary collection medium for the COS is a paper questionnaire; however, many enterprises will submit automated/electronic COS reports. For 2009–2011, electronic reporting will be available to all COS respondents. Companies will receive and return responses by secure Internet transmission. Companies that cannot use the Internet will receive a CD–ROM containing their electronic data. All respondents will be allowed to mail the data via diskette or CD–ROM or submit their response data via the Internet. COS data is identical for all of the operating modes.

The instrument will include inquiries on ownership or control by domestic or foreign parents, ownership of foreign affiliates, and leased employment. Further, the instrument will list an inventory of establishments belonging to the company and its subsidiaries, and request updates to these inventories, including additions, deletions, and changes to information on EIN, name and address, and industrial classification, end-of-year operating status, mid-March employment, first quarter payroll, and annual payroll.

Additionally, the Census Bureau will ask certain questions in the 2009–2011 COS in order to enhance content. We will include questions on leased employees working in the company, questions on research and development activities performed by the company, and questions on new or significantly improved methods of manufacturing, producing, delivering or distributing goods or services within the company.

III. Data

OMB Control Number: 0607–0444.

Form Number: NC–99001 and NC–99007 (for single-location companies).

Type of Review: Regular submission.

Affected Public: Businesses and not-for-profit institutions.

Estimated Number of Respondents: 48,000 enterprises.

Estimated Time per Response: 1.59 hours.

Estimated Total Annual Burden Hours: 127,517.

Estimated Total Annual Cost: $3,643,161.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 of U.S.C. Sections 182, 195, 224, and 225.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 2, 2009.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–13153 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2010–2012 American Community Survey Methods Panel Testing

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before August 4, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Susan Schechter, U.S. Census Bureau, American Community Survey Office, Washington, DC 20233, by FAX to (301) 763–8620 or e-mail at *susan.schechter.bortner@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Given the rapid demographic changes experienced in recent years and the strong expectation that such changes will continue and accelerate, the once-a-decade data collection approach of a census is no longer acceptable as a source for the housing and socio-economic data collected on the census long form. To meet the needs and expectations of the country, the Census Bureau developed the American Community Survey (ACS). This survey collects detailed socioeconomic data every month and provides tabulations of these data on a yearly basis. The ACS allows the Census Bureau to provide more timely and relevant housing and socio-economic data while also reducing operational risks in the census by eliminating the long form historically given to one in every six addresses.

Full implementation of the ACS includes an annual sample of approximately three million residential addresses a year in the 50 States and the District of Columbia, and another 36,000 addresses in Puerto Rico. A sample this large allows for annual production and release of single-year estimates for areas with a population of 65,000 or more. Lower levels of geography require aggregates of three and five years' worth of data in order to produce estimates of comparable quality to the census long form. An ongoing data collection effort with an annual sample of this magnitude requires that the ACS continue research, testing and evaluations aimed at improving overall ACS data quality, achieving survey cost efficiencies, and developing and improving ACS questionnaire content and related data collection materials. The ACS Methods Panel during the 2010–2012 period may include testing methods for increasing survey and operational efficiencies; alternative methods or procedures may be developed and evaluated that could potentially reduce the overall survey cost, lessen respondent burden, and improve response rates. At this time, specific plans are in place to propose three methods panel tests: a content reinterview study, 2010 ACS Content Test, and an Internet Test. Since the ACS Methods Panel is designed to address emerging issues, we may conduct additional testing as needed. Testing would focus on methods for reducing data collection costs or testing new questions that have an urgent need to be included on the ACS.

During the decennial census year, a content reinterview study (CRS) was conducted in conjunction with the long form, which the ACS now replaces. The decennial CRS was an evaluation of the quality of the data collected in the census, focusing on response bias and simple response variance (reliability). The Census Bureau proposes to design and implement a continuous CRS to look at the current ACS production questions on an ongoing basis. This will allow for the identification of problems with reliability. Results from the CRS will provide data users with concrete data quality measures (such as reliability or bias measures) for each ACS item.

The ACS CRS will allow the Census Bureau to continuously monitor the data quality of the ACS and identify questions that are currently unreliable or that may become unreliable due to changes in the survey climate (*e.g.,* changes in policy that change the definition of what the ACS is trying to measure). The results from the CRS, generated on a yearly basis, would identify which questions require modifications and future testing via a content test, thus providing a more scientific approach to determining the need for content testing of current ACS items. The CRS will be conducted by telephone only with a small sample of cases that responded during production.

Second, in response to Federal agencies' requests for new and revised ACS questions, the Census Bureau plans to conduct the 2010 ACS Content Test. Changes to the current ACS content and the addition of new content were identified through the Office of Management and Budget (OMB) Interagency Committee for the ACS and through recent or anticipated legislative action. The primary objective of the ACS 2010 Content Test is to test whether changes to question wording, response categories, and redefinition of underlying constructs improve the quality of data collected. The Census Bureau proposes to evaluate changes to the questions by comparing the revised questions to the current ACS questions, or for new questions, to compare the performance of question versions to each other as well as to other well-known sources of such information. The proposed topics for content testing are new questions to measure computer and Internet access and usage, as well as parental place of birth and revisions to veteran's identification and period of service, cash public assistance, wages income and property income, and the Food Stamps program name.

A third test, the ACS Internet Test, is planned to determine the best methods for informing sample households about an ACS Internet response option and encouraging them to respond. By offering an Internet response option in the ACS, the Census Bureau is taking further steps to comply with the e-gov initiative and potentially reduce data collection costs. The objectives of the Internet Test include: potential improvement in self-response rates; potential cost savings if we can change the distribution of responses by mode (*i.e.,* obtain more responses by Internet); and potential improvement in data quality including a potential reduction in item nonresponse.

II. Method of Collection

Continuous ACS CRS—Cases that responded to production ACS from all three ACS response modes (mail, telephone, and personal visit) will be included. Reinterview modules containing a subset of the questions will be created so that the entire ACS questionnaire can be tested over several months. Each question set or module of the CRS will require multiple data collection months to provide enough sample for analysis purposes. Reinterviews will be conducted within 2 to 4 weeks of the original data collection. It is important that the reinterview is close enough timing-wise to the original data collection to minimize the possibility of changes in what is being measured, but far enough away so respondents do not exactly remember previous responses.

2010 Content Test—The field test portion of the ACS content test will be largely based on the data collection methods currently used in the production ACS. Sampled addresses will be mailed a pre-notice letter, a self-administered paper questionnaire, and a reminder postcard. Households that do not return their initial questionnaire in a timely manner will also be mailed a replacement questionnaire. For households that do not return their mailed questionnaire, we will attempt to collect their data through Computer Assisted Telephone Interviewing or Computer Assisted Personal Interviewing.

There will also be a Content Follow-up reinterview as part of the content test. That is, we will attempt a follow-up CATI reinterview with all households that responded in the field test and for whom we have a telephone number. This reinterview will focus on the particular questions that we are evaluating in the field test, and will not include every question asked in the original interview.

Internet Test—Currently, the ACS and the Puerto Rico Community Survey (PRCS) collect data using three modes: mailout/mailback of a paper questionnaire, telephone, and personal visit. In the proposed test we will offer a fourth response mode—an Internet self-response option—to respondents in the ACS and the PRCS during the mail data collection phase.

Different strategies will be used to inform respondents of the Internet response option. In all strategies, the URL for the secure ACS Internet site and instructions for completing the survey online will be provided to respondents by mail.

The Census Bureau plans to design four versions of the ACS Internet instrument—an English version and a Spanish version for both the ACS and the PRCS. Households that do not respond by mail or Internet will be contacted for a telephone interview, similar to ACS production, since a voice message could encourage a household to respond by mail or Internet. This test will not include a personal visit operation like ACS production.

III. Data

OMB Control Number: 0607–0936.

Form Number: ACS–1, ACS1(SP), ACS–1(PR), ACS–1(PR)SP, ACS CATI(HU), and ACS RI(HU).

Type of Review: Regular submission.

Affected Public: Individuals and households.

Estimated Number of Respondents: We plan to contact the following number of respondents: Content Reinterview Study, 71,520 responding addresses per year; 2010 Content Test, 70,000 residential addresses during the field test and 40,000 responding addresses during the content follow-up conducted by telephone; Internet Test, 90,000 residential addresses. Other potential content test: 70,000 residential addresses during the field test and 40,000 responding addresses during the content follow-up conducted by telephone. Other potential test of new methods: 30,000 residential addresses.

Estimated Time per Response: Estimates are: Content Test field test, 38 minutes, content test follow-up, 15 minutes; Internet Test, 38 minutes; Content Reinterview Study, 15 minutes; other potential test of new methods, 38 minutes.

Estimated Total Annual Burden Hours: 67,515.

Estimated Total Annual Cost: Except for their time, there is no cost to respondents.

Respondent Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 2, 2009.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–13130 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Notice of Rescission of Antidumping Duty Administrative Reviews: Low Enriched Uranium From France

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

EFFECTIVE DATE: June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Justin Neuman, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–2371 or (202) 482–0486, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2001, the Department of Commerce (the Department) published the antidumping duty order on low enriched uranium from France. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium From France,* 67 FR 6680 (February 13, 2002). On February 4, 2009, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping order on low enriched uranium from France for the period of February 1, 2008 through January 31, 2009. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 74 FR 6013 (February 4, 2009). On February 19, 2009, USEC timely requested that the Department conduct an administrative review of Eurodif for the period of February 1, 2008 through January 31, 2009. USEC was the only party to request this administrative

review. On March 24, 2009, the Department published a notice of initiation of the antidumping duty administrative review of low enriched uranium from France for the period February 1, 2008 through January 31, 2009 (the seventh period of review). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 12310 (March 24, 2009). In that notice, the Department also initiated administrative reviews covering the periods February 1, 2005 through January 31, 2006 (the fourth period of review), and February 1, 2007 through January 31, 2008 (the sixth period of review).[1] For the reasons discussed below, we are rescinding the administrative reviews.

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. On May 15, 2009, USEC withdrew its request for the seventh administrative review. At the same time, USEC and Eurodif withdrew their requests for administrative review for the fourth and sixth administrative reviews. USEC and Eurodif withdrew their requests before the 90-day deadline, and no other party requested administrative reviews of the antidumping duty order on low enriched uranium from France for the periods discussed. Therefore, in response to the withdrawals, by USEC and Eurodif, of all requests for the three administrative reviews, and pursuant to 19 CFR 351.213(d)(1), the Department rescinds the three administrative reviews of the antidumping duty order on low enriched uranium from France.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, the antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department is currently barred from liquidating entries subject to the antidumping order on low enriched uranium from France by the injunction in place in *Eurodif S.A. et al v. United States*, Court No. 02–00219. When the Court of International Trade (CIT) issues final judgment and dismisses the case, the injunction will dissolve. The Department intends to issue appropriate assessment instructions to CPB 15 days after notification by the CIT that the case has been dismissed.

Notification to Importers

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

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to administrative protection orders (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation. This notice is issued and published in accordance with 19 CFR 351.213(d)(4).

Dated: May 29, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–13198 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

[1] The Department had previously deferred the initiation of the reviews for the 05/06 and 07/08 periods. See 71 FR 17077 (April 5, 2006) and 73 FR 16837 (March 31, 2008).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea: Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: On March 24, 2009, in response to a request from interested parties, the Department of Commerce published a notice of initiation of the administrative review of the antidumping duty order on certain cut–to-length carbon–quality steel plate from the Republic of Korea. The period of review is February 1, 2008, through January 31, 2009. The Department of Commerce is rescinding this review in part.

EFFECTIVE DATE: June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5760 and (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2009, in response to a request from interested parties, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on certain cut–to-length carbon–quality steel plate (CTL plate) from the Republic of Korea (Korea) for the period of review February 1, 2008, through January 31, 2009. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 12310, 12312 (March 24, 2009) (*Initiation Notice*). One of the companies included in the *Initiation Notice* was Dongkuk Steel Mill Co., Ltd. (DSM). On April 8, 2009, DSM withdrew its request that we review its sales of subject merchandise from Korea.

Rescission of Review

In accordance with 19 CFR 351.213(d)(1), the Department will rescind an administrative review in part ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' We received the letter withdrawing the request for the review of DSM within the 90–day time limit. The Department received no other requests for review of this company. In accordance with 19 CFR 351.213(d)(1), the Department is rescinding the review in part with respect to CTL plate from Korea produced and/or exported by DSM. The Department will issue appropriate assessment instructions to U.S. Customs and Border Protection 15 days after publication of this notice.

Notification to Importer

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a

certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice is published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: June 1, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–13191 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–807]

Certain Steel Concrete Reinforcing Bars from Turkey: Notice of Court Decision Not in Harmony with Final Results of Administrative Review

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

SUMMARY: On May 22, 2009, the United States Court of International Trade (CIT) sustained the Department of Commerce's (the Department's) results of redetermination pursuant to the CIT's remand in *Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company v. United States*, Court No. 07–00457 (Apr. 14, 2009) (*Nucor I). See* Results of Redetermination Pursuant to Remand, dated January 31, 2009 (found at http://ia.ita.doc.gov/remands); and *Nucor Corporation, Gerdau Ameristeel, Inc., and Commercial Metals Company v. United States*, Slip Op. 09–50 (May 22, 2009) (*Nucor II*). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the administrative review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey covering the period of review (POR) of April 1, 2005, through March 31, 2006. *See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination To Revoke in Part*, 72 FR 62630 (Nov. 6, 2007) (*Final Results*).

EFFECTIVE DATE: June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone (202) 482–3874.

SUPPLEMENTARY INFORMATION:

Background

On November 6, 2007, the Department published its final results in the antidumping duty administrative review of rebar from Turkey covering the POR of April 1, 2005, through March 31, 2006. *See Final Results*. In the *Final Results*, the Department imputed an amount for depreciation related to an account listed as ''melt shop modernization'' in the books and records of one respondent, Ekinciler Demir ve Celik Sanayi A.S. and Ekinciler Dis Ticaret A.S. (collectively, ''Ekinciler''), as had been done in prior segments of the proceeding. In *Nucor I*, the CIT determined that the Department's *Final Results* were not supported by substantial evidence on the record, and it remanded the issue of the imputed depreciation calculated for Ekinciler to the Department. Specifically, the CIT directed the Department to redetermine ''imputed depreciation for Ekinciler without the amount that currently reflects the foreign exchange losses in the melt shop modernization account.''

On April 14, 2009, the Department issued its final results of redetermination pursuant to *Nucor I*. The remand redetermination explained that, in accordance with the CIT's instructions, the Department recalculated the cost of production for Ekinciler excluding the depreciation on the foreign exchange losses recorded in Ekinciler's melt shop modernization account. The Department's redetermination resulted in changes to the *Final Results* weighted–average margin for Ekinciler from 1.66 percent to 0.11 percent.

Timken Notice

In its decision in *Timken*, 893 F.2d at 341, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's decision in *Nucor v. II* on May 22, 2009, constitutes a final decision of that court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise during the POR from Ekinciler based on the revised assessment rates calculated by the Department.

This notice is issued and published in accordance with section 516A(c)(1) of the Tariff Act of 1930, as amended.

Dated: June 1, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9–13193 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

University of Iowa, Notice of Consolidated Decision on Application for Duty–Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 3705, U.S. Department of Commerce, 14th and Constitution Avenue., NW, Washington, D.C.

Docket Number: 09–017. Applicant: University of Iowa, Iowa City, IA 52242. Instrument: Electron Microscope. Manufacturer: JEOL, Japan. Intended Use: See notice at 74 FR 20281, May 1, 2009.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States at the time the instrument was ordered. Reasons: The foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We

know of no electron microscope, or any other instrument suited to these purposes, which is being manufactured in the United States at the time of order of each instrument.

Dated: June 1, 2009.

Christopher Cassel,

Acting Director, Subsidies Enforcement Office, Import Administration.

[FR Doc. E9–13196 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before June 25, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. at the U.S. Department of Commerce in Room 3720.

Docket Number: 09–015. Applicant: U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition, 8301 MuirKirk Rd., Laurel, MD 20708. Instrument: Electron Microscope. Manufacturer: JEOL, Japan. Intended Use: This instrument will be used to study microorganisms and/or tissues colonized with microorganisms. It will also be used to study biological specimens with biological fixatives. Justification for Duty–Free Entry: No instrument of the same general category is manufactured within the United States. Application accepted by Commissioner of Customs: April 6, 2009.

Docket Number: 09–023. Applicant: Florida State University, Department of Biology, 119 Biology Unit I, 4370, 89 Chieftan Way, Tallahassee, FL 32306. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used to perform research projects that require 3–D imaging capabilities and cryogenic imaging capabilities. Justification for Duty–Free Entry: No instrument of the same general category is manufactured within the United States. Application accepted by Commissioner of Customs: April 30, 2009.

Docket Number: 09–024. Applicant: National Institutes of Health, 33 North Dr., BG 33 Room BE11B MSC 3210, Bethesda, Maryland 20895–3210. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used understand and characterize the structure and function of the vaccinia virus. Justification for Duty–Free Entry: No instrument of the same general category is manufactured within the United States. Application accepted by Commissioner of Customs: April 30, 2009.

Docket Number: 09–025. Applicant: University of Virginia, Department of Molecular Physiology and Biological Physics, PO Box 800736, 1340 Jefferson Park Avenue, Charlottesville, VA 22908. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: The instrument will be used to study the structures of proteins, macromolecular complexes and viruses. Justification for Duty–Free Entry: No instrument of the same general category is manufactured within the United States. Application accepted by Commissioner of Customs: May 7, 2009.

Docket Number: 09–026. Applicant: Yale University School of Medicine, 333 Cedar St., SHM C–206, New Haven, CT 06520. Instrument: Electron Microscope. Manufacturer: FEI Company, the Netherlands. Intended Use: The instrument will be used to identify and characterize cell and subcellular structures as well as inorganic material. Specifically, it will be used to provide imaging of neurons, synapses and growth cones, membranes and membrane traffic, the cell cytoskeleton and other man–made materials. Justification for Duty–Free Entry: No instrument of the same general category is manufactured within the United States. Application accepted by Commissioner of Customs: May 13, 2009.

Dated: June 1, 2009.

Christopher Cassel,

Acting Director, IA Subsidies Enforcement Office.

[FR Doc. E9–13189 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty–Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before June 25, 2009. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 09–021. Applicant: University of Chicago, Argonne, LLC, 9700 South Cass Avenue, Bldg. 201, Lemont, IL 60439. Instrument: Isolation Transformer. Manufacturer: Guth GmbH, Germany. Intended Use: The instrument will used as part of a project to provide neutron rich isotopes, with which r–process nucleosynthesis can be explored. The transformer will provide power to a high voltage platform which acts as the first stage of acceleration of the neutron rich nuclei. A unique feature of this instrument is that it is capable of providing 110kVA AC power to an injector platform, and will operate at a positive voltage of up to 250kVDC at continuous operation. Justification for Duty–Free Entry: There are no instruments of the same general category being manufactured within the United States. Application accepted by Commissioner of Customs: April 28, 2009.

Docket Number: 09–028. Applicant: University of Texas at Austin, 2200 Comal St., Austin, TX 78722. Instrument: Synchroslice. Manufacturer: Lohmann Research Products, Germany. Intended Use: This instrument will be used to identify structure–function relationships in neurons at different levels of analysis (e.g., the single neuron level and the neuronal circuit level). This instrument is capable of performing serial section transmission electron microscopy, which is required in order to analyze the detailed structural changes involved. Justification for Duty–Free Entry: There are no instruments of the same general

category being manufactured within the United States. Application accepted by Commissioner of Customs: May 21, 2009.

Docket Number: 09–035. Applicant: University of Minnesota Medical School, 6–155 Jackson Hall, Department of Biochemistry, Molecular Biology & Biophysics, 321 Church St. S.E., Minneapolis, MN 55455. Instrument: Muscle Research System. Manufacturer: Scientific Instruments, Germany. Intended Use: This instrument will be used to simultaneously measure the force and kinetic properties as a function of calcium concentration in muscle fibers and to determine if this is affected by muscle diseases of both skeletal and cardiac muscle. A unique feature of this instrument is that it requires a gradient maker and pump control in order to simultaneously measure the isometric force of skinned muscle fibers as a function of calcium concentration. Further, a laser system is needed to excite fluophores in order to simultaneously measure the force and measure the myosin ATPase.

Justification for Duty–Free Entry: There are no instruments of the same general category being manufactured within the United States. Application accepted by Commissioner of Customs: May 11, 2009.

Dated: June 1, 2009.

Christopher Cassel,

Acting Director, IA Subsidies Enforcement Office.

[FR Doc. E9–13195 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Princeton University

Notice of Decision on Applications for Duty–Free Entry of Scientific Instruments

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 3705, U.S. Department of Commerce, 14th and Constitution Ave, NW, Washington, D.C.

Comments: None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as this is intended to be used, that was being manufactured in the United States at the time of its order.

