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9 a.m.–12:30 p.m.

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Presidential Documents

Title 3—

The President

Proclamation 8424 of September 28, 2009

Family Day, 2009

By the President of the United States of America

A Proclamation

Our family provides one of the strongest influences on our lives. American families from every walk of life have taught us time and again that children raised in loving, caring homes have the ability to reject negative behaviors and reach their highest potential. Whether children are raised by two parents, a single parent, grandparents, a same-sex couple, or a guardian, families encourage us to do our best and enable us to accomplish great things. Today, our children are confronting issues of drug and alcohol use with astonishing regularity. On Family Day, we honor the dedication of parents, commend the achievements of their children, and celebrate the contributions our Nation's families have made to combat substance abuse among young people.

The 21st century presents families with unprecedented challenges. Millions of women and men are struggling to balance the demands of their jobs with the needs of their families. At the same time, our youngest generation faces countless distractions in their social environment. They are coming of age in a world where electronic devices have replaced the playground, televisions have preempted conversation, and pressure to use drug and alcohol is far too prevalent. Parents bear significant stress and burdens to protect their children from harmful influences.

It is our responsibility to talk with adolescents about the risks of abusing alcohol, tobacco, or prescription and illicit drugs, and other harmful behaviors. These substances can destroy the mind, body, and spirit of a child, jeopardizing their health and limiting their potential. Active parents, voicing their disapproval of drug use, have proven themselves to be the most effective preventative method for keeping our children drug-free. A strong and engaged family can make all the difference in helping young people make healthy decisions.

By coming together as a family and discussing the events of the day, parents can foster open communication, share joys and concerns, and help guide their children toward healthy decisionmaking. A strong nation is made up of strong families, and on this Family Day, we rededicate ourselves to ensuring that every American family has the chance to build a better, healthier future for themselves and their children.

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 September 28, 2009, as Family Day. I call upon the people of the United States to join together in observing this day with appropriate ceremonies and activities to honor and strengthen our Nation's families.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-fourth.

[FR Doc. E9–23773
Filed 9–30–09; 8:45 am]
Billing code 3195–W9–P

Rules and Regulations

Federal Register

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

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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2411

Availability of Official Information

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Labor Relations Authority's (Authority) regulations implementing the Freedom of Information Act, as amended. The final rule adds provisions to the regulations for compliance with the OPEN Government Act of 2007, and the Electronic Freedom of Information Act Amendments of 1996. The final rule amends the regulations to reflect changes required by Executive Order 12600 and Executive Order 13392. The final rules also update the regulations to reflect changes in the Authority's policies and procedures. As a result of these amendments to the regulations, the public will have a clearer understanding of the Authority's policies and procedures implementing the FOIA.

DATES: This final rule is effective October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Rosa M. Koppel, Solicitor, via telephone: (202) 218–7999, or via e-mail: *rkoppel@flra.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The comprehensive revisions that the Authority is making to part 2411 include changes to the language and structure of the regulations. Provisions have been revised, added, and/or in some cases, reorganized in order to clarify how the Authority implements the procedural requirements of the FOIA. The revisions are not intended to change any rights under the FOIA.

The revisions are intended to achieve compliance with the OPEN Government Act of 2007, Public Law 110–175, 121 Stat. 2524, and Executive Order 13392, 70 FR 75371–75371 (Dec. 9, 2005). Provisions which relate to implementation of the OPEN Government Act are as follows—(1) § 2411.4(b)(1) (identification of deleted information); (2) § 2411.8(a) (setting forth criteria for when the time period for processing requests begins to run and when that time period may be suspended or tolled); (3) §§ 2411.8(c)(5) and 2411.13(b)(3) (address waiver of fees when time limits for complying with FOIA requests are not met); and (4) § 2411.8(d) (assigns individual tracking numbers to requests requiring more than ten days to process and provides phone number/Web site address to inquire about status).

The OPEN Government Act and EO 13392 establish and set forth duties and responsibilities for the Chief FOIA Officer and the FOIA Public Liaison(s). The provisions of the regulations pertaining to these duties and responsibilities are found at: (1) § 2411.3(a) and (c) (delegation of FOIA-related duties to Chief FOIA Officer and designation of FOIA Public Liaison(s)); (2) § 2411.4(b)(1) (identification of deleted information); (3) §§ 2411.8(c)(5) and 2411.13(b)(3) (waives certain processing fees when time limits are not met for processing FOIA requests); (4) § 2411.11(a) (to aid in meeting time limits the FOIA Public Liaison(s) are given responsibility to resolve disputes between requesters and the agency as to the scope of requests or modification of time limits); and (5) § 2411.13(a)(8) (adds definition of ''representative of the news media'').

The regulations also contain new provisions to explicitly implement Executive Order 12600, 52 FR 23781 (June 23, 1987), 3 CFR 235 (1987 Comp.) and the Electronic Freedom of Information Act Amendments of 1996, Public Law 104–231, 110 Stat. 3048 (E–FOIA). The Authority has been operating in compliance with these provisions of law, and based on its experience is now updating its regulations to reflect this compliance. A new section implementing Executive Order 12600's procedural structure for notifying those who submit business information to the government when that information becomes the subject of a FOIA request can be found at § 2411.9. New provisions implementing the E–FOIA can be found at: (1) § 2411.2(a) (includes electronic formats within the meaning of the term ''record''); (2) § 2411.4(a)(iv) (requires that records that ''have become or are likely to become the subject of subsequent requests for substantially the same records'' be included in FOIA reading room); (3) § 2411.4(a)(v) (requires general index of records be included in FOIA reading room); (4) § 2411.4(b)(2) (establishment of electronic reading room); (5) § 2411.7 (format of disclosure); (6) § 2411.13(a)(2) (searches for records in electronic form or format); and (7) § 2411.15 (modification of deadline for submission of Annual Report and requirement that it shall be available in electronic format).

Further, the revisions are intended as a routine updating of the Authority's procedures—to streamline the existing procedures based on experience, to reflect certain changes in the procedural requirements of the FOIA since the previous regulations issued, and to make the Authority's procedures easier for the public to understand. Provisions that implement these goals can be found at: (1) § 2411.2 (adds a new section clarifying that the regulations' scope includes information in electronic formats and the relation of the regulations to the Privacy Act regulations in part 2412); (2) § 2411.4 (a) and (b) (merging paragraph (b) of § 2411.4 into paragraph (a) of § 2411.4 so that the policies of all three FLRA components are addressed in one paragraph); (3) § 2411.4(d) (eliminating explanatory discussion of specific FOIA exemptions from mandatory disclosures); (4) § 2411.4(f)(1) and (2) (providing Web site addresses to obtain copies of agency forms); (5) § 2411.5(b) (request is considered an agreement to pay all applicable fees, up to $25.00, unless a waiver is sought); (6) § 2411.6(b) (adding language to give requester the opportunity to discuss/clarify request so that it may be modified, if necessary, to meet regulatory requirements); (7) § 2411.8(b) (moving language from § 2411.13(c)(4) to set forth earlier the objective that requesters reasonably describe records sought); (8) § 2411.10(a)(2) (adding language to explain how to calculate the twenty-day period for responding to appeal); (9) § 2411.10(a)(2)(i) and

(b)(2)(i) (providing consistency with other sections regarding the cut-off amount at which fees ($250 and above) will be requested in advance of information production); (10) § 2411.10(a)(2)(ii) and (b)(2)(ii) (providing for information production before payment of fees below $250 if no history of failure to pay fees on time); (11) § 2411.13(a)(2) (adding language to inform requesters that searches will be conducted in the most efficient and least expensive manner reasonably possible); (12) § 2411.13(b)(4)(ii)(A) thru (D) (adding language to set forth more clearly the factors to be considered in determining when fees should be waived because a disclosure is in the ''public interest''); (13) § 2411.13(b)(4)(iii)(A) and (B) (adding language clarifying when a requester's interest is ''primarily commercial''); (14) § 2411.13(b)(4)(v) (adding language to clarify when partial fees will be assessed); (15) § 2411.13(h) (adding language related to handling requests by other than a party to a proceeding before the agency for a copy of a transcript, diskette, or other recordation of the proceeding); and (16) § 2411.14 (providing information on record retention and preservation).

The Authority has added language relating to the role of the Inspector General throughout the regulation (*i.e.*, purpose (§ 2411.1), scope (§ 2411.2), information policy (§ 2411.4), procedures for obtaining information (§ 2411.5)), when requests for information relate to records, documents, or other information of the Inspector General for the Authority.

Finally, the Authority has deleted former § 2411.11 and replaced it with a new part 2417. *See* 74 FR 11634 (March 14, 2009).

II. Response to Comment and Revisions Included in Final Rule

On July 22, 2009, the Authority published a proposed rule with request for comments that proposed to amend 5 CFR, chapter XIV, part 2411 (74 FR 36121). The FLRA received no comments during the 30 days allowed for public comment, but received one set of comments after the close of the comment period on August 21, 2009. This set of comments, from the National Security Archive, is discussed below.

Comment 1: Amend proposed § 2411.5(a) to clarify that agency subcomponents will accept facsimiled requests as well as written and e-mail requests.