Docket Number: 09–013. Applicant: Princeton University, Princeton, NJ 08544. Instrument: Electron Beam Evaporator. Manufacturer: Plassys, France. Intended Use: See notice at 74 FR 20459, May 4, 2009. Reasons: This instrument can make low–defect aluminum Josephson junctions, a necessary component of all quantum bits. This evaporator is unique in that it offers full state rotation, in–situ angle control for bilayer Josephson junction fabrication and controlled oxidation. Stage rotation is necessary to fabricated Josephson junctions in a single deposition process, which is essential in fabricating devises with long coherence.

Dated: June 1, 2009.

Christopher Cassel,

Acting Director Subsidies Enforcement Office Import Administration.

[FR Doc. E9–13194 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO10

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States and Coral and Coral Reefs Fishery in the South Atlantic; Exempted Fishing Permit

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

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Patricia L. McNeese, on behalf of the North Carolina Department of Environment and Natural Resources Aquariums Division (NC Aquariums). If granted, the EFP would authorize NC Aquariums to collect, with certain conditions, various species of reef fish and live rock in Federal waters, along the North Carolina coast. The specimens would be used in educational exhibits displaying North Carolina native species at aquariums located on Pine Knoll Shores, Roanoke Island, and Fort Fisher, NC.

DATES: Comments must be received no later than 5 p.m., Eastern standard time, on July 6, 2009.

ADDRESSES: Comments on the application may be sent via fax to 727–824–5308 or mailed to: Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701. Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NCAquariums.EFP@noaa.gov*. Include in the subject line of the e-mail document the following text: Comment on NC Aquariums EFP Application. The application and related documents are available for review upon written request to the address above or the e-mail address below.

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, 727–824–5305; fax 727–824–5308; e-mail *nikhil.mehta@noaa.gov*.

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

This action involves activities covered by regulations implementing the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region. The applicant requires authorization to collect a variety of reef fish, including those in the snapper-grouper complex, and live rock (Table 1).

TABLE 1—COMMON NAME AND TOTAL NUMBER OF FISH, AND AMOUNT OF LIVE ROCK TO BE HARVESTED OVER A 2-YEAR PERIOD BY NC AQUARIUMS.

16 Speckled Hind
16 Red Hind
16 Rock Hind
16 Red Grouper
16 Gag
16 Scamp
26 Red Snapper
16 Red Porgy
9 Yellowfin Grouper
16 Yellowmouth Grouper
12 Snowy Grouper
2 Warsaw Grouper
9 Yellowedge Grouper
16 Graysby
16 Coney
84 Yellowtail Snapper

TABLE 1—COMMON NAME AND TOTAL NUMBER OF FISH, AND AMOUNT OF LIVE ROCK TO BE HARVESTED OVER A 2-YEAR PERIOD BY NC AQUARIUMS.—Continued

26 Schoolmaster Snapper
300 lbs. (136 kg) Live Rock
16 Silk Snapper
78 Vermilion Snapper
200 Tomtate
100 Small-mouth Grunt
5 Common Hogfish
5 Spanish Hogfish
5 Cuban Hogfish
200 Cottonwick
6 Blue Angelfish
6 Queen Angelfish
6 Grey Angelfish
6 French Angelfish
6 Stoplight Parrotfish
6 Blue Parrotfish
6 Midnight Parrotfish
6 Dwarf Goatfish
6 Yellow Goatfish

Specimens would be collected in Federal waters from 3 miles (4.8 km) offshore out to 100 fathoms (182 m), from 33°10′ N lat. to 36°30′ N lat. along the coast of North Carolina. The project proposes to use hook-and-line gear, and standard traps (for example, black sea bass and minnow traps) to collect fish, and SCUBA to collect live rock by hand. The collections would be conducted year-round for a period of 2 years, commencing on the date of issuance of the EFP.

The overall intent of the project is to incorporate North Carolina native species into the educational exhibits at the three aquariums located on Pine Knoll Shores, Roanoke Island, and Fort Fisher, NC. The aquariums use these displays of native North Carolina habitats and species to teach the visiting public (over 1 million a year) about conservation of these resources.

NMFS finds this application warrants further consideration. Based on a preliminary review, NMFS intends to issue an EFP. Possible conditions the agency may impose on this permit, if it is indeed granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, special management zones, or artificial reefs without additional authorization. Additionally, NMFS may prohibit the possession of Nassau or goliath grouper, and require any sea turtles taken incidentally during the course of fishing or scientific research activities to be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water. The harvest of live rock would have to be replaced by an equivalent amount of new rock substrate, or obtained from a commercial (aquaculture) source. A final decision on issuance of the EFP will depend on NMFS review of public comments received on the application, consultations with the affected state, the South Atlantic Fishery Management Council, and the U.S. Coast Guard, and a determination that it is consistent with all applicable laws.

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

Dated: June 1, 2009.

Kristen C. Koch

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

[FR Doc. E9–13175 Filed 6–5–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO59

Fisheries of the South Atlantic and Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); black grouper and red grouper.

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

ACTION: Notice of SEDAR Workshops for South Atlantic and Gulf of Mexico black grouper and South Atlantic red grouper.

SUMMARY: The SEDAR assessments of the South Atlantic and Gulf of Mexico stocks of black grouper and South Atlantic red grouper will consist of a series of three workshops: a Data Workshop, an Assessment Workshop, and a Review Workshop. This is the fifteenth SEDAR. See **SUPPLEMENTARY INFORMATION**.

DATES: The Data Workshop will take place June 22–26, 2009; the Assessment Workshop will take place October 5–9, 2009; the Review Workshop will take place January 25–29, 2010. See **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The Data Workshop will be held at the Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC 29418; telephone: (843) 308–9330. The Assessment Workshop will be held at the Hilton Bayfront, 333 First Street South, St. Petersburg, FL 33701; telephone: (727) 894–5000. The Review Workshop will be held at the Hilton Garden Inn-Historic Savannah, 321 West Bay Street Savannah, GA 31401; telephone: (912) 721–5000.

FOR FURTHER INFORMATION CONTACT: Julie Neer, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR includes three workshops: (1) Data Workshop, (2) Stock Assessment Workshop and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Stock Assessment Workshop is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Consensus Summary documenting Panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

SEDAR 19 Workshop Schedule:

June 22–26, 2009; SEDAR 19 Data Workshop

June 22, 2009: 1 p.m.- 8 p.m.; June 23–25, 2009: 8 a.m. - 8 p.m.; June 26, 2009: 8 a.m. - 12 p.m.

An assessment data set and associated documentation will be developed during the Data Workshop. Participants will evaluate all available data and select appropriate sources for providing information on life history characteristics, catch statistics, discard estimates, length and age composition, and fishery dependent and fishery independent measures of stock abundance.

October 5–9, 2009; SEDAR 19 Assessment Workshop

October 5, 2009: 1 p.m.- 8 p.m.; October 6–8, 2009: 8 a.m. - 8 p.m.; October 9, 2009: 8 a.m. - 12 p.m.

Using datasets provided by the Data Workshop, participants will develop population models to evaluate stock status, estimate population benchmarks and Sustainable Fisheries Act criteria, and project future conditions. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters. Participants will prepare a workshop report, compare and contrast various assessment approaches, and determine whether the assessments are adequate for submission to the review panel.

January 25–29, 2010; SEDAR 19 Review Workshop

January 25, 2010: 1 p.m.- 8 p.m.; January 26–28, 2010: 8 a.m. - 8 p.m.; January 29, 2010: 8 a.m. - 12 p.m.

The Review Workshop is an independent peer review of the assessment developed during the Data and Assessment Workshops. Workshop Panelists will review the assessment and document their comments and recommendations in a Consensus Summary.

Although non-emergency issues not contained in this agenda may come before these groups 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 will be restricted to those issues specifically identified in this notice 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 final 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 the Council office (see **ADDRESSES**) at least 10 business days prior to each workshop.

Dated: June 2, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–13127 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XP63

Marine Mammals; File Nos. 14210 and 782–1719

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

ACTION: Notice; issuance of permit and permit amendment.

SUMMARY: Notice is hereby given that LGL Alaska Research Associates (Dr. Tamara McGuire, Principal Investigator), 1101 E. 76th Ave. Suite B, Anchorage, Alaska 99518 (File No. 14210), and the National Marine Mammal Laboratory (NMML), Alaska Fisheries Science Center (Dr. Phillip J. Clapham, Principal Investigator), 7600 Sand Point Way, NE., Seattle, Washington 98115 6349 (File No. 782 1719) have been issued a permit and a permit amendment, respectively, to conduct research on the Cook Inlet stock of beluga whales (Delphinapterus leucas).

ADDRESSES: The permits and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

FOR FURTHER INFORMATION CONTACT: Kristy Beard or Amy Hapeman, (301)713–2289.

SUPPLEMENTARY INFORMATION: On February 10, 2009, notice was published in the **Federal Register** (74 FR 6578) that a request for a scientific research permit and permit amendment to take Cook Inlet beluga whales had been submitted by the above-named organizations. The requested permit and permit amendment have been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 14210, issued to LGL Alaska Research Associates, authorizes harassment of up to 54 beluga whales three times annually in Cook Inlet, Alaska for vessel-based photo-identification annually between May and October. The permit expires on May 30, 2014.

Permit No. 782–1719–08 authorizes NMML to take species of cetaceans under NMFS jurisdiction during stock assessment activities throughout U.S. territorial waters and the high seas of the North Pacific Ocean, Southern Ocean, and Arctic Ocean. The permit authorizes Level B harassment during close approach for aerial surveys, vessel-based surveys, observations, and photo-identification and Level A harassment during biopsy sampling and attachment of scientific instruments. This permit amendment authorizes harassment of up to 585 Cook Inlet belugas 20 times annually during aerial surveys, and will be effective until the permit expires on June 30, 2009.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of this permit and permit amendment, as required by the ESA, was based on a finding that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 1, 2009.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–13176 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XP66

New England 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 New England Fishery Management Council (Council) will hold a four-day Council meeting, on June 22–25, 2009, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will begin on Monday, June 22, beginning at 1 p.m., and on Tuesday, Wednesday and Thursday, June 23–25, beginning at 8 a.m. each day.

ADDRESSES: The meeting will be held at the Holiday Inn by the Bay, 88 Spring Street, Portland, ME 04101; telephone: (207) 775–2311; fax: (207) 761–8244.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Monday, June 22, 2009

Following introductions and any announcements, the Council will receive a series of brief reports from the Council Chairman and Executive Director, the NOAA Fisheries Northeast Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel, representatives of the U.S. Coast Guard and the Atlantic States Marine Fisheries Commission, as well as NOAA Enforcement and the Council's Enforcement Committee Chairman. These reports will be followed by a review of any experimental fishery permit applications that have been received since the last Council meeting. The Council will also receive a report from its Habitat Committee, with a focus on reviewing a model used to assess the adverse impacts of fishing on essential fish habitat and for the development of alternatives to minimize those effects. The committee also will present a letter for Council approval to be forwarded offshore energy proponents in MA about the potential adverse impacts of an offshore wind farm project on essential fish habitat. The day will conclude with a report from the Interspecies Committee about future work products and the presentation of a white paper on the use of Annual Catch Limits (ACLs) and Accountability Measures (AMs) in New England Council Fishery Management Plans (FMPs).

Tuesday, June 23, 2009

As the first agenda item of the day, the Chairman of the Council's Scientific and Statistical Committee will review the committee's recommendations to the Council on Acceptable Biological Catch (ABC) and ACLs to be used in the Monkfish FMP, and for proposed methods to be used for the calculations of ABC in the Herring and Groundfish FMPs. The remainder of the day will be spent on approving alternatives for inclusion in a Draft Environmental Impact Statement that will accompany Amendment 4 to the Council's Herring FMP. Measures under consideration include, in addition to ACLs and AMs, a comprehensive catch monitoring program, measures to address river herring bycatch, possible criteria for midwater trawl vessel access to areas closed for the conservation of species in the groundfish stock complex and measures that would address interactions with the mackerel fishery. The Council also will discuss the timeline for completion of the amendment as well as a fishery specifications package. The day will conclude with a briefing by NMFS staff concerning an agency proposal to require the use of Turtle Excluder Devices in trawl gear, including several that are used in New England fisheries.

Wednesday, June 24, 2009

The entire third day of the Council meeting will be set aside for Council approval of Amendment 16 to the Northeast Multispecies (Groundfish) FMP. Prior to discussion and decision-making, there will be a review of the public comments received regarding the proposed action and reports from the Council's Groundfish and Recreational Advisory Panels. Amendment 16 addresses several new requirements included in the reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSRA), continues the stock rebuilding programs adopted in previous Council actions and may institute significant changes to the existing groundfish management program, including the implementation of ''sectors'', a catch share-based system.

Thursday, June 25, 2009

The morning will begin with the completion of any issues related to Council approval of Amendment 16 to the Groundfish FMP. A report by the Research Steering Committee Chairman will follow and will include recommendations developed concerning the allocation of cooperative research funds recently announced by NOAA's leadership. The Council will then hold an open comment period during which any interested party may address the Council about fishery management-related issues that are otherwise not listed on the agenda. By late morning or early afternoon, the Monkfish Committee will review and ask for approval of alternatives to be included in a Draft Environmental Impact Statement that will accompany Amendment 5 to the Monkfish FMP. Amendment 5 will implement management reference points to bring the FMP into compliance with the MSRA. Amendment 5 will also implement management measures (days-at-sea and trip limits) for 2011–13 to update current measures, and also modify other elements of the management system, such as, but not limited to gear restrictions, minimum fish size, vessel monitoring systems, measures to reduce discards, or any other component of the current plan.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: June 1, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–13109 Filed 6–4–09; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

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

ACTION: Proposed additions to and deletions from Procurement List.

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

Comments Must Be Received On or Before: 7/6/2009.

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

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

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

Additions

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

Regulatory Flexibility Act Certification

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

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

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

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

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

Services

Service Type/Locations: Custodial Services, Mercedita Airport, State Road No. 1, Ponce, PR. International Mail Facility, LMM Airport, Tony Santana Ave, San Juan, PR.
NPA: The Corporate Source, Inc., New York, NY.
Contracting Activity: Bureau of Customs and Border Protection, National Acquisition Center, Indianapolis, IN.

Service Type/Location: Grounds Maintenance Service, Marine Corps Reserve Center, 8820 Somers Rd, Jacksonville, FL.
NPA: Challenge Enterprises of North Florida, Inc., Green Cove Springs, FL.
Contracting Activity: Dept of the Navy, NAV Facilities Engineering Command, Norfolk, VA.

Service Type/Location: Supply Room Support Services, DCMA Headquarters, 6350 Walker Lane, Alexandria, VA.
NPA: Virginia Industries for the Blind, Charlottesville, VA.
Contracting Activity: Defense Contract Management Agency (DCMA), Alexandria, VA.

Service Type/Location: Document Management, USFS Pacific Northwest Region, Region 6, and the Pacific, Northwest Research Station, 5312 NE 148th Avenue, Portland, OR.
NPA: Portland Habilitation Center, Inc., Portland, OR.
Contracting Activity: Forest Service, Northwest Oregon Contracting Area, Sandy, OR.

Service Type/Locations: Furniture Services, MCOLF Atlantic Field, Air Base Road, Atlantic, NC., MCALF Bogue Field, HWY 70, Bogue, NC., MCAS Cherry Point, Hwy 101, Cherry Point, NC.
NPA: Coastal Enterprises of Jacksonville, Inc., Jacksonville, NC.
Contracting Activity: Department of the Navy, Marine Corps Air Station, Cherry Point MCAS, NC.

Deletions

Regulatory Flexibility Act Certification

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

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

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

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

End of Certification

The following products are proposed for deletion from the Procurement List:

Products

Pad, Floor Polishing Machine
NSN: 7910–01–513–2664—13″ Beige Buff.
NSN: 7910–01–513–2668—14″ Beige Buff.
NSN: 7910–01–513–2672—15″ Beige Buff.
NSN: 7910–01–513–2674—16″ Beige Buff.
NSN: 7910–01–513–4303—17″ Beige Buff.
NSN: 7910–01–513–2675—18″ Beige Buff.
NSN: 7910–01–513–2680—19″ Beige Buff.
NSN: 7910–01–513–2685—20″ Beige Buff.
NSN: 7910–01–513–2677—21″ Beige Buff.
NSN: 7910–01–513–2662—22″ Beige Buff.
NSN: 7910–01–513–2661—27″ Beige Buff.
NPA: Beacon Lighthouse, Inc., Wichita Falls, TX.
Contracting Activity: NAC, Veterans Affairs, HINES, IL.
NSN: 7530–01–450–5409—Appointment Book Refill, 2005.
NSN: 7530–01–517–5964—DAYMAX System, Desert, Camouflage Planner 2005.
NSN: 7530–01–517–5964L—DAYMAX System, Desert, Camouflage Planner 2005.
NSN: 7530–01–502–6815L—DAYMAX System, DOD Planner w/Logo, 2005.
NSN: 7530–01–502–6815—DAYMAX System, DOD Planner, 2005.
NSN: 7530–01–502–6812—DAYMAX System, GLE, 2005, Black.
NSN: 7530–01–502–6812L—DAYMAX System, GLE, 2005, Black w/Logo.
NSN: 7530–01–502–6813—DAYMAX System, GLE, 2005, Burgundy.
NSN: 7530–01–502–6813L—DAYMAX System, GLE, 2005, Burgundy w/Logo.
NSN: 7530–01–502–6814—DAYMAX System, GLE, 2005, Navy.
NSN: 7530–01–502–6814L—DAYMAX System, GLE, 2005, Navy w/Logo.
NSN: 7530–01–502–6810—DAYMAX System, IE, 2005, Black.
NSN: 7530–01–502–6810L—DAYMAX System, IE, 2005, Black w/Logo.
NSN: 7530–01–502–6811—DAYMAX System, IE, 2005, Burgundy.
NSN: 7530–01–502–6811L—DAYMAX System, IE, 2005, Burgundy w/Logo.
NSN: 7530–01–502–6806—DAYMAX System, IE, 2005, Navy.
NSN: 7530–01–502–6806L—DAYMAX System, IE, 2005, Navy w/Logo.

NSN: 7530–01–502–6822—DAYMAX System, JR Version, 2005, Black.
NSN: 7530–01–502–6822L—DAYMAX System, JR Version, 2005, Black w/Logo.
NSN: 7530–01–502–6821—DAYMAX System, JR Version, 2005, Burgundy.
NSN: 7530–01–502–6823—DAYMAX System, JR Version, 2005, Navy.
NSN: 7530–01–502–6823L—DAYMAX System, JR Version, 2005, Navy w/Logo.
NSN: 7530–01–502–6809—DAYMAX System, LE, 2005, Black.
NSN: 7530–01–502–6809L—DAYMAX System, LE, 2005, Black w/Logo.
NSN: 7530–01–502–6807—DAYMAX System, LE, 2005, Burgundy.
NSN: 7530–01–502–6807L—DAYMAX System, LE, 2005, Burgundy w/Logo.
NSN: 7530–01–502–6808—DAYMAX System, LE, 2005, Navy.
NSN: 7530–01–502–6808L—DAYMAX System, LE, 2005, Navy w/Logo.
NSN: 7530–01–502–6816—DAYMAX System, Woodland Camouflage Planner 2005.
NSN: 7510–01–502–7963—DAYMAX, GLE Day at a View, 2005, 7-hole.
NSN: 7510–01–502–6819—DAYMAX, GLE Month at a View, 2005, 7-hole.
NSN: 7510–01–502–6824—DAYMAX, GLE Week at a View, 2005, 7-hole.
NSN: 7510–01–502–6820—DAYMAX, IE/LE Day at a View, 2005, 3-hole.
NSN: 7510–01–502–6817—DAYMAX, IE/LE Month at a View, 2005, 3-hole.
NSN: 7510–01–502–6818—DAYMAX, IE/LE Week at a View, 2005, 3-hole.
NSN: 7510–01–502–7964—DAYMAX, JR, Day at a View, 2005, 6-hole.
NSN: 7510–01–502–6828—DAYMAX, Tabbed Monthly, 2005, 3-hole.
NSN: 7510–01–502–6829—DAYMAX, Tabbed Monthly, 2005, 7-hole.
NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, PA.
Contracting Activity: GSA/FSS Ofc Sup Ctr—Paper Products, New York, NY.

Barry S. Lineback,
Director, Business Operations.
[FR Doc. E9–13131 Filed 6–4–09; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

GENERAL SERICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0071]

Federal Acquisition Regulation; Information Collection; Price Redetermination

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

ACTION: Notice of request for reinstatement of an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Price Redetermination.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 4, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Blankenship, Procurement Analyst, Contract Policy Division, GSA, (202) 501–1900.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 16.205, Fixed-price contracts with prospective price redetermination, provides for firm fixed prices for an initial period of the contract with prospective redetermination at stated times during performance. FAR 16.206, Fixed price contracts with retroactive price redetermination, provides for a fixed ceiling price and retroactive price redetermination within the ceiling after completion of the contract. In order for the amounts of price adjustments to be determined, the firms performing under these contracts must provide information to the Government regarding their expenditures and anticipated costs. The information is used to establish fair price adjustments to Federal contracts.