The Authority agrees with this comment and amends proposed § 2411.5(a) to provide for the acceptance of facsimiled requests.

Comment 2: Amend proposed § 2411.5(b) to eliminate the requirement that requests include an explicit statement accepting financial liability for the direct costs of processing the request, and encourage requesters to state their fee category.

The Authority agrees with this comment in part and amends proposed § 2411.5(b) to provide that each request will be considered an agreement to pay all applicable fees charged under § 2411.13, up to $25.00, unless a requesters seeks a waiver of fees. However, the Authority sees no need to add a statement encouraging requesters to state their fee category inasmuch as the relevance of fee categories is adequately addressed in § 2411.13.

Comment 3: Amend proposed § 2411.6 to clarify that Authority personnel are required to provide requesters with assistance in reformulating requests that insufficiently describe the record sought. The commenter explains that, as drafted, § 2411.6(b) requires that a requester be given an opportunity to modify a request that does not ''reasonably describe'' the records sought whereas § 2411.6(a) could be read to state that this opportunity may, or may not, be granted.

The Authority agrees with the comment and modifies paragraphs (a) and (b) of § 2411.6 to clarify that a requester will be given an opportunity to modify a request that does not ''reasonably describe'' the records sought.

Comment 4: Amend proposed § 2411.8(c)(5) to clarify that applicable fees will not be charged for partial determinations when the remainder of the request is pending beyond FOIA's 20 day statutory time limit, unless ''unusual or exceptional circumstances'' exist, as defined in § 2411.11(b).

The Authority agrees with this comment and modifies proposed § 2411.8(c)(5) to clarify that the Authority, absent unusual or exceptional circumstances, will not assess search fees if an agency component fails to make a final determination with respect to disclosure of all of the records requested within the 20-day period set out in § 2411.8(a).

List of Subjects in 5 CFR Part 2411

Freedom of Information Act.

■ For the reasons stated in the preamble, the Authority revises 5 CFR part 2411 to read as follows:

PART 2411—AVAILABILITY OF OFFICIAL INFORMATION

Sec.
2411.1 Purpose.
2411.2 Scope.
2411.3 Delegation of authority.
2411.4 Information policy.
2411.5 Procedure for obtaining information.
2411.6 Identification of information requested.
2411.7 Format of disclosure.
2411.8 Time limits for processing requests.
2411.9 Business information.
2411.10 Appeal from denial of request.
2411.11 Modification of time limits.
2411.12 Effect of failure to meet time limits.
2411.13 Fees.
2411.14 Record retention and preservation.
2411.15 Annual report.

Authority: 5 U.S.C. 552, as amended and OPEN Government Act of 2007, Pub. L. 110–175, 121 Stat. 2524; E.O. 13392 (Dec. 14, 2005); and E.O. 12600 (June 23, 1987).

§ 2411 Purpose.

This part contains the regulations of the Federal Labor Relations Authority (Authority), the General Counsel of the Federal Labor Relations Authority (General Counsel), the Federal Service Impasses Panel (Panel) and the Inspector General of the Federal Labor Relations Authority (IG) providing for public access to information from the Authority, the General Counsel, the Panel or the IG. These regulations implement the Freedom of Information Act, as amended, 5 U.S.C. 552, and the policy of the Authority, the General Counsel, the Panel and the IG to disseminate information on matters of interest to the public and to disclose to members of the public on request such information contained in records insofar as is compatible with the discharge of their responsibilities, consistent with applicable law.

§ 2411.2 Scope.

(a) For the purpose of this part, the term record and any other term used in reference to information includes any information that would be subject to the requirements of 5 U.S.C. 552 when maintained by the Authority, the General Counsel, the Panel or the IG in any format including an electronic format. All written requests for information from the public that are not processed under part 2412 of this chapter will be processed under this part. The Authority, the General Counsel, the Panel and the IG may continue, regardless of this part, to furnish the public with the information it has furnished in the regular course of performing its official duties, unless furnishing the information would violate the Privacy Act of 1974, 5 U.S.C. 552a, or another law.

(b) When the subject of a record, or the subject's representative, requests the record from a Privacy Act system of records, as that term is defined by 5 U.S.C. 552a(a)(5), and the Authority retrieves the record by the subject's name or other personal identifier, the Authority will handle the request under the procedures and subject to the fees set out in part 2412. When a third party requests access to those records, without the written consent of the subject of the record, the Authority will process the request under this part.

(c) Nothing in 5 U.S.C. 552 or this part requires that the Authority, the General Counsel, the Panel or the IG, as appropriate, create a new record in order to respond to a request for the records.

§ 2411.3 Delegation of authority.

(a) *Chief FOIA Officer.* The Chairman of the Federal Labor Relations Authority designates the Chief FOIA Officer who has agency-wide responsibility for the efficient and appropriate compliance with the FOIA. The Chief FOIA Officer monitors the implementation of the FOIA throughout the agency.

(b) *Authority/General Counsel/Panel/IG.* Regional Directors of the Authority, the Freedom of Information Officer of the Office of the General Counsel, Washington, DC, the Solicitor of the Authority, the Executive Director of the Panel and the IG are delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization under § 2411.5(a) and (b).

(c) *FOIA Public Liaison(s).* The Chief FOIA Officer shall designate the FOIA Public Liaison(s), who shall serve as the supervisory official(s) to whom a FOIA requester can raise concerns about the service the FOIA requester has received following an initial response.

§ 2411.4 Information policy.

(a) *Authority/General Counsel/Panel/IG.* (1) It is the policy of the Authority, the General Counsel, the Panel and IG to make available for public inspection and copying (unless they are published and copies are offered for sale):

(i) Final decisions and orders of the Authority and administrative rulings of the General Counsel; and procedural determinations, final decisions and orders of the Panel; and factfinding and arbitration reports; and reports and executive summaries of the IG;

(ii) Statements of policy and interpretations which have been adopted by the Authority, the General Counsel, the Panel or the IG and are not published in the **Federal Register**;

(iii) Administrative staff manuals and instructions to staff that affect a member of the public (except those establishing internal operating rules, guidelines, and procedures for the investigation, trial, and settlement of cases);

(iv) Copies of all records, regardless of form or format, which have been released to any person under 5 U.S.C. 552(a)(3) and which, because of the nature of their subject matter, the Authority, the General Counsel, the Panel or the IG determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(v) A general index of the records referred to in paragraphs (a)(1)(i) through (iv) of this section.

(2) It is the policy of the Authority, the General Counsel, the Panel and the IG to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms to the procedures of this part.

(b) *Records Availability.* (1) Any person may examine and copy items in paragraphs (a)(1)(i) through (iv) of this section, at each regional office of the Authority and at the offices of the Authority, the General Counsel, the Panel and the IG, respectively, in Washington, DC, under conditions prescribed by the Authority, the General Counsel, the Panel and the IG, respectively, and at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority, the General Counsel, the Panel and the IG. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing. On the released portion of the record, the amount of information deleted, and the exemption under which the deletion is made, shall be indicated unless an interest protected by the exemption would be harmed.

(2) All records covered by this section are available through the Internet/World Wide-Web site (*http://www.flra.gov/foia/reading_room.html*). The Web site containing these records may also be accessed from a computer terminal located in the library at FLRA headquarters at 1400 K Street, NW., Washington, DC. Requests to use this terminal to access the FLRA's electronic Reading Room should be submitted to the FLRA's Office of the Solicitor (mail: Office of the Solicitor, FLRA, 1400 K Street, NW., Washington, DC 20424; telephone: 202–218–7770; e-mail: *solmail@flra.gov*); or from computer terminals located in the FLRA regional offices. A listing of these offices, including appropriate information for requesting the use of the terminal, is provided at *http://www.flra.gov/foia/contacts.html*.

(c) The Authority, the General Counsel, the Panel and the IG shall maintain and make available for public inspection and copying the current indexes and supplements to the records which are required by 5 U.S.C. 552(a)(2) and, as appropriate, a record of the final votes of each member of the Authority and of the Panel in every agency proceeding. Any person may examine and copy such document or record of the Authority, the General Counsel, the Panel or the IG at the offices of either the Authority, the General Counsel, the Panel or the IG, as appropriate, in Washington, DC, under conditions prescribed by the Authority, the General Counsel, the Panel or the IG at reasonable times during normal working hours so long as it does not interfere with the efficient operations of either the Authority, the General Counsel, the Panel or the IG.

(d) All agency records, except those exempt from mandatory disclosure by one or more provisions of 5 U.S.C. 552(b), will be made promptly available to any person submitting a written request in accordance with the procedures of this part.

(e)(1) The formal documents constituting the record in a case or proceeding are matters of official record and, until destroyed pursuant to applicable statutory authority, are available to the public for inspection and copying at the appropriate regional office of the Authority, or the offices of the Authority, the General Counsel, the Panel or the IG in Washington, DC, as appropriate, under conditions prescribed by the Authority, the General Counsel or the Panel at reasonable times during normal working hours so long as it does not interfere with the efficient operations of the Authority, the General Counsel, the Panel, or the IG.