B. Annual Reporting Burden

Respondents: 3,500.
Responses Per Respondent: 2.
Annual Responses: 7,000.
Hours Per Response: 1.
Total Burden Hours: 7,000.
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 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0071, Price Redetermination, in all correspondence.

Dated: June 1, 2009.

Al Matera,
Director, Office of Acquisition Policy.
[FR Doc. E9–13119 Filed 6–4–09; 8:45 am]
BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0043]

Federal Acquisition Regulation; Submission for OMB Review; Delivery Schedules

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

ACTION: Notice of request for reinstatement of an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR), Regulatory Secretariat (VPR) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Delivery Schedules. A request for public comments was published in the **Federal Register** at 73 FR 31071, on May 30, 2008. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the

information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before July 6, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration (GSA) Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0043, Delivery Schedules, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Neurauter, Procurement Analyst, Contract Policy Division, GSA, (202) 219–0310.

SUPPLEMENTARY INFORMATION:

A. Purpose

The time of delivery or performance is an essential contract element and must be clearly stated in solicitations and contracts. The contracting officer may set forth a required delivery schedule or may allow an offeror to propose an alternate delivery schedule. The information is needed to assure supplies or services are obtained in a timely manner.

B. Annual Reporting Burden

Respondents: 3,440.

Responses per Respondent: 5.

Annual Responses: 17,200.

Hours per Response: .167.

Total Burden Hours: 2,872.

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 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0043, Delivery Schedules, in all correspondence.

Dated: June 1, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–13121 Filed 6–4–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0101]

Federal Acquisition Regulation; Information Collection; Drug-Free Workplace

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

ACTION: Notice of request for reinstatement of an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR), Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Drug-Free Workplace.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 4, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0101, Drug-Free Workplace, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. William Clark, Procurement Analyst, Contract Policy Division, GSA, (202) 219–1813.

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR clause at FAR 52.223–6, Drug-Free Workplace, requires (1) contract employees to notify their employer of any criminal drug statute conviction for a violation occurring in the workplace; and (2) Government contractors, after receiving notice of such conviction, to notify the contracting officer.

The information provided to the Government is used to determine contractor compliance with the statutory requirements to maintain a drug-free workplace.

B. Annual Reporting Burden

Respondents: 600.

Responses per Respondent: 1.

Annual Responses: 600.

Hours per Response: .17.

Total Burden Hours: 102.

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 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0101, Drug-Free Workplace, in all correspondence.

Dated: June 1, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–13120 Filed 6–4–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0045]

Federal Acquisition Regulation; Information Collection; Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections

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

ACTION: Notice of reinstatement request for an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation, Regulatory Secretariat (VPR) will be submitting to

the Office of Management and Budget (OMB) a request to reinstate a previously approved information collection requirement concerning Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 4, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0045, Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. William Clark, Procurement Analyst, Contract Policy Division, GSA, (202) 219–1813.

SUPPLEMENTARY INFORMATION:

A. Purpose

These regulations implement the statutory requirements of the Miller Act (40 U.S.C. 3131 to 3134), which requires performance and payment bonds for any construction contract exceeding $100,000, unless it is impracticable to require bonds for work performed in a foreign country, or it is otherwise authorized by law. In addition, the regulations implement the note to 40 U.S.C. 3132, entitled ''Alternatives to Payment Bonds Provided by the Federal Acquisition Regulation,'' which requires alternative payment protection for construction contracts that exceed $30,000 but do not exceed $100,000. Although not required by statute, under certain circumstances the FAR permits the Government to require bonds on other than construction contracts.

B. Annual Reporting Burden

Respondents: 11,304.
Responses per Respondent: 5.
Total Responses: 56,520.
Hours per Response: .42.
Total Burden Hours: 23,738.
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 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0045, Bid Guarantees, Performance and Payment Bonds, and Alternative Payment Protections, in all correspondence.

Dated: June 1, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–13122 Filed 6–4–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0048]

Federal Acquisition Regulation; Information Collection; Authorized Negotiators

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

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 Federal Acquisition Regulation (FAR), Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Authorized Negotiators.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 4, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0048, Authorized Negotiators, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne Neurauter, Procurement Analyst, Contract Policy Division, GSA, (202) 219–0310.

A. Purpose

Firms offering supplies or services to the Government under negotiated solicitations must provide the names, titles, and telephone numbers of authorized negotiators to assure that discussions are held with authorized individuals. The information collected is referred to before contract negotiations and it becomes part of the official contract file.

B. Annual Reporting Burden

Respondents: 65,660.
Responses per Respondent: 8.
Total Responses: 525,280.
Hours per Response: .017.
Total Burden Hours: 8,930.
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 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0048, Authorized Negotiators, in all correspondence.

Dated: June 1, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–13118 Filed 6–4–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0068]

Federal Acquisition Regulation; Information Collection; Economic Price Adjustment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for reinstatement of an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Economic Price Adjustment.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 4, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0068, Economic Price Adjustment, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Blankenship, Procurement Analyst, Contract Policy Division, GSA, (202) 501–1900.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 16.203, Fixed-price contracts with economic price adjustment, and associated clauses at 52.216–2, 52.216–3 and 52.216–4 provide for upward and downward revision of the stated contract price upon occurrence of specified contingencies. In order for the contracting officer to be aware of price changes, the firm must provide pertinent information to the Government. The information is used to determine the proper amount of price adjustments required under the contract.

B. Annual Reporting Burden

Respondents: 5,346
Responses Per Respondent: 1.
Annual Responses: 5,346.
Hours Per Response: .25.
Total Burden Hours: 1,337.
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 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0068, Economic Price Adjustment, in all correspondence.

Dated: June 1, 2009.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E9–13123 Filed 6–4–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Partially Closed Meeting of Naval Research Advisory Committee (NRAC)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Naval Research Advisory Committee (NRAC) will meet to discuss classified, For Official Use Only (FOUO) information from government organizations, and proprietary information from commercial organizations. With the exception of the sessions on Monday June 22, 2009, the morning of Tuesday June 23, 2009, and the morning of Thursday July 2, 2009, all sessions of the meeting will be devoted to classified, unclassified, FOUO and vendor proprietary briefings, discussions and technical examination of information related to the study of Future Naval Use of Commercially Off The Shelf (COTS) Networking Infrastructure (FNCOTS), Immersive Simulations for U.S. Marine Corps Small Units (ISUSMC), Tactical Jet Noise Reduction (TJNR) and The Role of Unmanned Undersea Vehicles in Critical Undersea Infrastructure (UUV).

Discussions will focus on the exploitation of physical vulnerabilities and the tactical applications of known and emerging technologies. Each session will examine vulnerabilities of individuals and systems, and how the enemy may be exploiting these vulnerabilities. The sessions will also include proprietary information regarding technology applications and systems under development in the private sector between competing companies. The sessions will also focus on the assessment of the emerging concepts of operations in each of these areas and evaluate appropriate options in such areas as: Training, S&T funding allocation, technology monitoring, and progress assessments; and, probable time frames for transformation and implementation. The sessions will also identify, review and assess challenges with the utilization and fielding of various technology applications.

DATES: The open session of the meeting will be held on Monday, June 22, 2009, from 8 a.m. to 4 p.m.; Tuesday, June 23, 2009, from 8 a.m. to 10 a.m.; and Thursday, July 2, 2009, from 8 a.m. to 12 p.m. The closed executive session will be held on June 23, 2009, from 10:15 a.m. to 4 p.m.; June 24, 2009 to June 26, 2009; and, June 29, 2009 to July 1, 2009.

Public Access: The NRAC Summer Study will be held in the Cloud Room at 53605 Hull Street, Space and Naval Warfare Systems Center, San Diego, CA 92152–5410. Access instructions for the public:

1. If you are a non-U.S. citizen you must submit a visit request by letter or fax (619–553–2726) via your embassy to: SPAWARSYSCEN San Diego, Code 20352 (PL–TS), POC: Jackie Olson, 854, 49275 Electron Drive, San Diego, CA 92152–5435. Please indicate that you will be attending the open sessions of the Naval Research Advisory Committee (NRAC) Summer Study.

2. If you are a U.S. government employee or active military with a security clearance, please submit a visit request via JPAS to SPAWARS; UIC number 660015 or fax it to 619–553–2726. POC is Ms. Jackie Olson, 854, 49275 Electron Drive, San Diego, CA 92152–5435.

3. If you are a U.S. citizen with no security clearance, you will require an escort at all times while on SPAWARS facilities. Please submit a visit request via e-mail or fax no later than June, 16, 2009, to: Mr. William Ellis, NRAC Program Director, *elliswonr@gmail.com*; FAX: 703–696–4837 or Mr. Miguel Becerril, NRAC Program Manager, *mbecerril@jorge.com;* FAX: 703–696–4837.

All guests must have at least two forms of government issued identification. Those guests planning on attending activities indicated above must have submitted their respective visit request per the above instructions. If the guest requires an escort, he/she must be present at the *SPAWARS Visitor Center no later than 7 a.m.* The Visitor Center is located at the entrance to the

Space and Naval Warfare Center, 49275 Electron Drive, San Diego, CA. Guests requiring an escort will be greeted by a member of the NRAC staff and escorted to the site of the Summer Study. Escorted guests will be limited to only those areas related to the Summer Study activities. Escorted guests will be returned to the Visitor Center upon completion of the NRAC activities open to the public.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Ellis, Jr., Program Director, Naval Research Advisory Committee, 875 North Randolph Street, Arlington, VA 22203–1955, 703–696–5775.

SUPPLEMENTARY INFORMATION: This notice is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). With the exception of activities detailed above, all sessions of the meeting will be devoted to executive sessions that will include discussions and technical examination of information related to Future Naval Use of Commercially Off The Shelf (COTS) Networking Infrastructure (FNCOTS) and Immersive Simulations for U.S. Marine Corps Small Units (ISUSMC). These briefings and discussions will contain proprietary information and official use only information that is specifically authorized under criteria established by Executive Order to be kept FOUO in the interest of national defense and are in fact properly classified pursuant to such Executive Order and SECNAV Instructions M–5510.36 of June 2006. The classified, proprietary, FOUO, and non-classified matters to be discussed are so inextricably intertwined as to preclude opening these sessions of the meeting. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the public interest requires that these sessions of the meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. section 552b(c)(1) and (4).

Dated: May 28, 2009.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy Federal Register Liaison Officer.

[FR Doc. E9–13104 Filed 6–4–09; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; Fund for the Improvement of Postsecondary Education (FIPSE)—Special Focus Competition: Innovative Strategies in Community Colleges for Working Adults and Displaced Workers; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.116W.

Dates:

Applications Available: June 5, 2009.

Deadline for Transmittal of Applications: August 4, 2009.

Deadline for Intergovernmental Review: October 5, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Fund for the Improvement of Postsecondary Education (FIPSE) supports innovative grants and cooperative agreements to improve postsecondary education. It supports reforms, innovations, and significant improvements of postsecondary education that respond to problems of national significance and serve as national models. Under the FIPSE Program, the Secretary may make grants for special projects concerning areas of national need.

Priority: Under this competition, we are particularly interested in applications that meet the following invitational priority.

Invitational Priority: For FY 2009 this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Under this priority we are particularly interested in projects that propose innovative strategies to benefit working adults and displaced workers who are pursuing degrees or credentials in community colleges. Projects may include, but are not limited to, activities that improve: Academic remediation; tutoring; academic and personal counseling; registration processes; students' course selection and scheduling; instructional delivery; student support services related to childcare, transportation, or educational costs, such as textbooks; and career counseling. Applicants should focus on meeting the unique needs of community college students and adult learners and preparing them for high-growth occupations and to meet employer needs.

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except Federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants or cooperative agreements.

Estimated Available Funds: $7,000,000.

Estimated Range of Awards: $300,000–$750,000 for a three-year project period. $132,000–$330,000 for the first year.

Estimated Average Size of Awards: $572,000 for a three-year project period. $250,000 for the first year.

Estimated Number of Awards: 28.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs, other public and private nonprofit institutions and agencies, and combinations of these institutions and agencies.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://e-grants.ed.gov*. To obtain a copy from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov*.

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.116W.

Individuals with disabilities can obtain a copy of the application package

in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Accessible Format* in Section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is the section in which the applicant addresses most of the selection criteria that reviewers use to evaluate the application. The application narrative must be limited to no more than 20 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, *except* titles, headings, footnotes, quotations, references, and captions. Charts, tables, figures, and graphs in the application narrative may be single spaced and will count toward the page limit.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10 point font in charts, tables, figures, and graphs.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.
- The page limit does not apply to Part I, the title page; Part II, the budget summary form (ED Form 524); Part IV, assurances, certifications, and the response to Section 427 of the General Education Provisions Act (GEPA); the table of contents; the project abstract; or the appendix. The appendix may include only the project evaluation chart, summaries of the qualifications of key personnel, letters of support, and references. If you include any attachments or appendices not specifically requested, these items will be counted as part of the program narrative (Part III) for purposes of the page limit requirement.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: June 5, 2009.

Deadline for Transmittal of Applications: August 4, 2009.

Applications for grants under this program must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants system. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: October 5, 2009.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under this FIPSE Special Focus Competition—CFDA number 84.116W must be submitted electronically using e-Application, accessible through the Department's e-Grants portal page at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E-Application will not accept an application for this program after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.
- Your electronic application must comply with any page limit requirements described in this notice.
- Prior to submitting your electronic application, you may wish to print a copy of it for your records.
- After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an

identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E-Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through e-Application because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to e-Application; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Levenia Ishmell, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., Room 6147, Washington, DC 20006–8544. FAX: (202) 502–7877.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.116W), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.116W), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary in 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993, the following measures will be used by the Department in assessing the performance of the FIPSE Comprehensive Program:

(1) The percentage of funded grantees reporting project dissemination to others; and

(2) The percentage of funded projects reporting institutionalization on their home campuses.

If funded, you will be asked to collect and report data on these measures in your project's annual performance report (34 CFR 75.590). Applicants are also advised to consider these two measures in conceptualizing the design, implementation, and evaluation of the proposed project because of their importance in the application review process. Collection of data on these measures should be a part of the project evaluation plan, along with measures of progress on goals and objectives that are specific to your project.

VII. Agency Contact

For Further Information Contact: Levenia Ishmell, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., Room 6147, Washington, DC 20006–8544. Telephone: (202) 502–7668 or by e-mail: *Levenia.Ishmell@ed.gov.* The agency contact person does not mail application materials and does not accept applications.

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in Section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated authority to Daniel T. Madzelan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education to perform the functions of the Assistant Secretary for Postsecondary Education.

Dated: June 2, 2009.

Daniel T. Madzelan,

Director, Forecasting and Policy Analysis.

[FR Doc. E9–13157 Filed 6–4–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Grants for Coalitions To Prevent and Reduce Alcohol Abuse at Institutions of Higher Education; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009

Catalog of Federal Domestic Assistance (CFDA) Number: 84.184Z.

Dates:

Applications Available: June 5, 2009.

Deadline for Transmittal of Applications: July 6, 2009.

Intergovernmental Review: August 4, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the program is to provide funds to prevent and reduce the rate of under-age alcohol consumption, including binge drinking, among students at institutions of higher education (IHEs), on campuses and in surrounding communities.

Priority: We are establishing this priority for the FY 2009 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priority: This priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Statewide coalitions to prevent alcohol use by under-age students at IHEs.

Under this priority we provide Federal financial assistance to eligible applicants to develop, expand, or enhance a statewide coalition to prevent and reduce alcohol abuse by targeting under-age students at IHEs throughout the State, both on campuses and in surrounding communities.

At a minimum, Statewide coalitions must include two or more IHEs in the State, and at least one of the following: A non-profit group, a community under-age drinking prevention coalition, or another substance abuse prevention group within the State.

Application Requirements: To be eligible for a grant under this competition, an applicant must include in its application—

(1) A description of how it will work to enhance or expand an existing statewide coalition, or where no statewide coalition exists, to build one;

(2) A description of how the applicant will carry out other activities consistent with the purpose of the program and with the objectives embodied in the performance measures in VI.4. *Performance Measures* section of this notice;

(3) A description of the applicant's plan to recruit key stakeholders, and a list of the members of the statewide coalition or interested parties involved in the work of the coalition;

(4) A description of how it intends to work collaboratively with State agencies, and other key stakeholders, on substance abuse prevention and education; and

(5) A description of the anticipated impact of the activities carried out with funds provided under the grant in preventing and reducing the rates of under-age alcohol use among students at IHEs targeted by those activities.

Definitions: For the purposes of this notice, the terms used have the following meaning:

The term *institution of higher education* means an institution described in section 101(a) of the Higher Education Act of 1965, as amended, and includes an educational institution in any State that—

(a) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(b) Is legally authorized within such State to provide a program of education beyond secondary education;

(c) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(d) Is a public or other nonprofit institution; and

(e) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and as to which the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

The term *non-profit,* as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more non-profit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

The term *State* means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

The term *State agency* means an agency within a State government that performs a function related to the reduction and prevention of under-age alcohol consumption.

The term *Statewide coalition* refers to two or more IHEs within a State working towards lowering the alcohol abuse rate by targeting under-age students at IHEs throughout the State in collaboration and partnership with, but not limited to, one or more of the following: A non-profit group, a community under-age drinking prevention coalition, or another substance abuse prevention group within a State.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities, application requirements, and definitions. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under section 4121 of the Elementary and Secondary Education Act of 1965, as amended, and, therefore, it qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priority, application requirements, and definitions, under section 437(d)(1) of GEPA. This priority, and these application requirements and definitions, will apply to the FY 2009 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

Program Authority: 20 U.S.C. 7131.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

(b) The regulations in CFR part 299.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,475,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards later in FY 2009 and in FY 2010 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $150,000 to $375,000.

Estimated Average Size of Awards: $275,000.

Estimated Number of Awards: 9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs, consortia thereof, State agencies, and non-profit entities.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: Education Publications Center, P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.184Z.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

3. *Submission Dates and Times:*

Applications Available: June 5, 2009.

Deadline for Transmittal of Applications: July 6, 2009.

Applications for grants under this program must be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants site. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 4, 2009.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Grants for Coalitions To Prevent and Reduce Alcohol Abuse at Institutions of Higher Education Competition, 84.184Z, must be submitted electronically using e-Application, accessible through the Department's e-Grants Web site at: *http://e-grants.ed.gov.*

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.* While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

- You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E-Application will not accept an application for this competition after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.
- The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.
- Your electronic application must comply with any page limit requirements described in this notice.
- Prior to submitting your electronic application, you may wish to print a copy of it for your records.
- After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the SF 424 after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to (202) 285–0041 or (202) 245–7166.

- We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of e-Application Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E–Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E–Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application. Extensions referred to in this section apply only to the unavailability of e-Application.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through e-Application because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to e-Application; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Earl Myers, U.S. Department of Education, 400 Maryland Avenue, SW., Room 10119, Potomac

Center Plaza (PCP), Washington, DC 20202–6450. FAX: (202) 485–0013.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.184Z), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.184Z), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from EDGAR and listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. You must also submit an interim progress report twelve months after the award date. This report should provide the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measure for assessing the effectiveness of the Grants for Coalitions to Prevent and Reduce Alcohol Abuse at IHEs:

1. The percentage of grantees that demonstrate a reduction in 30-day alcohol use among under-age students at participating IHEs.

2. The percentage of grantees that demonstrate a reduction in 30-day binge drinking among under-age students at participating IHEs.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Earl Myers, U.S. Department of Education, 400 Maryland Avenue, SW., Room 10119, PCP, Washington, DC 20202–6450. Telephone: (202) 245–7879 or by e-mail: *earl.myers@ed.gov.*

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register.** Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: May 29, 2009.

William Modzeleski,

Acting Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E9–13162 Filed 6–4–09; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8594–1]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/*.

Weekly Receipt of Environmental Impact Statements

Filed 05/25/2009 Through 05/29/2009

Pursuant to 40 CFR 1506.9.

EIS No. 20090175, Final EIS, NRC, 00, GENERIC—In-Situ Leach Uranium Milling Facilities (NUREG–1910), Construction, Operation, Aquifer Restoration and Decommissioning, Potentially Location in Portions of WY, NE, SD and NM, Wait Period Ends: 07/06/2009, Contact: James Park 301–415–6935.

EIS No. 20090176, Draft EIS, FHW, WA, WA–502 Corridor Widening Project, Proposes Improvements to Five Miles of WA–502 (NE–219th Street) between NE. 15th Avenue and NE. 102nd Avenue, Funding, Clark County, WA, Comment Period Ends: 07/20/2009, Contact: Dean Moberg 360–534–9344.

EIS No. 20090177, Draft EIS, AFS, CA, Lassen National Forest, Motorized Travel Management Plan, Implementation, Butte, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama Counties, CA, Comment Period Ends: 07/20/2009, Contact: Christopher O'Brien 530–257–2151.