(2) The Authority, the General Counsel, the Panel or the IG, as appropriate, shall certify copies of the formal documents upon request made a reasonable time in advance of need and payment of lawfully prescribed costs.

(f)(1) Copies of forms prescribed by the General Counsel for the filing of charges and petitions may be obtained without charge from any regional office of the Authority or on the Authority's Web site at: *http://www.flra.gov/forms/forms.html#gc*.

(2) Copies of forms prescribed by the Panel for the filing of requests may be

obtained without charge from the Panel's offices in Washington, DC or on the Authority's Web site at: *http://www.flra.gov/forms/flra_14.pdf*.

§ 2411.5 Procedure for obtaining information.

(a) *Authority/General Counsel/Panel/IG.* Any person who desires to inspect or copy any records, documents or other information of the Authority, the General Counsel, the Panel or the IG, covered by this part, other than those specified in paragraphs (a)(1) and (c) of § 2411.4, shall submit a written, facsimiled, or e-mail request (*see* office and e-mail addresses listed at *http://www.flra.gov/foia/contacts.html*) to that effect as follows:

(1) If the request is for records, documents or other information in a regional office of the Authority, it should be made to the appropriate Regional Director;

(2) If the request is for records, documents or other information in the Office of the General Counsel and located in Washington, DC, it should be made to the Freedom of Information Officer, Office of the General Counsel, Washington, DC;

(3) If the request is for records, documents or other information in the offices of the Authority in Washington, DC, it should be made to the Solicitor of the Authority, Washington, DC;

(4) If the request is for records, documents or other information in the offices of the Panel in Washington, DC, it should be made to the Executive Director, Federal Service Impasses Panel, Washington, DC; and

(5) If the request is for records, documents or other information in the offices of the IG in Washington, DC, it should be made to the Inspector General, Washington, DC.

(b) Each request under this part should be clearly and prominently identified as a request for information under the Freedom of Information Act and, if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly identified as such on the envelope or other cover. A request shall be considered an agreement by the requester to pay all applicable fees charged under § 2411.13, up to $25.00, unless the requester seeks a waiver of fees. The component responsible for responding to the request ordinarily will confirm this agreement in an acknowledgment letter. When making a request, the requester may specify a willingness to pay a greater or lesser amount. Fee charges will be assessed for the full allowable direct costs of document search, review, and duplicating, as appropriate, in accordance with § 2411.13. If a request does not comply with the provisions of this paragraph, it shall not be deemed received by the appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel, or the IG, as appropriate. A list of the office and e-mail addresses is in Appendix A to 5 CFR Chapter XIV and on the Federal Labor Relations Authority's World Wide Web site at *http://www.flra.gov/foia/contacts.html*.

§ 2411.6 Identification of information requested.

(a) Each request under this part shall reasonably describe the records being sought in a way that they can be identified and located. A request shall be legible and include all pertinent details that will help identify the records sought.

(b) If the description does not meet the requirements of paragraph (a) of this section, the officer processing the request shall so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the record sought.

(c) Upon receipt of a request for records, the appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel, or the IG, as appropriate, shall enter it in a public log. The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to paragraphs (b) and (c) of § 2411.8, the date(s) any records are subsequently furnished, the number of staff-hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§ 2411.7 Format of disclosure.

(a) After a determination has been made to grant a request in whole or in part, the appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel or the IG, as appropriate, will notify the requester in writing. The notice will describe the manner in which the record will be disclosed. The appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel or the IG, as appropriate, will provide the record in the form or format requested if the record is readily reproducible in that form or format, provided the requester has agreed to pay and/or has paid any fees required by § 2411.13 of this part. The appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel, or the IG, as appropriate, will determine on a case-by-case basis what constitutes a readily reproducible format. These offices will make a reasonable effort to maintain their records in commonly reproducible forms or formats.

(b) Alternatively, the appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel, or the IG, as appropriate, may make a copy of the releasable portions of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection will not unreasonably disrupt the operations of the office.

§ 2411.8 Time limits for processing requests.

(a) The 20-day period (excepting Saturdays, Sundays, and legal public holidays), established in this section, shall commence on the date on which the request is first received by the appropriate component of the agency (Regional Director, the Freedom of Information Officer of the Office of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel, or the IG of the Authority), but in any event not later than ten days after the request is first received by any Authority component responsible for receiving FOIA requests under part 2411. The 20-day period does not run when—

(1) The agency component makes one request to the requester for information and is awaiting such information that it has reasonably requested from the requester; or

(2) It is necessary to clarify with the requester issues regarding fee assessment.

(3) The agency component's receipt of the requested information or clarification triggers the commencement of the 20-day period.

(b) A request for records shall be logged in by the appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel or the IG, as appropriate, pursuant to § 2411.6(c). All requesters must reasonably describe the records sought. An oral request for

records shall not begin any time requirement. A written request for records sent to other than the appropriate officer will be forwarded to that officer by the receiving officer, but in that event the applicable time limit for response shall begin as set forth in paragraph (a) of this section.

(c) Except as provided in § 2411.11, the appropriate Regional Director, the Freedom of Information Officer of the General Counsel, the Solicitor of the Authority, the Executive Director of the Panel, or the IG, as appropriate, shall, within twenty (20) working days following receipt of the request, as provided by paragraph (a) of this section, respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(1) If all the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all the records requested, the response shall state the extent to which the records involved shall be disclosed pursuant to the rules established in this part.

(3) If the request is expected to involve allowed charges in excess of $250.00, the response shall specify or estimate the fee involved and shall require prepayment of any charges in accordance with the provisions of paragraph (g) of § 2411.13 before the request is processed further.

(4) Whenever possible, subject to the provisions of paragraph (g) of § 2411.13, the response relating to a request for records that involves a fee of less than $250.00 shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Authority, the General Counsel, the Panel, or the IG.

(5) Search fees shall not be assessed requesters (or duplication fees in the case of an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media requester, as defined by § 2411.13(a)(8)), under this subparagraph if an agency component fails to make a final determination with respect to disclosure of all records requested as described under subparagraph (c)(1) of this section within any time limit under paragraph (a) of this section, if no unusual or exceptional circumstances (as those terms are defined for purposes of § 2411.11(a)) apply to the processing of the request.

(d) If a request will take longer than ten days to process:

(1) An individualized tracking number will be assigned to the request and provided to the requester; and

(2) Using the tracking number, the requester can find, by calling (202) 218–7770 or linking to *http://www.flra.gov/foia/foia_main.html*, status information about the request including:

(i) The date on which the agency originally received the request; and

(ii) An estimated date on which the agency will complete action on the request.

(e) If any request for records is denied in whole or in part, the response required by paragraph (c) of this section shall notify the requester of the denial. Such denial shall specify the reason therefore, set forth the name and title or position of the person responsible for the denial, and notify the person making the request of the right to appeal the denial under the provisions of § 2411.10.

§ 2411.9 Business information.

(a) *In general.* Business information obtained by the Authority from a submitter will be disclosed under the FOIA only under this section.

(b) *Definitions.* For purposes of this section:

(1) Business information means commercial or financial information obtained by the Authority from a submitter that may be protected from disclosure under Exemption 4 of the FOIA.

(2) Submitter means any person or entity from whom the Authority obtains business information, directly or indirectly. The term includes corporations; State, local, and Tribal governments; and foreign governments.

(c) *Designation of business information.* A submitter of business information will use good-faith efforts to designate, by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers to be protected from disclosure under Exemption 4. These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer designation period.

(d) *Notice to submitters.* The Authority shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information wherever required under paragraph (e) of this section, except as provided in paragraph (h) of this section, in order to give the submitter an opportunity to object to disclosure of any specified portion of that information under paragraph (f) of this section. The notice shall either describe the business information requested or include copies of the requested records or record portions containing the information. When notification of a voluminous number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish it.

(e) *Where notice is required.* Notice shall be given to a submitter wherever:

(1) The information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4; or

(2) The Authority has reason to believe that the information may be protected from disclosure under Exemption 4.

(f) *Opportunity to object to disclosure.* The Authority will allow a submitter a reasonable time to respond to the notice described in paragraph (d) of this section and will specify that time period within the notice. If a submitter has any objection to disclosure, it is required to submit a detailed written statement. The statement must specify all grounds for withholding any portion of the information under any exemption of the FOIA and, in the case of Exemption 4, it must show why the information is a trade secret or commercial or financial information that is privileged or confidential. In the event that a submitter fails to respond to the notice within the time specified in it, the submitter will be considered to have no objection to disclosure of the information. Information provided by the submitter that is not received by the Authority until after its disclosure decision has been made shall not be considered by the Authority. Information provided by a submitter under this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* The Authority shall consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose business information. Whenever the Authority decides to disclose business information over the objection of a submitter, the Authority shall give the submitter written notice, which shall include:

(1) A statement of the reason(s) why each of the submitter's disclosure objections were not sustained;

(2) A description of the business information to be disclosed; and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) The Authority determines that the information should not be disclosed;

(2) The information lawfully has been published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with the requirements of Executive Order 12600 (3 CFR, 1988 Comp., p. 235); or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous—except that, in such a case, the Authority shall, within a reasonable time prior to a specified disclosure date, give the submitter written notice of any final decision to disclose the information.