EIS No. 20090178, Draft EIS, IBR, CA, North Bay Water Recycling Program (NBWRP), (Formerly North San Pablo Bay Restoration and Reuse Project), Proposed to Promote the Expanded Beneficial Use of Recycled Water, Northern Marin Water District, Napa County, CA, Comment Period Ends: 07/20/2009, Contact: David White 916–978–5074.

EIS No. 20090179, Draft EIS, AFS, CA, Klamath National Forest Motorized Route Designation, Motorized Travel Management, (Formerly Motorized Route Designation), Implementation, Siskiyou County, CA, Comment Period Ends: 07/20/2009, Contact: Jan Ford 530–842–6131.

EIS No. 20090180, Final EIS, STA, 00, Alberta Clipper Pipeline Project, Application for a Presidential Permit to Construction, Operation and Maintenance of Facilities in ND, MN and WI, Wait Period Ends: 07/06/2009, Contact: Elizabeth Orlando 202–647–4284.

EIS No. 20090181, Draft EIS, AFS, CA, Lower Trinity and Mad River Motorized Travel Management, Proposed to Prohibit Cross-County Motor Vehicle Travel Off Designated National Forest Transportation System (NFTS) Roads and Motorized Trails, Six River National Forest, CA, Comment Period Ends: 07/20/2009, Contact: Leslie Burkhart 707–441–3520.

EIS No. 20090182, Final EIS, USA, HI, Makua Military Reservation (MMR) Project, Proposed Military Training Activities, To Conduct the Necessary Type, Level, Duration, and Intensity of Live-Fire and Other Military Training Activities, in Particular Company-Level Combined-Arms, Live-Fire Exercises (CALFEX), 25th Infantry Division (Light) and U.S. Army, HI, Wait Period Ends: 07/06/2009, Contact: Kristin Evenstad 703–692–6427.

Amended Notices

EIS No. 20090048, Draft EIS, AFS, MT, Montanore Project, Proposes to Construct a Copper and Silver Underground Mine and Associated Facilities, Including a New Transmission Line, Plan-of-Operation Permit, Kootenai National Forest, Sanders County, MT, Comment Period Ends: 06/29/2009, Contact: Bobbie Lacklen 406–283–7681.

Revision to FR Notice Published 02/27/2009: Correction to Extending Comment Period from 07/27/2009 to 06/29/2009.

EIS No. 20090088, Draft EIS, BLM, UT, Greens Hollow Coal Lease Tract Project, Proposed Federal Coal Leasing and Subsequent Underground Coal Mining, Funding and Lease Application, Fishlake and Manti-La Sal National Forest, Sanpete and Sevier Counties, UT, Comment Period Ends: 06/01/2009, Contact: Steve Rigby 435–636–3604.

Revision to FR Notice Published 04/03/2009: Extending Comment from 05/18/2009 to 06/01/2009.

EIS No. 20090113, Draft EIS, AFS, 00, Ashley National Forest Motorized Travel Plan, To Improve Management of Public Summer Motorized Use by Designating Roads and Motorized Trails and Limiting Dispersed Camping to Areas, Duchesne, Daggett, Uintah Counties, Utah and Sweetwater County, Wyoming, Comment Period Ends: 07/16/2009, Contact: Lesley Tullis 435–781–5137.

Revision to FR Notice Published 04/17/2009: Extending Comment Period from 06/01/2009 to 07/16/2009.

EIS No. 20090173, Draft EIS, UCG, 00, Goethals Bridge Replacement Project, Construction of Bridge across the Arthur Kill between Staten Island New York and Elizabeth, New Jersey, Funding and USCG Bridge Permit, NY and NJ, Comment Period Ends: 07/28/2009, Contact: Shelly Sugarman 202–372–1521.

Revision to FR Published 05/29/2009: Extending Comment Period from 07/13/2009 to 07/28/2009.

Dated: June 2, 2009.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–13159 Filed 6–4–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8594–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 17, 2009 (74 FR 17860).

Draft EISs

EIS No. 20090046, ERP No. D–BLM–L65566–OR, Timber Mountain Recreation Management Plan, Managing Off-Highway Vehicle (OHV), Medford District Office, Jackson County, OR.

Summary: EPA expressed environmental concerns about potential impacts to aquatic resources, sensitive plants and wildlife, and recommended additional implementation and adaptive management planning. Rating EC2.

EIS No. 20090108, ERP No. D–AFS–K65361–CA, Thom-Seider Vegetation Management and Fuels Reduction Project, To Respond to the Increasing Density and Fuels Hazard Evident along the Klamath River between Hamburg and Happy Camp, Klamath National Forest, Siskiyou County, CA.

Summary: EPA expressed environmental concerns about treatment prescriptions, naturally occurring asbestos, air quality, and climate change. Rating EC2.

Final EISs

EIS No. 20090121, ERP No. F–USN–E11067–NC, Navy Cherry Point Range Complex, Proposed Action is to Support and Conduct Current and Emerging Training and Research, Development, Testing and Evaluation (RDT&E) Activities, South Atlantic Bight, Cape Hatteras, NC.

Summary: EPA expressed environmental concerns about impacts to the marine environment from the deposition of expended training materials.

EIS No. 20090146, ERP No. F–COE–F35047–OH, Lorain Harbor Ohio Federal Navigation Project, Dredged Material Management Plan, Implementation, Lorain Harbor, Lorain County, Ohio.

Summary: EPA does not object to the proposed project.

Dated: June 2, 2009.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–13163 Filed 6–4–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–0356; FRL–8420–2]

Petition Requesting Cancellation of all Tetrachlorvinphos Pet Uses and Extension of Comment Period for Petition Requesting Cancellation of Propoxur Pet Collar Uses; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On April 24, 2009, the Agency received a petition from the Natural Resources Defense Council (NRDC) to cancel all pet uses for the pesticide tetrachlorvinphos (TCVP) and a supplement to a previous NRDC petition to cancel all pet collar uses for the pesticide propoxur. NRDC requested these cancellations based on their belief that EPA failed to adequately assess residential exposures to TCVP and propoxur pet collars. NRDC believes that EPA used incorrect exposure assumptions leading to underestimation of residential risk in the TCVP Reregistration Eligibility Decision (RED), Propoxur RED, and *N*–methyl Carbamate (NMC) Cumulative Risk Assessment (CRA). On April 8, 2009, the Agency opened a 60–day public comment period for the petition to cancel propoxur pet collar uses, originally scheduled to close June 8, 2009. This notice extends the comment period on the propoxur petition to correspond with the timing of the TCVP comment period.

DATES: Comments must be received on or before August 4, 2009.

ADDRESSES: Submit your comments for TCVP, identified by docket identification (ID) number EPA–HQ–OPP–2009–0308, and for propoxur, identified by docket ID number EPA–HQ–OPP–2009–0207, by one of the following methods:

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

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2009–0308 for TCVP or to docket ID number EPA–HQ–OPP–2009–0207 for propoxur. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For TCVP:* James Parker, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 306–0469; fax number: (703) 308–7070; e-mail address: *parker.james@epa.gov*.

For Propoxur: Monica Wait, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8019; fax number: (703) 308–7070; e-mail address: *wait.monica@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental and human health advocates; the chemical industry; pesticide users; pet owners; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the

appropriate person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through 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:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

The Agency has opened a 60–day comment period for an NRDC petition requesting the cancellation of all tetrachlorvinphos pet uses. The petition was filed on April 24, 2009, and NRDC claims that the Agency did not include the TCVP pet collar use pattern, which is the worst case exposure scenario, and that the Agency used assumptions which underestimated exposures when conducting the risk assessment in support of the 2002 Tetrachlorvinphos RED.

On April 24, 2009, NRDC also submitted a supplement to their previous petition to cancel all pet collar uses for propoxur, which provided some additional information on the pesticide. The original NRDC petition, submitted November 2007, was recently posted for a 60–day public comment period under docket ID number EPA–HQ–OPP–2009–0207 through a notice of availability published in the **Federal Register** issue of April 8, 2009 (74 FR 15980)(FRL–8408–4). The public comment period for that docket was previously scheduled to close on June 8, 2009. However, this **Federal Register** notice will extend the public comment period for that docket to 60–days from the publication of this notice. Note that for propoxur, pet collars are currently the only products registered for use on pets. There are no other types of pet products, such as spot-ons, sprays, or shampoos, registered for use on pets. Therefore, NRDC's petition to cancel applies only to propoxur pet collar uses.

In both the TCVP and propoxur petitions, NRDC claims that residential exposures may be significantly higher than estimated by EPA through common daily activities between children and pets. NRDC also cites specific revised hand-to-mouth exposure scenarios from published studies which they feel should have been included in the TCVP and propoxur exposure assessments.

NRDC conducted a study designed to estimate exposure to TCVP and propoxur from flea collars. A summary of the study was submitted in an issue paper along with the petition to cancel pet uses of TCVP and propoxur. The Agency has requested that NRDC provide additional information regarding the study. The Agency's letter requesting information and NRDC's response will be included in both the TCVP and the propoxur dockets.

EPA's 2002 Interim Tolerance Eligibility and Reregistration Eligibility Decision (RED) documents for tetrachlorvinphos are available on EPA's pesticide webpage at *http://www.epa.gov/pesticides/reregistration/status.htm*.

EPA's 1997 Reregistration Eligibility Decision (RED) for propoxur is available on EPA's pesticide webpage at *http://www.epa.gov/pesticides/reregistration/status.htm*.

The 2007 NMC CRA, related documents and comments are available in the electronic docket at *http://www.regulations.gov* under docket ID number EPA–HQ–OPP–2007–0935.

List of Subjects

Environmental protection, Natural Resources Defense Council, Pesticides and pests, Propoxur, Tetrachlorvinphos.

Dated: May 29, 2009.

Richard P. Keigwin, Jr.,

Director, Special Review and Reregistration Division, Office of Pesticide Program.

[FR Doc. E9–13160 Filed 6–4–09; 8:45 am]

BILLING CODE 6560–50–S

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting; Sunshine Act

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on June 11, 2009, from 2:30 p.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- May 14, 2009

B. New Business

- Disclosure and Accounting Requirements—Final Rule

C. Reports

- Young, Beginning, and Small Farmer Mission Performance—2008 Results

Closed Session*

- Office of Secondary Market Oversight Quarterly Report

Dated: June 3, 2009.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

[FR Doc. E9–13328 Filed 6–3–09; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0166)

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.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). On March 11, 2009, the FDIC solicited public comment for a 60-day period on full clearance of the following collection currently approved by OMB on an emergency basis: Temporary Liquidity Guarantee Program (TLGP), OMB Control No. 3064–0166. No comments were received. Therefore, the FDIC hereby gives notice of its submission of the TLGP information collection to OMB for review.

DATES: Comments must be submitted on or before July 6, 2009.

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:

- *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.

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie at the address identified above.

SUPPLEMENTARY INFORMATION: Submission for OMB review to obtain full clearance of the following collection of information currently approved on an emergency basis:

Title: Temporary Liquidity Guarantee Program.

OMB Number: 3064–0166.

Estimated Number of Respondents: (The estimated number of respondents for several reporting categories has been adjusted downward from initial estimates to better reflect actual experience since implementation of the program.)

Initial report of amount of senior unsecured debt—275.

Subsequent reports on amount of senior unsecured debt—275.

Opt-out/opt-in notice—14,932.

Notice of debt guarantee—275.

Notice of transaction account guarantee—8,380.

Notice of issuance of debt guarantee—550.

Notice of termination of participation—300.

Debt-holder guarantee claims—2,600.

Request for increase in debt guarantee limit—275.

Request for increase in presumptive debt guarantee limit—50.

Request to opt-in to debt guarantee program—5.

Request by affiliate to participate in debt guarantee program—275.

Application to issue mandatory convertible debt: 25.

Application by certain entities to issue FDIC-guaranteed debt after 6/30/09: 25.

Application to issue senior, unsecured, non-guaranteed debt after 6/30/09: 250.

Frequency of Response:

Initial report of amount of senior unsecured debt—once.

Subsequent reports on amount of senior unsecured debt—4.

Opt-out/opt-in notice—once.

Notice of debt guarantee—once.

Notice of transaction account guarantee—once.

Notice of issuance of debt guarantee—250.

Notice of termination of participation—once.

Debt-holder guarantee claims—once.

Request for increase in debt guarantee limit—once.

Request for increase in presumptive debt guarantee limit—once.

Request to opt-in to debt guarantee program—once.

Request by affiliate to participate in debt guarantee program—once.

Application to issue mandatory convertible debt—5.

Application by certain entities to issue FDIC-guaranteed debt after 6/30/09: once.

Application to issue senior unsecured non-guaranteed debt after 6/30/09: once.

Affected Public: FDIC-insured depository institutions, thrift holding companies, bank and financial holding companies.

Estimated Time per Response: (The FDIC did not receive any comments on its initial burden estimates. Nevertheless, burden estimates for some categories of reports have been increased, in several cases significantly, based on informal feedback from program participants.)

Initial report of amount of senior unsecured debt—1 hour.

Subsequent reports on amount of senior unsecured debt—4 hours.

Opt-out/opt-in notice—1 hour.

Notice of debt guarantee—16 hours.

Notice of transaction account guarantee—4 hours.

Notice of issuance of debt guarantee—3 hours.

Notice of termination of participation—3 hours.

Debt-holder guarantee claims—3 hours.

Request for increase in debt guarantee limit—24 hours.

Request for increase in presumptive debt guarantee limit—16 hours.

Request to opt-in to debt guarantee program—16 hours.

Request by affiliate to participate in debt guarantee program—16 hours.

Application to issue mandatory convertible debt—40 hours.

Application by certain entities to issue FDIC-guaranteed debt after 6/30/09: 2 hours.

Application to issue senior, unsecured, non-guaranteed debt after 6/30/09: 8 hours.

Total Annual Burden: 382,214 hours (This reflects an adjustment of −1,822,061 hours and a program change of +600 hours from previous estimates.)

General Description of Collection: This collection includes reporting, recordkeeping and disclosure requirements associated with the FDIC's TLGP. The TLGP is comprised of (1) a guarantee by the FDIC of unsecured, unsubordinated debt of participating, insured, depository institutions, their bank holding companies, financial holding companies, and thrift holding companies (other than unitary thrift

holding companies) issued between October 14, 2008, and October 31, 2009, with guarantees expiring on the earlier of the date of maturity or December 31, 2012, and with a system of fees to be paid by these institutions for such guarantees; and (2) a 100 percent guaranty of non-interest bearing, transaction accounts held by insured depository institutions until December 31, 2009 (FDIC guarantees). The TLGP is designed to strengthen confidence and encourage liquidity in the banking system in order to ease lending to creditworthy businesses and consumers. The reporting, recordkeeping and disclosure requirements apply to eligible entities participating in either the Debt Guarantee Component of the program or the Deposit Guarantee Component or both. The information obtained allows the FDIC to monitor its exposure under the TLGP and determine assessments for entities participating in the program. The required disclosures ensure that depositors, debt holders, and the general public are on notice as to which entities are participating in the program, the extent to which deposits in noninterest-bearing transaction accounts are FDIC-insured, and whether newly-issued, senior, unsecured debt is guaranteed by the FDIC.

Request for Comment

Comments are invited on: (a) Whether this 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 methodologies 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 2nd day of June, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–13149 Filed 6–4–09; 8:45 am]

BILLING CODE 6714–01–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 June 22, 2009.

A. Federal Reserve Bank of Atlanta (Steve Foley, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. John H. Sykes and Charles Sykes, both of Tampa, Florida, Katherine Stroker, James Stroker, and Karen Taylor, all of Windermere, Florida; to acquire additional voting shares of NorthStar Banking Corporation, and thereby indirectly acquire additional voting shares of NorthStar Bank, both of Tampa, Florida.

Board of Governors of the Federal Reserve System, June 2, 2009.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E9–13145 Filed 6–4–09; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Community-Based Abstinence Education Performance Progress Report.

OMB No.: 0970–0272.

Description: The discretionary funding Community-Based Abstinence Education Program (CBAE) is authorized by Title XI, Section 1110, of the Social Security Act (using the definitions contained in Title V, Section 510(b)(2) of the Social Security Act).

Program-Specific Performance Measure

The CBAE program developed a program-specific performance measure in response to the PART review (a process by which the Office of Management and Budget analyzes and rates a Federal program's procedures and strategies for evaluating its effectiveness), for which the program received a rating of Adequate. In an effort to gather program-specific data on rates of abstinence pre- and post-program participation, ACF and the Office of Management and Budget determined that a program-specific performance measure should be developed to assess key outcomes among program participants. The CBAE office convened a panel of abstinence education experts to gather input on the measure, and, based on the input provided, the CBAE office developed the measure. CBAE grantees will be required to ask twelve questions of the youth served in a pre- and post-survey, as well as a representative sample of the youth served in a follow-up survey.

The questions were carefully constructed by experienced evaluators to measure initiation and discontinuation of sexual intercourse as well as two key predictors of initiation: Sexual values and behavioral intentions.

The program office will collect and compile data to establish baselines and ambitious targets for the program-specific performance measure. The data will be aggregated and results will be shared with the public as they become available.

Respondents: Youth Participants.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Community-Based Abstinence Education Performance Program—Specific Performance Measure	1,000,000	3	0.17	510,000

Estimated Total Annual Burden Hours: 510,000

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: June 2, 2009.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E9–13147 Filed 6–4–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Application for the Emergency Fund for TANF Programs.

OMB No.: New.

Description: On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act), which establishes the Emergency Contingency Fund for State TANF Programs (Emergency Fund) as section 403(c) of the Social Security Act (the Act). This legislation provides up to $5 billion to help States, Territories, and Tribes in fiscal year (FY) 2009 and FY 2010 that have an increase in assistance caseloads or in certain types of expenditures. The Recovery Act made additional changes to TANF—extending supplemental grants through FY 2010, expanding flexibility in the use of TANF funds carried over from one fiscal year to the next, and adding a hold-harmless provision to the caseload reduction credit for States and Territories serving more TANF families.

The Emergency Fund is intended to build upon and renew the principles of work and responsibility that underlie successful welfare reform initiatives. The Emergency Fund provides resources to States, Territories, and Tribes to support work and families during this difficult economic period.

We plan to issue a Program Instruction accompanied by the Emergency Fund Request Form (OFA–100), and instructions for jurisdictions to complete the OFA–100 to apply for emergency funds.

Failure to collect this data would compromise ACF's ability to monitor caseload and expenditure data that must increase in order for jurisdictions to receive awards under the Emergency Fund.

Documentation maintenance on financial reporting for the Emergency Fund is governed by 45 CFR 92.20 and 45 CFR 92.42.

Respondents: State, Territory, and Tribal agencies administering the Temporary Assistance for Needy Families (TANF) Program that are applying for the Emergency Fund.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Emergency Fund Request Form OFA–100	93	5	24	11,160

Estimated Total Annual Burden Hours: 11,160.

There are 116 eligible jurisdictions (50 States, 3 Territories, 62 Tribes, and Washington, DC), and we anticipate that 80 percent of eligible respondents will submit applications for an average of 93 respondents per year.

Respondents only need to submit quarterly data if they are applying for new funds or revising previous submissions. We do not expect all respondents to submit quarterly, so the number of responses per respondent is an overestimate. We anticipate that the submittal process will take eight hours per respondent request per quarter and eight hours for reconciliation. Respondents will average five responses per year for a total annual burden of 3,720 hours.

Additional Information:

ACF is requesting that OMB grant a 90-day approval for this information collection under procedures for emergency processing by June 24, 2009. A copy of this draft information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Robert Sargis at (202) 690–7275.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs,

Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, (202) 395–4718.

Dated: May 28, 2009.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. E9–12970 Filed 6–4–09; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10050 and CMS–10174]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of the currently approved collection; *Title of Information Collection:* New Enrollee Survey; *Use:* The New Enrollee survey was developed to gather information from newly enrolled Medicare beneficiaries about their Medicare knowledge and needs. CMS is seeking understanding about what types of information new enrollees need and what they know about Medicare. Included in the survey are questions regarding how well informed new enrollees are about Medicare and what information they have received about the Medicare program. Information gathered in this survey will be used only for purposes of targeting and improving communications with newly eligible Medicare beneficiaries. *Form Number:* CMS–10050 (OMB#: 0938–0869); *Frequency:* Reporting—Quarterly; *Affected Public:* Individuals or Households; *Number of Respondents:* 1200; *Total Annual Responses:* 1200; *Total Annual Hours:* 300. (For policy questions regarding this collection contact Renee Clark at 410–786–0006. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Revision of the currently approved collection; *Title of Information Collection:* Collection of Drug Event Data From Contracted Part D Providers For Payment; *Use:* In December 2003, Congress enacted the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 referred to as the Medicare Modernization Act (MMA). The Medicare Prescription Drug Benefit program (Part D) was established by section 101 of the MMA and is codified in section 1860D–1 through 1860 D–41 of the Social Security Act. Effective January 1, 2006, the Part D program establishes an optional prescription drug benefit for individuals who are entitled to Medicare Part A and/or enrolled in Part B. Part D plans have flexibility in terms of benefit design. This flexibility includes, but is not limited to, authority to establish a formulary that limits coverage to specific drugs within each therapeutic class of drugs, and the ability to have a cost-sharing structure other than the statutorily defined structure (subject to certain actuarial tests). Coverage under the new prescription drug benefit is provided predominately through private at-risk prescription drug plans that offer drug-only coverage (PDPs), Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans) or Cost Plans that offer prescription drug benefits.

The transmission of the data will be in an electronic format. The information users will be Pharmacy Benefit Managers (PBM), third party administrators and pharmacies and the PDPs, MA–PDs, Fallbacks and other plans that offer coverage of outpatient prescription drugs under the Medicare Part D benefit to Medicare beneficiaries. The data is used primarily for payment, and is used for claim validation as well as for other legislated functions such as quality monitoring, program integrity and oversight. *Form Number:* CMS–10174 (OMB#: 0938–0982); *Frequency:* Reporting—Monthly; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 747; *Total Annual Responses:* 947,881,770; *Total Annual Hours:* 1896. (For policy questions regarding this collection contact Bobbie Knickman at 410–786–4161. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *August 4, 2009:*

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number (CMS–10078), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 28, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–13150 Filed 6–4–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10133, CMS–10279, CMS–250–254, CMS–10277, CMS–10157 and CMS–10273]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health

and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Competitive Acquisition Program (CAP) for Medicare Part B Drugs: Vendor Application and Bid Form; *Use:* Section 303(d) of the Medicare Modernization Act (MMA) requires the implementation of a competitive acquisition program for Medicare Part B drugs and biologicals not paid on a cost or prospective payment system basis. The CAP is an alternative to the Average Sales Price (ASP or ''buy and bill'') method of acquiring many Part B drugs and biologicals administered incident to a physician's services. The CAP Vendor Application and Bid Form, is used by bidders to provide a response to CMS' solicitation for approved CAP vendor bids and to submit their bid prices for CAP drugs. Though the program is currently on hold and a timeline for the resumption of the CAP has not been established, the CAP Vendor Application and Bid Form will be required to conduct the next round of vendor bidding. *Form Number:* CMS–10133 (OMB#: 0938–0955); *Frequency:* Reporting—Occasionally; *Affected Public:* Private Sector; Business or other for-profits; *Number of Respondents:* 10; *Total Annual Responses:* 10; *Total Annual Hours:* 1. (For policy questions regarding this collection contact Bonny Dahm at 410–786–4006. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Ambulatory Surgical Center Conditions for Coverage; *Form Number:* CMS–10279 (OMB#: 0938–New); *Use:* The Ambulatory Surgical Center (ASC) Conditions for Coverage (CfCs) focus on a patient-centered, outcome-oriented, and transparent processes that promote, quality patient care. The CfCs are designed to ensure that each facility has properly trained staff to provide the appropriate type and level of care for that facility and provide a safe physical environment for patients. The CfCs are used by Federal or State surveyors as a basis for determining whether an ASC qualifies for approval or re-approval under Medicare. CMS and the healthcare industry believe that the availability to the facility of the type of records and general content of records, which this regulation specifies, is standard medical practice and is necessary in order to ensure the well-being and safety of patients and professional treatment accountability. *Frequency:* Recordkeeping and Reporting—One time; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 5,100; *Total Annual Responses:* 5,100; *Total Annual Hours:* 193,800. (For policy questions regarding this collection contact Jacqueline Morgan at 410–786–4282. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Secondary Payer Information Collection and Supporting Regulations in 42 CFR 411.25, 489.2, and 489.20; *Form Number:* CMS 250–254 (OMB#: 0938–0214); *Use:* Medicare Secondary Payer Information (MSP) is essentially the same concept known in the private insurance industry as coordination of benefits, and refers to those situations where Medicare does not have primary responsibility for paying the medical expenses of a Medicare beneficiary. Medicare Fiscal Intermediaries, Carriers, and now Part D plans, need information about primary payers in order to perform various tasks to detect and process MSP cases and make recoveries. MSP information is collected at various times and from numerous parties during a beneficiary's membership in the Medicare Program. Collecting MSP information in a timely manner means that claims are processed correctly the first time, decreasing the costs associated with adjusting claims and recovering mistaken payments. *Frequency:* Reporting—On occasion; *Affected Public:* Individuals or Households, Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 143,070,217; *Total Annual Responses:* 143,070,217; *Total Annual Hours:* 1,788,057. (For policy questions regarding this collection contact John Albert at 410–786–7457. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Hospice Conditions of Participation and Supporting Regulations in 42 CFR 418.52, 418.54, 418.56, 418.58, 418.60, 418.64, 418.66, 418.70, 418.72, 418.74, 418.76, 418.78, 418.100, 418.106, 4118.108, 418.110, 418.112, and 418.114; *Use:* The Conditions of Participation and accompanying requirements are used by Federal or State surveyors as a basis for determining whether a hospice qualifies for approval or re-approval under Medicare. The healthcare industry and CMS believe that the availability to the hospice of the type of records and general content of records, which the final rule (72 FR 32088) specifies, is standard medical practice, and is necessary in order to ensure the well-being and safety of patients and professional treatment accountability. *Form Number:* CMS–10277 (OMB#: 0938–New); *Frequency:* Reporting and Recordkeeping—Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 2,872; *Total Annual Responses:* 1,808,345; *Total Annual Hours:* 2,152,396. (For policy questions regarding this collection contact Danielle Shearer at 410–786–6617. For all other issues call 410–786–1326.)

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* CMS Real-time Eligibility Agreement and Access Request; *Form Number:* CMS–10157 (OMB#: 0938–0960); *Use:* Federal law requires that CMS take precautions to minimize the security risk to Federal information systems. Accordingly, CMS is requiring that trading partners who wish to conduct the eligibility transaction on a real-time basis to access Medicare beneficiary information provide certain assurances as a condition of receiving access to the Medicare database for the purpose of conducting eligibility verification. Health care providers, clearinghouses, and health plans that wish access to the Medicare database are required to complete this form. The information will be used to assure that those entities that access the Medicare database are aware of applicable provisions and penalties. *Frequency:* Recordkeeping and Reporting—One time; *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 2,000; *Total Annual Responses:* 500; *Total Annual Hours:* 500. (For policy questions regarding this collection contact Vivian Rogers at 410–786–8142. For all other issues call 410–786–1326.)

6. *Type of Information Collection Request:* New collection; *Title of*

Information Collection: Evaluation of the Medicare Care Management Performance Demonstration (MCMP) and the Electronic Health Records Demonstration (EHRD); *Use:* The MCMP demonstration was authorized under Section 649 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. This is a three year pay for performance demonstration with physicians to promote the adoption and use of health information technology (HIT) to improve the quality of care for eligible chronically ill Medicare beneficiaries. MCMP targets small to medium sized primary care practices with up to 10 physicians. Practices must provide care to at least 50 Medicare beneficiaries. Physicians will receive payments for meeting or exceeding performance standards for quality of care. They will also receive an additional incentive payment for electronic submission of performance measures via their electronic health record (EHR) system. These payments are in addition to their normal payments for providing service to Medicare beneficiaries. The Office System Survey (OSS) will be used to assess progress of physician practices in implementation and use of EHRs and related HIT functionalities.

The EHR demonstration is authorized under Section 402 of the Medicare Waiver Authority. The goal of this five year pay for performance demonstration is to foster the implementation and adoption of EHRs and HIT in order to improve the quality of care provided by physician practices. The EHRD expands upon the MCMP Demonstration and will test whether performance-based financial incentives (1) increase physician practices' adoption and use of electronic health records (EHRs), and (2) improve the quality of care that practices deliver to chronically ill patients. The EHRD targets small to medium sized primary care practices with up to 20 physicians. Practices must provide care to at least 50 Medicare beneficiaries. Approximately 800 practices will be enrolled in the demonstration across four sites. Practices will be randomly assigned to a treatment and a control group. The OSS will be used to assess progress of physician practices in implementation and use of EHRs and related HIT functionalities, and to determine incentive payments for treatment practices. In-person and telephone discussions with community partners and physician practices will be used to learn about practices' experiences and strategies in adopting and using EHRs, as well as the factors that help or hinder their efforts. Refer to the supporting document ''High-Level Summary of Changes'' for a list of changes. *Form Number:* CMS–10273 (OMB# 0938–New); *Frequency:* Annually, Biennially and Once; *Affected Public:* Business or other for-profit; *Number of Respondents:* 4,123; *Total Annual Responses:* 1,659; *Total Annual Hours:* 934. (For policy questions regarding this collection contact Lorraine Johnson at 410–786–9457. For all other issues call 410–786–1326.)

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *July 6, 2009.* OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–6974, E-mail: *OIRA_submission@omb.eop.gov.*

Dated: May 28, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–13151 Filed 6–4–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Supporting Healthy Marriage (SHM) Demonstration and Evaluation Project—Wave 2 Survey

OMB No.: 0970–0339.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services, is conducting a demonstration and evaluation called the Supporting Healthy Marriage (SHM) Project. SHM is a test of marriage education demonstration programs in eight sites that will enroll about 800 couples per site, with half assigned to participate in the SHM program and the other half assigned to the control group.

SHM is designed to inform program operators and policymakers of the effectiveness of programs designed to help low-income married couples strengthen and maintain healthy marriages and improve outcomes for adults and children.

This notice of information collection is for two activities. One is a second adult survey and new instruments to obtain information from children and youth about 30 months after study entry. The other is for an extension of the period of approval for the first survey and observation instruments used to obtain information from research participants about 12 months after study entry.

The proposed second wave of information collection will involve:

- An adult survey instrument to assess study participants' longer term marital status and stability, quality of relationships, and a range of other measures.
- A survey of focal children of study participants in both the program and control groups who are over 8 years of age (the youth survey).
- A direct child assessment of focal children of study participants in both the program and control groups who are 8 years of age or younger.

Respondents: Low-income married couples and their children in the SHM evaluation research sample.

ANNUAL BURDEN ESTIMATE

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per respondent	Estimated annual burden hours
Adult Survey Wave 1	4,267	1	.83	3,542
Adult-Child Observation Study Wave 1	2,448	1	.55	1,346
Total Wave 1 Burden				4,888
Adult Survey Wave 2	4,267	1	.83	3,542

ANNUAL BURDEN ESTIMATE—Continued

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per respondent	Estimated annual burden hours
Youth Survey Wave 2	633	1	.50	317
Child Observation Study Wave 2	1,329	1	.50	665
Total Wave 2 Burden				4,524

Estimated Total Annual Burden Hours: 9,412.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: May 27, 2009.

Seth Chamberlain,

OPRE Reports Clearance Officer.

[FR Doc. E9–12972 Filed 6–4–09; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel. ARRA Eating Disorder Supplement.

Date: June 22, 2009.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Serena P. Chu, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892–9609. 301–443–0004. *sechu@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel. ARRA AIDS Supplement Review Group.

Date: June 23, 2009.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Enid Light, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6132, MSC 9608, Bethesda, MD 20852–9608. 301–443–0322. *elight@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel. ARRA Competing Revisions.

Date: June 24, 2009.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606. 301–443–7861. *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: May 29, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13099 Filed 6–4–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Novel Azetidine CB1 Antagonists (8874).

Date: June 16, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401. (301) 435–1439. *lf33c.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Media Support (1141).

Date: June 17–18, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Courtyard by Marriott Rockville, 2500 Research Boulevard, Rockville, MD 20850.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401. (301) 435–1439. *lf33c.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Physician Outreach (1142).

Date: July 22–23, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Courtyard by Marriott Rockville, 2500 Research Boulevard, Rockville, MD 20850.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401. (301) 435–1439. *lf33c.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 29, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13093 Filed 6–4–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel. NIDA–F Conflicts.

Date: June 9, 2009.

Time: 4:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Madison Hotel, 1177 Fifteenth Street, NW., Washington, DC 20005.

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401. 301–402–6626. *Gm145a@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel. NIDA–E Conflict Review.

Date: June 10, 2009.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Madison Hotel, 1177 15th Street, NW., Washington, DC 20005.

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401. 301–402–6626. *Gm145a@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel. Competing Supplements (ARRA).

Date: June 11, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1515 Rhode Island Avenue NW., Washington, DC 20005.

Contact Person: Jose F Ruiz, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, 6101 Executive Blvd., Rm. 213, MSC 8401, Bethesda, MD 20892. 301–451–3086. *ruizjf@nida.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: May 29, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–13091 Filed 6–4–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2009–0377]

Health Information Privacy Program

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces provisions to allow for appropriate uses and disclosures of protected health information concerning members of the Armed Forces to assure the proper execution of the military mission. This notice updates information the Coast Guard provided on April 28, 2003 (68 FR 22407). A similar notice was published by the Department of Defense for members of the Armed Forces within their jurisdiction (68 FR 17357, Apr. 9, 2003).

DATES: This notice is effective on June 5, 2009.

ADDRESSES: The docket for this notice is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* selecting the Advanced Docket Search option on the right side of the screen, inserting USCG–2009–0377 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail, LCDR Michael Clay, Health Insurance Portability and Accountability Act (HIPAA) Privacy & Security Officer, Office of Health Services, Health, Safety, and Work-Life Directorate, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, telephone 202–475–5209, e-mail *Michael.C.Clay@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Under 45 CFR part 164, ''Standards for Privacy of Individually Identifiable Health Information,'' a covered entity may use and disclose the protected health information of individuals who are Armed Forces personnel for activities deemed necessary by

appropriate military command authorities to assure the proper execution of the military mission. However, the appropriate military authority must publish a notice in the **Federal Register** indicating the appropriate military command authorities and the purposes for which the protected health information may be used or disclosed (45 CFR 164.512(k)). The Coast Guard first published a notice in the **Federal Register** on April 28, 2003 (68 FR 22407). The Department of Defense published a notice with respect to members of the Armed Forces within the jurisdiction of that Department (68 FR 17357, Apr. 9, 2003).

This June 5, 2009 notice updates the Coast Guard's April 28, 2003, notice, and implements the provisions of 45 CFR part 164 with respect to members of the Coast Guard or members of the other Armed Forces falling within the Coast Guard's jurisdiction. This notice updates the April 28, 2003, notice by adding current versions to references noted in paragraphs 3.1 and 3.3, and adding the reference, Commandant Instruction (COMDTINST) 6150.3 (series), to paragraph 3.1.

Under 45 CFR 164.512(k)(1)(i), the Coast Guard has established the following provisions:

1. General rule. A covered entity (including a covered entity not part of or affiliated with the Department of Homeland Security) may use and disclose the protected health information of individuals who are Armed Forces personnel for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission.

2. Appropriate Military Command Authorities. For purposes of paragraph 1, appropriate Military Command authorities are the following:

2.1. All Commanders who exercise authority over an individual who is a member of the Armed Forces, or other persons designated by such a Commander to receive protected health information in order to carry out an activity under the authority of the Commander.

2.2. The Secretary of Homeland Security, when the Coast Guard is not operating as a service in the Department of the Navy.

2.3. Any official delegated authority by the Secretary of Homeland Security to take an action designed to ensure the proper execution of the military mission.

3. Purposes for which protected health information may be used or disclosed. For purposes of paragraph 1, the purposes for which any and all of the protected health information of an individual who is a member of the Armed Forces may be used or disclosed are as follows:

3.1. To determine the member's fitness for duty, including but not limited to, the member's compliance with standards and all other activities carried out under the authority of COMDTINST M1020.8 (series), ''Allowable Weight Standards for the Health and Well-being of Coast Guard Military Personnel''; COMDTINST M1850.2 (series), ''Physical Disability Evaluation System''; COMDTINST 6150.3 (series), ''Coast Guard Periodic Health Assessment (PHA)''; and similar requirements pertaining to fitness for duty.

3.2. To determine the member's fitness to perform any particular mission, assignment, order, or duty, including any actions required as a precondition to performance of such a mission, assignment, order, or duty.

3.3. To carry out activities under the authority of COMDTINST M6000.1 (series), ''The Coast Guard Medical Manual,'' chapter 12 (Occupational Medical Surveillance & Evaluation Program).

3.4. To report on casualties in any military operation or activity according to applicable Coast Guard regulations or procedures.

3.5. To carry out any other activity necessary to the proper execution of the mission of the Armed Forces.

This notice is issued under authority of 45 CFR 164.512(k) and 5 U.S.C. 552(a).

Dated: May 20, 2009.

Mark J. Tedesco,

Rear Admiral, USPHS, Director, Office of Health, Safety and Work-life, U.S. Coast Guard.

[FR Doc. E9–13105 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–21]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* June 5, 2009.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 28, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–12813 Filed 6–4–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORL00000–L10200000.MJ0000.LXSS021H0000; HAG 09–0201]

Notice of Meeting, Southeast Oregon Resource Advisory Council (Oregon)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management (BLM) Southeast Oregon Resource Advisory Council (SEORAC) will meet as indicated below:

DATES: The meeting will begin at 7 p.m. on July 1, 2009.

ADDRESSES: The Council will meet by teleconference. For a copy of the material to be discussed and/or the conference call number, please contact Scott Stoffel; information below.

FOR FURTHER INFORMATION CONTACT: Scott Stoffel, Public Affairs Specialist, 1301 South G Street, Lakeview, OR 97630, (541) 947–6237.

SUPPLEMENTARY INFORMATION: The SEORAC advises the Secretary of the Interior, through the BLM, on a variety

of planning and management issues for public lands in the Lakeview, Burns and Vale BLM Districts and the Fremont-Winema and Malheur National Forests. The Council will conduct a public meeting by teleconference on July 1, 2009 to discuss and come to consensus on the contents of comments to be sent to the BLM's Oregon/Washington State Director on the Draft Environmental Impact Statement for Vegetation Treatments Using Herbicides on BLM Lands in Oregon. The public is welcome to listen to the entire teleconference and make oral comments to the Council from 7:45 p.m. to 8 p.m.

Dated: May 27, 2009.

Carol A. Benkosky,

District Manager, Lakeview District Office.

[FR Doc. E9–13106 Filed 6–4–09; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAN06000. L587400000.EU0000.LXSS006B0000–CACA 47958]

Notice of Realty Action: Competitive Sale of Public Lands in Tehama County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell a parcel of public land in Tehama County, California, consisting of approximately 80 acres. The sale will be conducted by the United States General Services Administration (GSA) as an online competitive bid auction, at GSA's Web site: *http://www.auctionrp.com*. Interested bidders must first register to bid either at *http://www.auctionrp.com* or by mail and submit registration deposits, and once registered, may participate in online bidding. Bids must be equal to or greater than the appraised fair market value of the land. The sale will be completed under the authority of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1713 and 1719) and the implementing regulations at 43 CFR 2710 and 2720. The purpose of the sale is to dispose of lands which are difficult and uneconomic to manage.

DATES: Comments regarding the proposed sale must be received by BLM on or before July 20, 2009. Bidding will open on or around August 17, 2009 and will continue for at least 30 days. The date for receipt of final bids will be announced online, with 3 days notice. Bidding may continue beyond the date announced if deemed warranted by GSA due to bidder interest. Other deadline dates for payments, arranging payments, and payment by electronic transfers, are specified in the terms and condition of sale described herein. More specific information on the sale will be contained in an Invitation For Bids which will be available at *http://www.auctionrp.com* or *http://www.propertydisposal.gsa.gov*.

ADDRESSES: Written comments regarding the proposed sale should be submitted to BLM, to the attention of the Redding Field Manager, at the following address: Bureau of Land Management, 355 Hemsted Drive, Redding, California 96002. More detailed information regarding the proposed sale and the land involved, including maps and current appraisal, may be reviewed during normal business hours between 8 a.m. and 4 p.m. at the Redding Field Office. GSA's address for purposes of bid registration will be specified in the Invitation For Bids to be available at *http://www.auctionrp.com*.

FOR FURTHER INFORMATION CONTACT: Ilene Emry, Realty Specialist (530) 224–2122 or via e-mail at *ilene_emry@ca.blm.gov*.

SUPPLEMENTARY INFORMATION: The following described public land in Tehama County, California has been identified as available for disposal under the 1993 BLM Redding Resource Management Plan, as amended, and is proposed for sale:

Mount Diablo Meridian

T. 28 N., R. 5 W.,

Sec. 10, W½SW¼.

The area described contains approximately 80 acres in Tehama County.

On December 15, 2008, the above-described land was segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate December 15, 2010, upon issuance of a patent, or publication in the **Federal Register** of a termination of the segregation, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. Proceeds from the sale will be deposited into the Federal Land Disposal Account, pursuant to the Federal Land Transaction Facilitation Act of July 25, 2000.

The lands identified for sale are considered to have no known mineral value except for oil and gas only, which will be reserved to the United States. All other minerals are considered to have no known mineral value and the proposed sale would include the conveyance of both the surface interests and remaining mineral interests of the United States.