(i) *Notice of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the Authority shall promptly notify the submitter.

(j) *Corresponding notice to requesters.* Whenever the Authority provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, the Authority shall also notify the requester(s). Whenever the Authority notifies a submitter of its intent to disclose requested information under paragraph (g) of this section, the Authority shall also notify the requester(s). Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the Authority shall notify the requester(s).

§ 2411.10 Appeal from denial of request.

(a) *Authority/General Counsel/Panel/IG.* (1) Whenever any request for records is denied, a written appeal may be filed within thirty (30) days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial.

(i) If the denial was made by a Regional Director or by the Freedom of Information Officer of the General Counsel, the appeal shall be filed with the General Counsel in Washington, DC.

(ii) If the denial was made by the Executive Director of the Panel, the appeal shall be filed with the Chairman of the Panel.

(iii) If the denial was made by the Solicitor or the IG, the appeal shall be filed with the Chairman of the Authority in Washington, DC.

(2) The Chairman of the Authority, the Chairman of the Panel or the General Counsel, as appropriate, shall, within twenty (20) working days (excepting Saturdays, Sundays, and legal public holidays) from the time of receipt of the appeal, except as provided in § 2411.11, make a determination on the appeal and respond in writing to the requester, determining whether, or the extent to which, the request shall be granted.

(i) If the determination is to grant the request and the request is expected to involve an assessed fee in excess of $250.00, the determination shall specify or estimate the fee involved and shall require prepayment of any charges due in accordance with the provisions of paragraph (a) of § 2411.13 before the records are made available.

(ii) Whenever possible, the determination relating to a request for records that involves a fee of less than $250.00 shall be accompanied by the requested records when there is no history of the requester having previously failed to pay fees in a timely manner. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Authority, the Panel, the General Counsel or IG.

(b) If on appeal the denial of the request for records is upheld in whole or in part by the Chairman of the Authority, the General Counsel, or the Chairman of the Panel, as appropriate, the person making the request shall be notified of the reasons for the determination, the name and title or position of the person responsible for the denial, and the provisions for judicial review of that determination under 5 U.S.C. 552(a)(4). Even though no appeal is filed from a denial in whole or in part of a request for records by the person making the request, the Chairman of the Authority, the General Counsel or the Chairman of the Panel, as appropriate, may, without regard to the time limit for filing of an appeal, sua sponte initiate consideration of a denial under this appeal procedure by written notification to the person making the request. In such event the time limit for making the determination shall commence with the issuance of such notification.

§ 2411.11 Modification of time limits.

(a) In unusual circumstances as specified in this section, the time limits prescribed with respect to initial determinations or determinations on appeal may be extended by written notice from the agency component handling the request (either initial or on appeal) to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. As appropriate, the notice shall provide the requester with an opportunity to limit the scope of the request so that it may be processed within the time limit or an opportunity to arrange with the agency component an alternative time frame for processing the request or a modified request. To aid the requester, the FOIA Public Liaison shall assist in the resolution of any disputes between the requester and the processing agency component. No such notice shall specify a date that would result in a total extension of more than ten (10) working days.

(b) As used in this section, ''unusual or exceptional circumstances'' means, but only to the extent reasonably necessary to the proper processing of the particular request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(c) Expedited processing of a request for records, or an appeal of a denial of a request for expedited processing, shall be provided when the requester demonstrates a compelling need for the information and in other cases as determined by the officer processing the request. A requester seeking expedited processing can demonstrate a compelling need by submitting a statement certified by the requester to be true and correct to the best of such person's knowledge and belief and that satisfies the statutory and regulatory definitions of compelling need. Requesters shall be notified within ten (10) calendar days after receipt of such a request whether expedited processing, or an appeal of a denial of a request for expedited processing, was granted. As used in this section, ''compelling need'' means:

(1) That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an

imminent threat to the life or physical safety of an individual; or

(2) With respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity.

§ 2411.12 Effect of failure to meet time limits.

Failure by the Authority, the General Counsel, the Panel, or the IG either to deny or grant any request under this part within the time limits prescribed by the Freedom of Information Act, as amended, 5 U.S.C. 552, and these regulations shall be deemed to be an exhaustion of the administrative remedies available to the person making this request.

§ 2411.13 Fees.

(a) *Definitions.* For the purpose of this section:

(1) The term *direct costs* means those expenditures which the Authority, the General Counsel, the Panel, or the IG actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of the rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(2) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents as well as all reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Searches may be done manually or by computer using existing programming. The Authority, the General Counsel, the Panel or the IG shall ensure that searches are done in the most efficient and least expensive manner reasonably possible. For example, if duplicating an entire document would be quicker and less expensive, a line-by-line search should not be done.