A bid to purchase the land will constitute an application for conveyance of the mineral interests of no known value, excluding oil and gas, and in conjunction with the final payment, the applicant will be required to pay a $50.00 non-refundable filing fee for processing the conveyance of the mineral interests.

The terms and conditions applicable to this sale are as follows:

1. The lands will be conveyed with the following reservations to the United States:

(a) A reservation of a right-of-way to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945);

(b) A reservation of all oil and gas to the United States, together with the right of the United States, its permittees, licensees, and lessees to use the surface of the land to prospect for, mine, and remove the oil and gas under regulations prescribed by the Secretary of the Interior.

2. The lands would be conveyed subject to valid existing rights. The encumbrances of record, if any, appearing in the BLM public files for the parcel proposed for sale, are available for review during the hours stated above, Monday through Friday at the BLM Redding Field Office. As of the date of publication in the **Federal Register,** there are no authorizations on the lands.

3. The lands may also be conveyed subject to such additional easements as may be necessary to authorize existing and proposed roads, public utilities, and flood control facilities based on Tehama County's transportation and land management plans.

4. No warranty of any kind, express or implied, is given by the United States as to the title, physical condition, or potential uses of the lands proposed for sale; and the conveyance will not be on a contingency basis. BLM hereby discloses that its inspection of the property found that approximately 2 acres were previously cleared for an unauthorized corral area and

approximately 5 acres are subject to seasonal flooding due to a dam located down gradient off the property.

BLM is not aware of any dedicated public access to the property and has concluded the property lacks legal access. To the extent required by law, the land will be conveyed subject to the requirements of Section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act, as amended (CERCLA) (42 U.S.C. 9620(h)), and notice is hereby given that the lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for one year or more, or that hazardous substances have been disposed of or released on the land.

5. All purchasers/patentees, by accepting a patent, covenant and agree to indemnify, defend and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the patentees or their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the patentees' use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentees and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in:

(a) Violations of Federal, State, and local laws and regulations that are now or may in the future become applicable to the real property;

(b) Judgments, claims, or demands of any kind assessed against the United States;

(c) Costs, expenses, or damages of any kind incurred by the United States;

(d) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interest of the United States;

(e) Activities by which solids or hazardous substances or waste, as defined by Federal and State environmental laws, are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or

(f) Natural resource damages as defined by Federal and State law. This covenant shall be construed as running with the parcel of land patented or otherwise conveyed by the United States, and may be enforced by the United States in a court of competent jurisdiction.

6. An initial registration deposit of $5,000 must be provided to GSA to participate in online bidding. The procedure to register and submit the registration deposit for online bidding will be described in detail in the Invitation for Bids to be available at *http://www.auctionrp.com.* Each bid received shall be deemed to be a continuing offer for 90 calendar days after the date of the final bid submittal by a bidder until the bid is accepted or rejected by the Government. If the Government desires to accept any bid after the expiration of the 90 calendar days, the consent of the bidder shall be obtained prior to such expiration.

7. The highest qualifying bid will be declared the high bid and the high bidder will receive written notice. The high bidder will be required to secure his bid with a bid deposit of cash funds equal to 10% of the bid amount within 10 days of being notified that the United States has accepted his bid. The high bidder's $5,000 registration deposit will be applied to make up a portion of the required 10% bid deposit. Bid results will also be posted on the Internet at GSA's Web site: *http://www.auctionrp.com.*

8. The remainder of the full bid price must be paid within 180 calendar days of the award letter, in the form of a certified check, money order, bank draft, or cashier's check made payable in U.S. dollars to the Bureau of Land Management. Personal checks will not be accepted. Failure to pay the full price within the 180 days will disqualify the apparent high bidder and cause the entire bid deposit to be forfeited to the BLM.

9. Registration deposits submitted by unsuccessful bidders will be returned by GSA.

10. The BLM may accept or reject any or all offers, or withdraw any parcel of land or interest therein from sale, if, in the opinion of the BLM authorized officer, consummation of the sale would not be fully consistent with FLPMA or other applicable law or is determined to not be in the public interest.

11. Under Federal law, the public lands may only be conveyed to U.S. citizens 18 years of age or older; a corporation subject to the laws of any State or of the United States; a State, State instrumentality, or political subdivision authorized to hold property, or an entity legally capable of conveying and holding lands under the laws of the State of California. Certification of qualifications, including citizenship or corporation or partnership, must be provided to the BLM prior to conveyance.

Additional Information: If not sold, the lands described in this Notice may be identified for sale later without further legal notice and may be offered for sale by sealed bid, internet auction, or oral auction. In order to determine the value, through appraisal, of the land proposed to be sold, certain extraordinary assumptions may have been made of the attributes and limitations of the lands and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the Bureau of Land Management gives notice that these assumptions may not be endorsed or approved by units of local government.

It is the buyer's responsibility to be aware of all applicable local government policies, laws, and regulations that would affect the subject lands, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or projected uses of nearby properties. When conveyed out of Federal ownership, the lands will be subject to any applicable reviews and approvals by the respective unit of local government for proposed future uses, and any such reviews and approvals will be the responsibility of the buyer. Any land lacking access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer. Information concerning the sale, including the reservations, sale procedures and conditions, CERCLA and other environmental documents will be available for review at the BLM Redding Field Office. Most of this information will be available on the Internet at *http://www.blm.gov/ca/st/en/fo/redding.* The general public and interested parties may submit comments regarding the proposed sale to the attention of the BLM Redding Field Manager on or before July 20, 2009. Any adverse comments regarding the proposed sale will be reviewed by the California BLM State Director or other authorized official of the Department, who may sustain, vacate, or modify this realty action in whole or in part. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made

publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 2711.1–2(a) and (c))

Dated: April 15, 2009.

Tom Pogacnik,

Deputy State Director, Natural Resources (CA–930).

[FR Doc. E9–13115 Filed 6–4–09; 8:45 am]

BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–623]

In the Matter of Certain R–134a Coolant (Otherwise Known As 1,1,1,2-Tetrafluoroethane); Notice of Commission Determination To Review the Remand Determination of the Presiding Administrative Law Judge and To Extend the Target Date

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the Remand Determination (''RID'') issued by the presiding administrative law judge (''ALJ'') in the above-captioned investigation on April 1, 2009. The Commission has also determined to extend the target date for completion of the investigation to August 3, 2009.

FOR FURTHER INFORMATION CONTACT: Paul M. Bartkowski, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–5432. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 31, 2007, based on a complaint filed by INEOS Fluor Holdings Ltd., INEOS Fluor Ltd., and INEOS Fluor Americas LLC (collectively, ''Ineos''). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain R–134a coolant (otherwise known as 1,1,1,2-tetrafluoroethane) by reason of infringement of various claims of United States Patent No. 5,744,658. Complainants subsequently added allegations of infringement with regard to United States Patent Nos. 5,382,722 and 5,559,276 (''the '276 patent''), but only claim 1 of the '276 patent remains at issue in this investigation. The complaint named two respondents, Sinochem Modern Environmental Protection Chemicals (Xi'an) Co., Ltd. and Sinochem Ningbo Ltd. Two additional respondents were subsequently added: Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd. and Sinochem (U.S.A.) Inc. The four respondents are collectively referred to as ''Sinochem.''

On December 1, 2008, the ALJ issued his final ID, finding that Sinochem had violated section 337. He concluded that respondents' accused process infringed claim 1 of the '276 patent and that the domestic industry requirement had been met. He also found that claim 1 was not invalid and that it was not unenforceable. The Commission determined to review the ALJ's final ID with regard to the effective filing date of the asserted claim, anticipation, and obviousness, to supplement the ALJ's reasoning regarding the effective filing date, and to remand the investigation to the ALJ to conduct further proceedings related to anticipation and obviousness. To accommodate the remand, the Commission extended the target date to June 1, 2009 and instructed the ALJ to issue the RID by April 1, 2009.

The ALJ issued the RID on April 1, 2009. The RID concluded that Sinochem's arguments concerning anticipation and obviousness were waived under the ALJ's ground rules and, alternatively, that the arguments were without merit. Sinochem filed a petition for review of the RID. The Commission investigative attorney (''IA'') and Ineos opposed Sinochem's petition. Subsequently, Sinochem filed a motion to strike and for leave to file a reply to Ineos's and the IA's oppositions.

Having examined the record of this investigation, including the ALJ's RID and the submissions of the parties, the Commission has determined to review the RID in its entirety.

To assist in its review, and in order to more fully analyze Sinochem's ''admission''-based arguments, the Commission is interested in receiving further briefing on the following questions:

(1) Based upon the undisputed scope and content of the prior art as set forth in the '276 patent specification and as presented by the expert witnesses at trial, what differences exist between the prior art and claim 1 of the '276 patent?

(2) Based on your answer to question (1), would claim 1 have been obvious in light of the remand references to a person of ordinary skill in the art under *KSR International, Co.* v. *Teleflex Co.,* 550 U.S. 398 (2007)?

(3) Are the ALJ's conclusions regarding waiver consistent with Commission Rule 210.14(c)? If not, what is the effect on the ALJ's conclusions in the remand determination?

(4) Does the exception to the ALJ's ground rule reciting that ''contentions of which a party is not aware and could not be aware in the exercise of reasonable diligence at the time of filing the pre-hearing statements'' apply to Respondents' contentions regarding admissions elicited during the hearing? If so, what is the effect on the ALJ's conclusions in the remand determination?

The Commission has determined to extend the target date for completion of this investigation to August 3, 2009, in order to provide adequate time for review of the RID. The Commission has determined to deny as moot Sinochem's motion to strike and for leave to file a reply.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. The submissions should be concise and thoroughly referenced to the record in this investigation, including references to exhibits and testimony. The written submissions must be filed no later than close of business on June 15, 2009. Reply submissions must be filed no later than the close of business on June 25, 2009. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document and 12 true copies thereof on or before the deadlines stated above with the Office of the Secretary. Any person desiring to submit a document to the Commission in confidence must request confidential

treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: June 1, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–13110 Filed 6–4–09; 8:45 am]

BILLING CODE 7020–03–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–666]

Notice of Commission Decision Not To Review an Initial Determination Correcting the Name of ASUS Computer International in the Complaint and Notice of Investigation; Certain Cold Cathode Fluorescent Lamp (''CCFL'') Inverter Circuits and Products Containing the Same

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 8) issued by the presiding administrative law judge (''ALJ'') in the above-referenced investigation correcting the name of ASUS Computer International in the complaint and notice of investigation.

FOR FURTHER INFORMATION CONTACT: Daniel E. Valencia, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–1999. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 14, 2009, based on a complaint filed by O2 Micro International, Ltd. of the Cayman Islands and O2 Micro, Inc. of Santa Clara, California (collectively, ''O2 Micro''). 74 FR 2099. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain cold cathode fluorescent lamp inverter circuits and products containing the same by reason of infringement of various U.S. patents. The complaint names ten respondents, including ASUSTeK Computer International America of Fremont, California.

On April 27, 2009, O2 Micro moved to amend the complaint and notice of investigation to correct the name of respondent ASUSTeK Computer International America to ASUS Computer International (''ASUS''). No party opposed this motion.

On May 13, 2009, the ALJ issued the subject ID correcting the name of respondent ASUS. No petitions for review of the ID were filed.

The Commission has determined not to review the ALJ's ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

By order of the Commission.

Issued: June 2, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–13129 Filed 6–4–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–465 and 731–TA–1161 (Preliminary)]

Certain Steel Grating From China

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, commencement of preliminary phase countervailing duty investigation No. 701–TA–465 (Preliminary), and commencement of antidumping duty investigation No. 731–TA–1161 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 19 U.S.C. 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 of certain steel grating, provided for in subheading 7308.90.70 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 section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in these investigations in 45 days, or in this case by July 13, 2009. The Commission's views are due at Commerce within five business days thereafter, or by July 20, 2009.

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).

DATES: *Effective Date:* May 29, 2009.

FOR FURTHER INFORMATION CONTACT: Edward Petronzio (202–205–3176), 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 May 29, 2009, by Alabama Metal Industries, Birmingham, AL and Fisher & Ludlow, Wexford, 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 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 these investigations 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 investigations, 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 June 19, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Edward Petronzio (202–205–3176) not later than June 16, 2009, 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 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 June 24, 2009, 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 FR 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 FR 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 investigations 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.

Issued: June 1, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–13111 Filed 6–4–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–09–016]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 15, 2009 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–1012 (Review)

(Certain Frozen Fish Fillets from Vietnam)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before June 26, 2009.)

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: June 2, 2009.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E9–13250 Filed 6–3–09; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0291]

Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review; Census of Juveniles on Probation (Reinstatement, with change, of a previously approved collection for which approval has expired).

The Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to

obtain comments from the public and affected agencies. The proposed information collection was previously published in the **Federal Register** Volume 74, Number 59, page 14158 on March 30, 2009, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 6, 2009. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proosed information collection instrument with instructions or additional information, please contact Janet Chiancone, (202) 353–9258, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection whose approval has expired.

(2) *The title of the form/collection:* Census of Juveniles on Probation.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CJ–17, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government, State, Local or Tribal. Other: Not-for-profit institutions; Business or other for-profit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 1,600 respondents will complete a 3-hour questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 4,800 hours.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20530.

June 2, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–13201 Filed 6–4–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

June 1, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including, among other things, a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register.** In order to ensure the appropriate consideration, comments should reference the OMB Control Number (see below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Reports of Injuries to Employees Operating Mechanical Power Presses (29 CFR 1910.217(g)).

OMB Control Number: 1218–0070.

Affected Public: Business or other for-profits.

Estimated Number of Respondents: 38.

Estimated Total Annual Burden Hours: 13.

Estimated Total Annual Costs Burden (excludes hourly wage costs): $0.

Description: In the event an employee is injured while operating a mechanical power press, 29 CFR 1910.217(g) requires an employer to provide information to OSHA regarding the accident. This information includes the employer's and employee's name, the type of clutch, the type of safeguard(s) used, the cause of the accident, the means to actuate the press stroke, and the number of operators involved. For additional information, see the related 60-day preclearance notice published in the **Federal Register** at Vol. 74 FR 13266 on March 26, 2009. PRA documentation prepared in association with the preclearance notice is available on *http://www.regulations.gov* under docket number OSHA–2009–0006.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: Temporary Labor Camps (29 CFR 1910.142).

OMB Control Number: 1218–0096.

Affected Public: Business or other for-profits.

Estimated Number of Respondents: 833.

Estimated Total Annual Burden Hours: 67.

Estimated Total Annual Costs Burden (excludes hourly wage costs): $0.

Description: The information is required to safeguard the health of temporary labor camp residents. The information is used to limit the incidence of communicable disease among temporary labor camp residents. For additional information, see the related 60-day preclearance notice published in the **Federal Register** at Vol. 74 FR 11975 on March 20, 2009. PRA documentation prepared in association with the preclearance notice is available on *http://www.regulations.gov* under docket number OSHA–2009–0003.

Agency: Occupational Safety and Health Administration.

Type of Review: Extension without change of a previously approved collection.

Title of Collection: 1,3-Butadiene (29 CFR 1910.1051).

OMB Control Number: 1218–0170.

Affected Public: Business or other for-profits.

Estimated Number of Respondents: 115.

Estimated Total Annual Burden Hours: 955.

Estimated Total Annual Costs Burden (excludes hourly wage costs): $95,288.

Description: The purpose of this standard and its information collection requirements are to provide protection for employees from the adverse health effects associated with occupational exposure to 1,3-Butadiene. For additional information, see the related 60-day preclearance notice published in the **Federal Register** at Vol. 74 FR 11974 on March 20, 2009. PRA documentation prepared in association with the preclearance notice is available on *http://www.regulations.gov* under docket number OSHA–2009–0004.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–13155 Filed 6–4–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: Jagdamba III Corporation dba Golden Corral/Queensbury, New York.

Principal Product/Purpose: The loan, guarantee, or grant application is to enable a new business venture to purchase commercial real estate to construct and open a Golden Corral restaurant franchise. The NAICS industry code for this enterprise is: 722110 Full-Service Restaurants.

DATES: All interested parties may submit comments in writing no later than June 19, 2009. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail *Dais.Anthony@dol.gov;* or transmit via fax (202) 693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed at Washington, DC this 1st of June 2009.

Gay M. Gilbert,

Administrator, Office of Workforce Investment, Employment and Training Administration.

[FR Doc. E9–13112 Filed 6–4–09; 8:45 am]

BILLING CODE 4510–FN–P

NUCLEAR REGULATORY COMMISSION

[NRC–2008–0420]

Notice of Availability of Final Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC), with the cooperation of the Wyoming Department of Environmental Quality, Land Quality Division, is issuing a final Generic Environmental Impact Statement (GEIS) that assesses the potential environmental impacts of the construction, operation, aquifer restoration, and decommissioning at an *in-situ* leach (ISL) uranium milling facility located in particular regions of the western United States. The rationale for developing the GEIS is that ISL facilities use the same or very similar technology, such that the potential environmental impacts associated with the technology could be assessed on a generic (programmatic) basis. In this way repetitive reviews of certain of these impacts could be avoided, thus focusing NRC's evaluation on unique issues of concern for each ISL license application.

The NRC anticipates that it will receive numerous new license applications for ISL uranium milling within the next several years. NRC will use the GEIS to provide a starting point for the staff's National Environmental Policy Act (NEPA) analyses for site-

specific license applications for new ISL facilities. Additionally, the NRC staff plans to use the GEIS, along with applicable previous site-specific environmental review documents, in its NEPA analysis for applications to renew or otherwise amend operations at existing NRC-licensed ISL facilities. In these analyses, NRC would evaluate the site-specific data to determine whether relevant sections of the GEIS could be incorporated by reference into the site-specific environmental review. Additionally, NRC would determine which GEIS impact conclusions can be adopted in the site-specific review and whether additional data and analysis is needed to determine the potential impacts for a specific environmental resource area. NRC will prepare a Supplemental Environmental Impact Statement (SEIS) on a license application for a new ISL facility. NRC will prepare an Environmental Assessment (EA), SEIS, or Environmental Impact Statement (EIS) for license renewals or amendments to ISL facility applications.

ADDRESSES: The GEIS may be accessed on the Internet at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/* by selecting ''NUREG–1910.'' Additionally, the NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. The GEIS and its appendices may also be accessed through the NRC's Public Electronic Reading Room on the Internet at: *http://www.nrc.gov/reading-rm/adams.html*. If you either do not have access to ADAMS or if there is a problem accessing documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1 (800) 397–4209, 1 (301) 415–4737 or by e-mail to *pdr.resource@nrc.gov*.

Information and documents associated with the GEIS are also available for public review through the NRC Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html* and at the NRC's Web site for the GEIS, *http://www.nrc.gov/materials/uranium-recovery/geis.html*. Both information and documents associated with the Final GEIS also are available for inspection at the Commission's PDR, NRC's Headquarters Building, 11555 Rockville Pike (first floor), Rockville, Maryland. For those without access to the Internet, paper copies of any electronic documents may be obtained for a fee by contacting the NRC's PDR at 1–800–397–4209. The GEIS and related documents may also be found at the following public libraries:

Albuquerque Main Library, 501 Copper NW., Albuquerque, New Mexico 87102, 505–768–5141.

Mother Whiteside Memorial Library, 525 West High Street, Grants, New Mexico 87020, 505–287–4793.

Octavia Fellin Public Library, 115 W Hill Avenue, Gallup, New Mexico 87301, 505–863–1291.

Natrona County Public Library, 307 East Second Street, Casper, Wyoming 82601, 307–332–5194.

Carbon County Public Library, 215 W Buffalo Street, Rawlins, Wyoming 82301, 307–328–2618.

Campbell County Public Library, 2101 South 4J Road, Gillette, Wyoming 82718, 307–687–0009.

Weston County Library, 23 West Main Street, Newcastle, Wyoming 82701, 307–746–2206.

Chadron Public Library, 507 Bordeaux Street, Chadron, Nebraska 69337, 308–432–0531.

Rapid City Public Library, 610 Quincy Street, Rapid City, South Dakota 57701, 605–394–4171.

FOR FURTHER INFORMATION CONTACT: Mr. James Park, Project Manager, Environmental Review Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–6935; e-mail: *James.Park@nrc.gov*.

SUPPLEMENTARY INFORMATION: The Atomic Energy Act (AEA) and the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) authorize NRC to issue licenses for the possession and use of source material and byproduct material. The statutes require NRC to license facilities that meet NRC regulatory requirements that were developed to protect public health and safety from radiological hazards. ISL uranium milling facilities must meet NRC regulatory requirements in order to obtain this license to operate. Under the NRC's environmental protection regulations in Title 10, Part 51 of the *Code of Federal Regulations* (10 CFR part 51), which implements NEPA, issuance of a license to possess and use source material for uranium milling requires an EIS or a supplement to an EIS.

To help fulfill this requirement, the NRC staff and its contractor, the Center for Nuclear Waste Regulatory Analyses, in cooperation with the Wyoming Department of Environmental Quality (Land Quality Division), prepared the GEIS. The GEIS was prepared to assess the potential environmental impacts associated with the construction, operation, aquifer restoration, and decommissioning of an ISL facility in four specified geographic areas of the western United States (U.S.). The intent of the GEIS is to determine which impacts would be essentially the same for all ISL facilities and which ones would result in varying levels of impacts for different facilities, thus requiring further site-specific information to determine the potential impacts. As such, the GEIS provides a starting point for its NEPA analyses for site-specific license applications for new ISL facilities, as well as for applications to renew or amend existing ISL licenses.

The NRC is expecting numerous license applications for new ISL uranium milling facilities in the next several years. ISL milling facilities recover uranium from low grade ores that may not be economically recoverable by other methods. In this process, a leaching agent, such as oxygen with sodium bicarbonate, is added to native groundwater for injection through wells into the subsurface ore body to dissolve the uranium. Before ISL operations can begin, the portion of the aquifer designated for uranium recovery must be exempted by EPA as an underground source of drinking water in accordance with the Safe Drinking Water Act (40 CFR 146.4). The leach solution, containing the dissolved uranium, is pumped back to the surface and sent to the processing plant, where ion exchange is used to separate the uranium from the solution. The underground leaching of the uranium also frees other metals and minerals from the host rock. Operators of ISL facilities are required to restore the groundwater affected by the leaching operations and decommission the facility when operations have ceased. The milling process concentrates the recovered uranium into the product known as ''yellowcake,'' which is then shipped to uranium conversion facilities for further processing in the overall uranium fuel cycle.

The proposed Federal action identified in the GEIS is to grant an application to obtain, renew, or amend a source material license for an ISL facility. In reviewing a license application for a new ISL facility, NRC will use the GEIS as starting point for its site-specific environmental reviews. NRC will evaluate site-specific data and information to determine if the applicant's proposed activities and the site characteristics are consistent with

those evaluated in the GEIS. NRC will then determine which sections of the GEIS can be incorporated by reference and which impact conclusions can be adopted in the site-specific environmental review, and whether additional data or analysis is needed to determine the environmental impacts for a specific resource area. Additionally, the GEIS provides guidance in the evaluation for certain impact analyses (e.g., cumulative impacts, environmental justice) for which the GEIS did not make impact conclusions. No decision on whether to license an ISL facility will be made based on the GEIS alone. The licensing decision will be based, in part, on a site-specific environmental analysis that makes use of the GEIS.

The GEIS also addresses the no-action alternative. Under this alternative, NRC would deny the applicant's or licensee's request for a new ISL facility. As a result, the license applicant may choose to resubmit the application to use an alternate uranium recovery method or decide to obtain the yellowcake from other sources. A licensee whose license renewal application is denied would have to commence shutting down operations in a timely manner. Denials of license amendments would require the licensee to continue operating under its previously approved license conditions. The no-action alternative serves as a baseline for comparison of the potential environmental impacts.

Conventional mining/milling and the heap leach process are two other methods of uranium recovery. However, inasmuch as the suitability and practicality of using these alternative milling methodologies depends upon site-specific conditions, a generic discussion of potential environmental impacts associated with these methodologies in the GEIS is not appropriate. Accordingly, the GEIS does not contain a detailed analysis of alternative milling methodologies to the ISL process. A detailed analysis of reasonable alternative milling methodologies that can be applied at a specific site will be addressed in the NRC's site-specific environmental review for individual ISL license applications.

The GEIS is structured in the following manner. The NRC staff began by identifying four uranium milling regions in the western U.S. to use as a framework for discussions in the document. Two regions are found in Wyoming, one in New Mexico, and a final region encompasses portions of Nebraska, South Dakota, and Wyoming.

Next, the GEIS provides a description of the ISL process and addresses the construction, operation, aquifer restoration, and decommissioning activities for an ISL facility. Financial assurance is also discussed, whereby the ISL licensee or applicant establishes a bond or other financial mechanism prior to operations to ensure that sufficient funds are available to complete aquifer restoration, decommissioning, and reclamation activities for the site.

Then, the GEIS describes the affected environment in each uranium milling region, using the environmental resource areas and topics identified through public scoping comments on the GEIS and from NRC guidance to its staff found in NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated With NMSS Programs,'' issued by NRC in 2003.

Finally, the GEIS provides an evaluation of the potential environmental impacts of constructing, operating, aquifer restoration, and decommissioning at an ISL facility in each of the four uranium milling regions. Impacts are examined for the following resource areas:

- Land use
- Transportation
- Geology and soils
- Water resources
- Ecology
- Air Quality
- Noise
- Historical and cultural resources
- Visual and scenic resources
- Socioeconomic
- Public and occupational health

Following the discussion of potential environmental impacts, the GEIS addresses cumulative impacts; environmental justice; practices, measures, and actions to mitigate potential impacts; environmental monitoring activities; and the consultation process with Federal and tribal entities.

To document its review of the potential environmental impacts for a new ISL facility, NRC will prepare an SEIS. NRC's decision to prepare an SEIS is a change to its previously stated position (72 FR 54947; September 27, 2007) that allowed for the possibility of NRC preparing an EA on a new ISL license application. NRC's decision to prepare an SEIS will more clearly meet the requirement for completing an EIS for new ISL facilities and considers public comments received on the draft GEIS. The NRC will follow the public participation procedures outlined in 10 CFR part 51, which can include requests for public input on the scope of the SEIS and requires public comment on the draft SEIS.

For applications to renew or amend existing ISL licenses, NRC will conduct an environmental review, consistent with the provisions in 10 CFR part 51. This review may be an EA, SEIS, or an EIS. The NRC previously stated in the **Federal Register** on September 27, 2007 (72 FR 54947) that all draft EAs prepared for ISL facility license applications would be available for public comment. This statement was made in anticipation that NRC would be preparing EAs for applications for new ISL facilities. As noted, based on public comments NRC received on the draft GEIS, NRC has decided to prepare an SEIS for new license applications. The NRC will follow the public participation procedures outlined in 10 CFR part 51, which require public comment on the draft SEIS. The NRC may make a draft EA and accompanying Finding of No Significant Impact (FONSI) available for public comment. The decision to submit a draft EA for public comment would take into account the provisions in 10 CFR 51.33 concerning the similarity of the proposed actions to actions normally requiring preparation of an EIS and the precedent setting nature of the proposed action. Additionally, the NRC may consider the level of public interest and the contentious nature of the proposed action in determining whether to publish a draft EA/FONSI for public comment. The NRC staff would address public comments received on the draft EA/FONSI in the staff's final environmental review document. This approach is consistent with NRC regulations.

Dated at Rockville, Maryland, this 29th day of May 2009.

For The U.S. Nuclear Regulatory Commission

Patrice M. Bubar,

Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E9–13027 Filed 6–4–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0042; Form RI 25–15]

Proposed Collection; Request for Comments on an Existing Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub.

L. 104–13, May 22, 1995 and 5 CFR 1320), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for comments on an existing information collection. This information collection, ''Notice of Change in Student's Status'' (OMB Control No. 3206–0042; Form RI 25–15), is used to collect sufficient information from adult children of deceased Federal employees or annuitants to assure that the child continues to be eligible for payments from OPM.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of the appropriate technological collection techniques or other forms of information technology.

Approximately 2,500 certifications are processed annually. Each form takes approximately 20 minutes to complete. The annual estimated burden is 835 hours. For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or e-mail to *Cyrus.Benson@opm.gov.* Please include your mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to— James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW.—Room 4H28, Washington, DC 20415, (202) 606–0623.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–13141 Filed 6–4–09; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0099; Form RI 25–41]

Proposed Collection; Request for Comment Extension of a Currently Approved Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for extension of a currently approved information collection. ''This information collection, Initial Certification of Full-Time School Attendance'' (OMB Control No. 3206–0099; Form RI 25–41), is used to determine whether a child is unmarried and a full-time student in a recognized school. OPM must determine this in order to pay survivor annuity benefits to children who are age 18 or older.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, 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; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 1,200 RI 25–41 forms are completed annually. It takes approximately 90 minutes to complete the form. The annual burden is 1,800 hours.

For copies of this proposal, contact Cyrus S. Benson on (202) 606–4808, FAX (202) 606–0910 or via E-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–0623.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–13143 Filed 6–4–09; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0131]

Revision of Information Collection: Combined Federal Campaign Applications

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance to revise information collection Combined Federal Campaign Applications OMB Control No. 3206–0131, which include OPM Forms 1647 A–E. Combined Federal Campaign Eligibility Applications are used to review the eligibility of national, international, and local charitable organizations that wish to participate in the Combined Federal Campaign. The proposed revisions reflect changes in eligibility guidance from the Office of Personnel Management and recommendations from a review conducted by the Government Accountability Office.

We estimate 20,000 responses to this information collection annually. Each form takes approximately three hours to complete. The annual estimated burden is 60,000 hours.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of the Office of Personnel Management, 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; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the appropriate use of technological collection techniques or other forms of information technology.

For copies of this information collection, contact Curtis Rumbaugh at

curtis.rumbaugh@opm.gov. Please be sure to include a mailing address with your request.

DATES: Comments on this information collection should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Office of CFC Operations, ATTN: CFC Operations Specialist, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5450, Washington, DC 20415.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–13142 Filed 6–4–09; 8:45 am]

BILLING CODE 6325–46–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0012]

Privacy Act of 1974, as Amended; Computer Matching Program (Social Security Administration/Law Enforcement Agencies (SSA/LEA))—Match Number 5001

AGENCY: Social Security Administration.

ACTION: Notice of renewal of an existing computer matching program, scheduled to expire on October 9, 2009.

SUMMARY: In accordance with the Privacy Act, as amended, this notice announces renewal of an existing computer matching program that we are currently conducting with LEA.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). Renewal of the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 965–0201 or writing to the Deputy Commissioner for Budget, Finance and Management, 800 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Deputy Commissioner for Budget, Finance and Management as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving federal agencies could be performed and adding certain protections for persons applying for, and receiving, federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by federal agencies when records in a system of records are matched with other federal, state, or local government records. It requires federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with other agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all our computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: May 29, 2009.

Mary Glenn-Croft,

Deputy Commissioner for Budget, Finance and Management.

Notice of Computer Matching Program, SSA With LEA

A. Participating Agencies

SSA and LEA.

B. Purpose of the Matching Program

The purpose of this agreement is to establish terms, conditions, and safeguards under which we will conduct a computer matching program with law enforcement agencies and source jurisdictions (LEA or Source Jurisdiction) in accordance with the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a), and the regulations and guidance promulgated thereunder, to identify individuals who are: (1) Fugitive felons, parole violators, or probation violators, as defined by the Social Security Act, from the Source Jurisdiction; and (2) Supplemental Security Income (SSI) recipients, Retirement, Survivors and Disability Insurance (RSDI) beneficiaries, Special Veterans Benefit (SVB) beneficiaries, or representative payees for SSI recipients, RSDI beneficiaries, or SVB beneficiaries.

C. Authority for Conducting the Matching Program

The legal authority for the matching program conducted under this agreement is Sections 1611(e)(4)(A), 202(x)(l)(A)(iv) and (v) and 804(a)(2) and (3) of the Social Security Act (Act) (42 U.S.C. 1382(e)(4)(A), 402(x)(l)(A)(iv) and (v), and 1004(a)(2) and (3)), which prohibit the payment of SSI, RSDI and/or SVB benefits to an SSI recipient, RSDI beneficiary, or SVB beneficiary for any month during which such individuals flee to avoid prosecution, or custody or confinement after conviction, under the applicable laws of the jurisdiction from which the person flees, for a crime or attempt to commit a crime considered to be a felony under the laws of said jurisdiction. Payment of SSI, RSDI, and/or SVB benefits to recipients/beneficiaries is also prohibited in jurisdictions that do not define such crimes as felonies, but as crimes punishable by death or imprisonment for a term exceeding 1 year, (regardless of the actual sentence imposed) and to individuals who violate a condition of probation or parole imposed under Federal or State law.

Sections 1631(a)(2)(B)(iii)(V), 205(j)(2)(C)(i)(V), and 807(d)(1)(E) of the Act (42 U.S.C. 1383(a)(2)(B)(iii)(V), 405(j)(2)(C)(i)(V), 1007(d)(1)(E)), which prohibit us from using a person as a representative payee when such person is a person described in Sections 1611(e)(4)(A), 202(x)(1)(A)(iv), or 804(a)(2) of the Act.

The legal authority for our disclosure of information to the Source Jurisdiction is: Sections 1106(a), 1611(e)(5), 1631(a)(2)(B)(xiv), 202(x)(3)(C), 205(j)(2)(B)(iii) and 807(b)(3) of the Act; the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a(b)(3)); and our disclosure regulations promulgated at 20 CFR 401.150.

D. Categories of Records and Persons Covered by the Matching Program

The Source Jurisdiction will identify those who are fugitive felons, parole violators, or probation violators in their records originating from various databases. All Source Jurisdiction records will be prepared and transmitted with clear identification of the record source. We will match the following systems of records with the incoming Source Jurisdiction records to determine recipients of SSI, RSDI, SVB, or persons serving as representative payees: Our Supplemental Security Income Record/Special Veterans Benefits (SSA/OASSIS 60–0103), the Master Beneficiary Record (SSA/OSR 60–0090), the Master Representative Payee File System (SSA/OISP 60–0222), and the Master Files of Social Security Number (SSN) Holders and SSN Applications (SSA/OSR 60–0058).

E. Inclusive Dates of the Matching Program

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E9–13203 Filed 6–4–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6653]

Notice of Request for Public Comment and Submission to OMB of Proposed Collection of Information

Title: 30-Day Notice of Proposed Information Collection: DS–4096, Reconstruction and Stabilization; Civilian Response Corps Database In-Processing Form, OMB Control Number 1405–0168.

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Civilian Response Corps Database In-Processing Form.
- *OMB Control Number:* 1405–0168.
- *Type of Request:* Revised Collection.
- *Originating Office:* Office of the Coordinator for Reconstruction & Stabilization, S/CRS.
- *Form Numbers:* DS–4096.
- *Respondents:* Individuals who are members of or apply to one or more of the three components of the Civilian Response Corps (Active, Standby, and Reserves).
- *Estimated Number of Respondents:* 2,000 per year.
- *Estimated Number of Responses:* 2,000 per year.
- *Average Hours per Response:* 1 hour.
- *Total Estimated Burden:* 2,000 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary although necessary to receive benefits, to be deployable, and as a condition for new or continued employment in the Civilian Response Corps.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from June 5, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: kastrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail* (paper, disk, or CD–ROM submissions): Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–6974.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Melanne Civic, who may be reached at *CivicMa@state.gov.*

SUPPLEMENTARY INFORMATION:

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of proposed collection: The information collected is an important part of the Department's responsibility to coordinate U.S. Government planning; institutionalize U.S. Reconstruction and Stabilization (R&S) capacity; and help stabilize and reconstruct societies in transition from conflict or civil strife so they can reach a sustainable path toward peace, democracy, and a market economy. The information gathered will be used to identify Civilian Response Corps members who are available to participate in CRC missions.

Methodology: Presently respondents will complete a paper version of the DS–4096. Current planning is underway so that within two years respondents will be able to complete and submit the form electronically via the Web site (*http://www.crs.state.gov*).

Dated: May 26, 2009.

Jonathan Benton,

Acting Deputy Coordinator and Director of Civilian Response Operations, Office of the Coordinator for Reconstruction & Stabilization, Department of State.

[FR Doc. E9–13158 Filed 6–4–09; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 6652]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII)

The Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union (Title VIII) will convene on Friday, June 19, 2009 beginning at 1:30 p.m. in Room 1406 of the U.S. Department of State, Harry S Truman Building, 2201 C Street, NW., Washington, DC, and lasting until approximately 2:30 p.m.

The Advisory Committee will recommend grant recipients for the FY 2009 competition of the Program for the Study of Eastern Europe and the Independent States of the Former Soviet Union in accordance with the Research and Training for Eastern Europe and the Independent States of the Former Soviet Union Act of 1983, Public Law 98–164, as amended. The agenda will include opening statements by the Chairman and members of the committee, and, within the committee, discussion, approval and recommendation that the Department of State negotiate grant agreements with certain ''national organizations with an interest and expertise in conducting research and

training concerning the countries of Eastern Europe and the Independent States of the Former Soviet Union,'' based on the guidelines contained in the call for applications published in *Grants.gov* on February 9, 2009. Following committee deliberation, interested members of the public may make oral statements concerning the Title VIII program in general.

This meeting will be open to the public; however, attendance will be limited to the seating available. Entry into the Harry S Truman building is controlled and must be arranged in advance of the meeting. Those planning to attend should notify the Title VIII Program Office at the U.S. Department of State on (202) 736–4661 by Wednesday, June 17, providing the following information: Full Name, Date of Birth, Driver's License Number, Country of Citizenship, and any requirements for special accommodation. All attendees must use the 2201 C Street entrance and must arrive no later than 1:15 p.m. to pass through security before entering the building. Visitors who arrive without prior notification and without photo identification will not be admitted.

Dated: June 1, 2009.

Susan Nelson,

Executive Director, Advisory Committee for Study of Eastern Europe and Eurasia (the Independent States of the Former Soviet Union), Department of State.

[FR Doc. E9–13156 Filed 6–4–09; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 23, 2008, vol. 73, no. 247, pages 78865–78866. The collection of this information is necessary to ensure safety of flight by ensuring complete and adequate training, testing, checking, and experience is obtained and maintained by those who conduct flight simulation training.

DATES: Please submit comments by July 6, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Part 60—Flight Simulation Device Initial and Continuing Qualification and Use.

Type of Request: Extension without change of a currently approved collection.

OMB Control Number: 2120–0680.

Form(s): There are no FAA forms associated with this collection.

Affected Public: An estimated 80 respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden per Response: Approximately 132 hours per response.

Estimated Annual Burden Hours: An estimated 72,072 hours annually.

Abstract: The collection of this information is necessary to ensure safety of flight by ensuring complete and adequate training, testing, checking, and experience is obtained and maintained by those who conduct flight simulation training.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 26, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–12974 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management, and Budget of a Currently Approved Information Collection Activity, Request for Comments; Bird/Other Wildlife Strike Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Wildlife strike data are collected to develop standards and monitor hazards to aviation. Data identify wildlife strike control requirements and provide in-service data on aircraft component failure.

On March 19, 2009 [74 FR 11698], the FAA proposed that bird strike information voluntarily reported to the Agency and entered into the FAA's Wildlife Hazard Database be designated by an FAA order as protected from public disclosure in accordance with the provisions of 14 CFR part 193, under 49 U.S.C. 40123. Comments from the public and aviation industry were solicited through April 20, 2009. Review of the comments found that the majority came from individuals who did not support protection of the data. The aviation industry provided very few comments and also showed little support. The FAA decided not to proceed with the Part 193 protection for the wildlife strike database. This notice seeks comments on the new adjusted burden imposed by the data collection based on more current figures than those reported when the collection was previously approved in 2007.

DATES: Please submit comments by August 4, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Bird/Other Wildlife Strike Report.

Type of Request: Revision of an approved collection.

OMB Control Number: 2120–0045.

Forms(s): Form 5200–7.

Affected Public: A total of 7,666 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 5 minutes per response.

Estimated Annual Burden Hours: An estimated 613 hours annually.

Abstract: Wildlife strike data are collected to develop standards and monitor hazards to aviation. Data identify wildlife strike control requirements and provide in-service data on aircraft component failure. The FAA form 5200–7, Bird/Other Wildlife Strike Report, is most often completed by the pilot-in-charge of an aircraft involved in a wildlife collision or by Air Traffic Control Tower personnel, or other airline or airport personnel who have knowledge of the incident.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to he collected and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on May 27, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–12973 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA)

[Docket No. FAA–2007–29320]

Operating Limitations at John F. Kennedy International Airport

ACTION: Notice of order to show cause and request for information.

SUMMARY: The FAA is issuing an order to show cause, which solicits the views of interested persons on the FAA's tentative determination to extend through October 30, 2010, the January 15, 2008 order limiting the number of scheduled aircraft arrivals at John F. Kennedy International Airport during peak operating hours. The text of the order to show cause is set forth in this notice.

DATES: Any written information that responds to the FAA's order to show cause must be submitted by June 19, 2009.

ADDRESSES: You may submit written information, identified by docket number FAA–2007–29320, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments by mail to Docket Operations, U.S. Department of Transportation, M–30, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Persons wishing to receive confirmation of receipt of their written submission should include a self-addressed stamped postcard.
- *Hand Delivery:* Deliver comments to Docket Operations in Room W12–140 on the ground floor of the West Building at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Facsimile:* Fax comments to the docket operations personnel at 202–493–2251.

Privacy: We will post all comments that we receive, without change, at *http://www.regulations.gov*, including any personal information that you provide. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments in any of our dockets, including the name of the individual sending the comment or signing the comment on behalf of an association, business, labor union, or other entity or organization. You may review the DOT's complete Privacy Act Statement in the **Federal Register** at 65 FR 19477–78 (April 11, 2000), or you may find it at *http://docketsinfo.dot.gov*.

Reviewing the docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time and follow the online instructions for accessing the docket; or go to Docket Operations in Room W12–140 on the ground floor of the West Building at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James W. Tegtmeier, Associate Chief Counsel for the Air Traffic Organization; telephone—(202) 267–8323; e-mail—*james.tegtmeier@faa.gov.*

SUPPLEMENTARY INFORMATION:

Order To Show Cause

The Federal Aviation Administration (FAA) has tentatively determined that it will extend through October 30, 2010, the FAA's January 15, 2008 order limiting scheduled operations at John F. Kennedy International Airport (JFK), as amended (January 2008 order).[1] This order to show cause invites air carriers and other interested persons to submit comments in Docket FAA–2007–29320 on this proposal to extend the duration of the January 2008 order.[2]

The January 2008 order followed a period during which JFK operated without any regulatory constraint on the number of aircraft operations, and JFK experienced significant congestion-related delay. As a result of these delays, the FAA invited all scheduled air carriers to a scheduling reduction meeting to discuss overscheduling at the airport, voluntary schedule reductions, and retiming flights to less congested periods.[3] The scheduling reduction meeting and subsequent negotiations led the FAA to issue the January 2008 order, which limited the number of scheduled operations conducted by U.S. and Canadian air carriers at JFK and recognized the approved operations of other foreign air carriers during peak operating hours. The order took effect March 30, 2008, and in the absence of an extension, it will expire on October 24, 2009.

The FAA established the order's October 2009 expiration date to permit time to promulgate a final rule that would control congestion at JFK, and the FAA adopted a final rule to manage congestion at JFK that would have continued operational limits at the airport beyond October 2009. 73 FR 60544 (Oct. 10, 2008). However, the rule was stayed by the U.S. Court of Appeals

[1] Order Limiting Scheduled Operations at John F. Kennedy International Airport, 73 FR 3510 (Jan. 18, 2008); 73 FR 8737 (Feb. 14, 2008) (amendment to order).

[2] The FAA is separately accepting comments on a proposal to extend the May 15, 2008, order limiting scheduled operations at Newark Liberty International Airport (Newark). The public may file or review documents related to the Newark order in Docket FAA–2008–0221.

[3] The FAA's authority to convene such scheduling reduction meetings is set forth at 49 U.S.C. 41722.

for the District of Columbia Circuit prior to the rule's December 9, 2008 effective date. The FAA is currently soliciting comments on a proposal to rescind the final rule. 74 FR 22714 (May 14, 2009). As a result of the FAA's reconsideration of the rule, the court is holding in abeyance the briefing schedule in the rule's associated litigation.

In light of the events that have transpired since the January 2008 order took effect, it is now unlikely that the FAA will have an effective final rule on the January 2008 order's original expiration date. In the absence of the FAA's extension of the order, the FAA anticipates a return of the congestion-related delays that precipitated the voluntary schedule reductions and adjustments reflected in the January 2008 order. The hourly capacity at JFK has not increased significantly since the order took effect last spring. Because the demand for operations at New York-area airports remains high, the FAA has determined that an extension of the January 2008 order appears to be appropriate while the FAA identifies the appropriate long-term solution to congestion at JFK.

Order to Show Cause: To prevent a recurrence of overscheduling at JFK during the interim between the expiration of the January 2008 order on October 24, 2009, and the effective date of a replacement rule, the FAA tentatively intends to extend the January 2008 order. The limit on scheduled operations that is embodied in the order reflects the FAA's agreements with U.S. and foreign air carriers. As a result, maintaining the order for an additional, finite period constitutes a reasonable approach to preventing unacceptable congestion and delays at JFK until a long-term measure is implemented. The January 2008 order, as extended, would expire on October 30, 2010.

Accordingly, the FAA directs all interested persons to show cause why the FAA should not make final its tentative findings and tentative decision to extend the January 2008 order through October 30, 2010, by filing their written views in Docket FAA–2007–29320. The FAA does not intend this request for the views of interested persons to address any issues related to the existing final rule or any future congestion management rule. Therefore, any submission to the current docket should be limited to the proposed extension of the January 2008 order.

Issued in Washington, DC, on May 29, 2009.

Rebecca MacPherson,

Assistant Chief Counsel for Regulations.

[FR Doc. E9–13192 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration (FAA)

[Docket No. FAA–2008–0221]

Operating Limitations at Newark Liberty International Airport

ACTION: Notice of order to show cause and request for information.

SUMMARY: The FAA is issuing an order to show cause, which solicits the views of interested persons on the FAA's tentative determination to extend through October 30, 2010, the May 15, 2008 order limiting the number of scheduled aircraft arrivals at Newark Liberty International Airport during peak operating hours. The text of the order to show cause is set forth in this notice.

DATES: Any written information that responds to the FAA's order to show cause must be submitted by June 19, 2009.

ADDRESSES: You may submit written information, identified by docket number FAA–2008–0221, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments by mail to Docket Operations, U.S. Department of Transportation, M–30, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Persons wishing to receive confirmation of receipt of their written submission should include a self-addressed stamped postcard.
- *Hand Delivery:* Deliver comments to Docket Operations in Room W12–140 on the ground floor of the West Building at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Facsimile:* Fax comments to the docket operations personnel at 202–493–2251.

Privacy: We will post all comments that we receive, without change, at *http://www.regulations.gov,* including any personal information that you provide. Using the search function of the docket website, anyone can find and read the electronic form of all comments in any of our dockets, including the name of the individual sending the comment or signing the comment on behalf of an association, business, labor union, or other entity or organization. You may review the DOT's complete Privacy Act Statement in the **Federal Register** at 65 FR 19477–78 (April 11, 2000), or you may find it at *http://docketsinfo.dot.gov.*

Reviewing the Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time and follow the online instructions for accessing the docket; or go to Docket Operations in Room W12–140 on the ground floor of the West Building at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James W. Tegtmeier, Associate Chief Counsel for the Air Traffic Organization; telephone—(202) 267–8323; e-mail—*james.tegtmeier@faa.gov.*

SUPPLEMENTARY INFORMATION:

Order To Show Cause

The Federal Aviation Administration (FAA) has tentatively determined that it will extend through October 30, 2010, the FAA's May 15, 2008 order limiting scheduled operations at Newark Liberty International Airport (EWR) (May 2008 order).[1] This order to show cause invites air carriers and other interested persons to submit comments in Docket FAA–2008–0221 on this proposal to extend the duration of the May 2008 order.[2]

The May 2008 order followed a period of elevated, congestion-related delays at the New York area's three commercial airports, culminating in the FAA's issuance of an order limiting scheduled operations at JFK in January 2008. To prevent new flights from moving to EWR, which was already prone to delays and scheduled near or above its average hourly runway capacity during many peak hours, the FAA engaged the U.S. and foreign air carriers serving EWR to reduce the number of scheduled operations during peak hours and to move operations to less congested hours. The May 2008 order captured the agreed upon schedules and limited the number of scheduled operations conducted by U.S. and foreign air

[1] Order Limiting Scheduled Operations at Newark Liberty International Airport, 73 FR 29,550 (May 21, 2008).

[2] The FAA is separately accepting comments on a proposal to extend the January 15, 2008 order limiting scheduled operations at John F. Kennedy Liberty International Airport (JFK). The public may file or review documents related to the JFK order in Docket FAA–2007–29320.

carriers at EWR during peak operating hours. The order took effect June 20, 2008, and in the absence of an extension, it will expire on October 24, 2009.

The FAA established the order's October 2009 expiration date to permit time to promulgate a final rule that would control congestion at EWR, and the FAA adopted a final rule to manage congestion at EWR that would have continued operational limits at the airport beyond October 2009. 73 FR 60544 (Oct. 10, 2008). However, the rule was stayed by the U.S. Court of Appeals for the District of Columbia Circuit prior to the rule's December 9, 2008 effective date. The FAA is currently soliciting comments on a proposal to rescind the final rule. 74 FR 22714 (May 14, 2009). As a result of the FAA's reconsideration of the rule, the court is holding in abeyance the briefing schedule in the rule's associated litigation.

In light of the events that have transpired since the May 2008 order took effect, it is now unlikely that the FAA will have an effective final rule on the May 2008 order's original expiration date. In the absence of the FAA's extension of the order, the FAA anticipates a return of the congestion-related delays that precipitated the voluntary schedule reductions and adjustments reflected in the May 2008 order. The hourly capacity at EWR has not increased significantly since the order took effect late last spring. Because the demand for operations at New York-area airports remains high, the FAA has determined that an extension of the May 2008 order appears to be appropriate while the FAA identifies the appropriate long-term solution to congestion at EWR.

Order To Show Cause:

To prevent a recurrence of overscheduling at EWR during the interim between the expiration of the May 2008 order on October 24, 2009, and the effective date of a rule, the FAA tentatively intends to extend the May 2008 order. The limit on scheduled operations that is embodied in the order reflects the FAA's agreements with U.S. and foreign air carriers. As a result, maintaining the order for an additional, finite period constitutes a reasonable approach to preventing unacceptable congestion and delays at EWR until a longer term measure is implemented. The May 2008 order, as extended, would expire on October 30, 2010.

Accordingly, the FAA directs all interested persons to show cause why the FAA should not make final its tentative findings and tentative decision to extend the May 2008 order through October 30, 2010, by filing their written views in Docket FAA–2008–0221. The FAA does not intend this request for the views of interested persons to address any issues related to the existing final rule or any future congestion management rule. Therefore, any submission to the current docket should be limited to the proposed extension of the May 2008 order.

Issued in Washington, DC, on May 29, 2009.

Rebecca MacPherson,

Assistant Chief Counsel for Regulations.

[FR Doc. E9–13190 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

BNSF Railway

[Docket Number FRA–2008–0032]

The BNSF Railway (BNSF) seeks a waiver of compliance from certain provisions of 49 CFR Part 232, *Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment.* Specifically, they are requesting a waiver from the requirements for performing the single car air brake test as prescribed in 49 CFR 232.305(b)(2), ''A railroad shall perform a single car air brake test on a car when * * * a car is on a shop or repair track, as defined in 232.303(a), for any reason and has not received a single car air brake test within the previous 12-month period.''

BNSF requests that the single car air brake tests be waived for the replacement of wheels, as this would allow for the efficient systemwide removal and replacement of damaged wheels to include high-impact wheels. BNSF would like to perform these repairs in-train on cars in yards across their system without having to perform a single car air brake test on such cars. BNSF contends this practice would be consistent with the regulatory exception provided in 49 CFR 232.303(a)(2), which states that wheel change-outs on intermodal loading ramps are not defined as ''major repairs,'' and therefore excepts such intermodal ramps from the definition of a shop or repair track, which excepts such wheel change-outs from single car air brake tests.

BNSF further contends that the removal and replacement of wheels does not affect the brake system and believes that subjecting these cars to single car air brake requirements is unnecessary. BNSF states that by granting this request, they will be able to process more wheel change-outs, thereby increasing the ability to make these safety improvements. BNSF does not believe that granting this waiver will have an adverse effect on the safety of railroad operations.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA–2008–0032) and may be submitted 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.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://www.regulations.gov.*

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the

comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC, on June 1, 2009.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E9–13202 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket ID PHMSA–2009–0157]

Pipeline Safety: Government/Industry Pipeline Research and Development Forum

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of forum.

SUMMARY: PHMSA executes a collaborative, coordinated, competitive and co-funded research and development (R&D) program with the pipeline industry and other Federal and State regulators. PHMSA periodically holds a Pipeline R&D Forum to generate recommendations on the future R&D required in addressing mutual challenges. Specifically, this forum will bring government and industry pipeline stakeholders together for the following purposes:

(1) Develop recommendations to address the technical gaps & challenges for future R&D;

(2) Identify both short and long term research objectives for liquid/gas transmission and gas distribution pipelines;

(3) Quantify technical details on identified technical gaps so solicited research is addressing the need effectively; and

(4) Provide details on the ultimate research goals so appropriate end users are factored into project scopes.

DATES: The forum will be held starting on June 24, 2009, at 8 a.m. and concluding on June 25, 2009, at 4 p.m. Pre-Registration is available now and until June 19, 2009, to obtain a name tag to this free public event. Onsite registration will be available for the public on the morning of June 24, 2009. Please note that a Web cast will not be available for the forum. However, presentations will be available on the R&D Program Web site (*http://primis.phmsa.dot.gov/rd/workshops.htm*) shortly after the forum.

Please visit *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=59* for more information on the agenda and reservations.

ADDRESSES: The workshop will be held at the Marriott Crystal City, 1999 Jefferson Davis Highway, Arlington, VA 22202, Phone: 1–800–228–9290, or Phone: 1–703–413–5500. The Marriott Web page for this hotel is found at: *http://www.marriott.com/hotels/travel/wascc-crystal-city-marriott-at-reagan-national-airport/* or *http://www.marriott.com/default.mi* and by typing DCA into the City or Airport Code Search.

Hotel reservations must be made on or before June 9, 2009, to receive a rate of $209 for the nights of Tuesday, June 23 and Wednesday, June 24. Mention ''USDOT R&D Forum'' when you make your reservations to receive this rate. Please call the Marriott for more information on the Americans with Disabilities Act amenities at this location.

FOR FURTHER INFORMATION CONTACT: Robert Smith at (202) 366–3814, or by e-mail at *robert.w.smith@dot.gov*.

SUPPLEMENTARY INFORMATION:

Registration: Members of the public may attend this free forum. To help assure that adequate space is provided, all attendees are encouraged to pre-register for the forum at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=59*. Hotel reservations must be made by contacting the hotel directly.

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact Robert Smith or the Marriott by June 23, 2009.

Issued in Washington, DC, on May 29, 2009.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E9–13180 Filed 6–4–09; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Request by owner or person entitled to payment or reissue of United States Savings Bonds/Notes deposited in safekeeping when original custody receipts are not available.

DATES: Written comments should be received on or before August 4, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, or *judi.owens@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, A4–A, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION: *Title:* Request By Owner Or Person Entitled To Payment Or Reissue Of United States Savings Bonds/Notes Deposited In Safekeeping When Original Custody Receipts Are Not Available.

OMB Number: 1535–0063.

Form Number: PD F 4239.

Abstract: The information is requested to establish ownership and request reissue or payment when original custody receipts are not available.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 200.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 34.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 1, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9–13133 Filed 6–4–09; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Affidavit by individual surety.

DATES: Written comments should be received on or before August 4, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, or *judi.owens@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Affidavit By Individual Surety.

OMB Number: 1535–0100.

Form Number: PD F 4094.

Abstract: The information is requested to support a request to serve as surety for an indemnification agreement on a Bond of Indemnity.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 55 minutes.

Estimated Total Annual Burden Hours: 460.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 1, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9–13134 Filed 6–4–09; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the Certificate of Identity.

DATES: Written comments should be received on or before August 4, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Judi Owens, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, or *judi.owens@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Judi Owens, Bureau of the Public Debt, 200 Third Street, A4–A, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Certificate of Identity.

OMB Number: 1535–0048.

Form Numbers: PD F 0385.

Abstract: The information is requested to establish the identity of the owner of United States Savings Securities.

Current Actions: None.

Type of Review: Extension.

Affected Public: Individuals.

Estimated Number of Respondents: 300.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 50.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 1, 2009.

Judi Owens,

Manager, Information Management Branch.

[FR Doc. E9–13132 Filed 6–4–09; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

BankUnited, FSB Coral Gables, FL; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly

appointed the Federal Deposit Insurance Corporation as sole Receiver for BankUnited, FSB, Coral Gables, Florida (OTS No. 8045), on May 21, 2009.

Dated: May 29, 2009.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. E9–13045 Filed 6–4–09; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–New (NCA Survey)]

Agency Information Collection: Emergency Submission for OMB (Statement in Support of Claim (National Cemetery Administration Survey of Satisfaction With National Cemeteries)) Review; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the United States Department of Veterans Affairs (VA), has submitted to the Office of Management and Budget (OMB) the following emergency proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3507(j)(1)). The reason for the emergency clearance is to ensure that VA National Cemeteries have the appropriate customer data available on cemetery service and appearance to ensure its operations continue to meet and exceed the expectations of veterans and their families. This is the only external source of input VA receives on cemeteries regarding its level of service to veterans. OMB has been requested to act on this emergency clearance request by June 26, 2009.

DATES: Comments must be submitted on or before *June 12, 2009.*

ADDRESSES: Submit written comments on the collection of information through *http://www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–New (NCA Survey)'' in any correspondence

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–New (NCA Survey).''

SUPPLEMENTAL INFORMATION: *Title:* Statement in Support of Claim (National Cemetery Administration Survey of Satisfaction with National Cemeteries).

OMB Control Number: 2900–New (NCA).

Type of Review: New collection.

Abstract: The National Cemetery Administration annually surveys veterans, next of kin and funeral directors to collect information needed to improve established standards for the best possible customer-focused service. If the surveys were not conducted, the organization would be unable to comply with the Executive Order 12862, and would not have the information needed to improve established standards for the best possible customer-focused service. NCA will use the information gathered to determine where and to what extent services are satisfactory, and where and to what extent they are in need of improvement. The information may lead to policy changes to improve overall operations.

Affected Public: Individuals and Households.

Estimated Annual Burden: 6,334 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 19,000.

Dated: June 2, 2009.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. E9–13128 Filed 6–4–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
June 5, 2009

Part II

The President

Proclamation 8389—African-American Music Appreciation Month, 2009

Proclamation 8390—National Caribbean-American Heritage Month, 2009

Federal Register
Vol. 74, No. 107
Friday, June 5, 2009

Presidential Documents

Title 3—

The President

Proclamation 8389 of June 2, 2009

African-American Music Appreciation Month, 2009

By the President of the United States of America

A Proclamation

The legacy of African-American composers, singers, songwriters, and musicians is an indelible piece of our Nation's culture. Generations of African Americans have carried forward the musical traditions of their forebears, blending old styles with innovative rhythms and sounds. They have enriched American music and captured the diversity of our Nation. During African-American Music Appreciation Month, we honor this rich heritage.

This legacy tells a story of ingenuity and faith. Amidst the injustice of slavery, African Americans lifted their voices to the heavens through spirituals. This religious music united African Americans and helped sustain them through one of the darkest periods in our Nation's history. Years later, spirituals contributed to the advent of a new form of music: gospel. Both styles incorporated elements of African music and were rooted in faith.

The African-American music tradition also reflects creativity and individualism. Blues, jazz, soul, and rock and roll synthesize various musical traditions to create altogether new sounds. Their novel chord progressions, improvisation, and mood showcase individual musicians while also creating a cohesive musical unit. In addition, African-American composers have thrived in traditional genres such as musical theater, opera, classical symphony, and choral music, providing their unique imprint and creatively growing these forms of music. All of these contributions are treasured across America and the world.

During African-American Music Appreciation Month, we recall the known and unknown musicians who helped create this musical history. Their contributions help illuminate the human experience and spirit, and they help us reflect on our Nation's ongoing narrative.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim June 2009 as African-American Music Appreciation Month. I call upon public officials, educators, and all the people of the United States to observe this month with appropriate activities and programs that raise awareness and foster appreciation of music which is composed, arranged, and performed by African Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of June, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

[FR Doc. E9–13408
Filed 6–4–09; 11:15 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8390 of June 2, 2009

National Caribbean-American Heritage Month, 2009

By the President of the United States of America

A Proclamation

Caribbean Americans have made lasting contributions to our Nation's culture and history, and the month of June has been set aside to honor their cultural, linguistic, ethnic, and social diversity.

Generations of immigrants have preserved the traditions of their homelands, and these traditions have defined our Nation's identity. Caribbean Americans bring a unique and vibrant culture. This multilingual and multiethnic tradition has strengthened our social fabric and enriched the diversity of our Nation.

Millions of individuals in the United States have Caribbean roots. Unfortunately some Caribbean Americans were forced to our country as slaves; others arrived of their own volition. All have sought the promise of a brighter tomorrow for themselves and their children.

In their pursuit of success, Caribbean Americans exhibit the traits all Americans prize: determination, a devotion to community, and patriotism. They have made their mark in every facet of our society, from art to athletics and science to service. Caribbean Americans have also safeguarded our Nation in the United States Armed Forces.

This month we also recognize the critical relationship the United States maintains with Caribbean nations. In a world of increasing communication and connectivity, this friendship has become even more important. We are neighbors, partners, and friends; we share the same aspirations for our children; and we strive for the very same freedoms. Together, we can meet the common challenges we face.

NOW, THEREFORE, I, BARACK OBAMA, 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 June 2009 as National Caribbean-American Heritage Month. I urge all Americans to commemorate this month by learning more about the history and culture of Caribbean Americans.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of June, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

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