(3) The term *duplication* refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (*e.g.*, magnetic tape or disk), among others.

(4) The term *review* refers to the process of examining documents located in response to a commercial use request (see paragraph (a)(5) of this section) to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, *e.g.*, doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) The term *''commercial use'' request* refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, the Authority, the General Counsel, the Panel, or the IG will look first to the use to which a requester will put the document requested. Where the Authority, the General Counsel, the Panel, or the IG has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, the Authority, the General Counsel, the Panel, or the IG may seek additional clarification before assigning the request to a specific category.

(6) The term *educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) The term *non-commercial scientific institution* refers to an institution that is not operated on a commercial basis as that term is referenced in paragraph (a)(5) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) The term *representative of the news media* refers to any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term 'news' means information that is about current events or that would be of current interest to the public. Examples of news-media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of 'news') who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not intended to be all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.

(b) *Exceptions to fee charges.*

(1) With the exception of requesters seeking documents for a commercial use, the Authority, the General Counsel, the Panel or the IG will provide the first 100 pages of duplication and the first two hours of search time without charge. The word ''pages'' in this paragraph refers to paper copies of standard size, usually 8½ by 11, or their equivalent in microfiche or computer disks. The term ''search time'' in this paragraph is based on a manual search for records. In applying this term to searches made by computer, when the cost of the search as set forth in paragraph (d)(2) of this section equals the equivalent dollar amount of two hours of the salary of the person performing the search, the Authority, the General Counsel, the Panel or the IG will begin assessing charges for computer search.

(2) The Authority, the General Counsel, the Panel or the IG will not charge fees to any requester, including commercial use requesters, if the cost of collecting the fee would be equal to or greater than the fee itself.

(3) As provided in § 2411.8(c)(5), the Authority, the General Counsel, the Panel or the IG will not charge search fees (or duplication fees if the requester is an educational or noncommercial scientific institution, whose purpose is scholarly or scientific research; or a representative of the news media, as described in this section), when the time limits are not met.

(4)(i) The Authority, the General Counsel, the Panel or the IG will provide documents without charge or at reduced charges if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the

government; and is not primarily in the commercial interest of the requester.

(ii) In determining whether disclosure is in the ''public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government'' under paragraph (b)(4)(i) of this section, the Authority, the General Counsel, the Panel, and the IG will consider the following factors:

(A) *The subject of the request.* Whether the subject of the requested records concerns ''the operations or activities of the government.'' The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated;

(B) *The informative value of the information to be disclosed.* Whether the disclosure is ''likely to contribute'' to an understanding of government operations or activities. The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be ''likely to contribute'' to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be as likely to contribute to such understanding where nothing new would be added to the public's understanding;

(C) *The contribution to an understanding of the subject by the general public likely to result from disclosure.* Whether disclosure of the requested information will contribute to ''public understanding.'' The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media will satisfy this consideration; and

(D) *The significance of the contribution to the public understanding.* Whether the disclosure is likely to contribute ''significantly'' to public understanding of government operations or activities. The public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent. The Authority, the General Counsel, the Panel and the IG shall not make value judgments about whether information that would contribute significantly to public understanding of the operations or activities of the government is ''important'' enough to be made public.

(iii) In determining whether disclosure ''is not primarily in the commercial interest of the requester'' under paragraph (b)(4)(i) of this section, the Authority, the General Counsel, the Panel and the IG will consider the following factors:

(A) *The existence and magnitude of a commercial interest.* Whether the requester has a commercial interest that would be furthered by the requested disclosure. Commercial interest of the requester (with reference to the definition of ''commercial use'' in paragraph (a)(5) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters shall be given an opportunity in the administrative process to provide explanatory information regarding this consideration; and

(B) *The primary interest in disclosure.* Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure ''is primarily in the commercial interest of the requester.'' A fee waiver or reduction is justified where the public interest standard is satisfied and that public interest is greater in magnitude than that of any identified commercial interest in disclosure. The Authority, the General Counsel, the Panel, and the IG ordinarily shall presume that where a news media requester has satisfied the public interest standard, the public interest will be the interest primarily served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

(iv) A request for a fee waiver based on the public interest under paragraph (b)(4)(i) of this section must address these factors as they apply to the request for records in order to be considered by the Authority, the General Counsel, the Panel, or the IG.

(v) Where only some of the records to be released satisfy the requirements for a waiver of fees, a waiver shall be granted for those records.

(c) *Level of fees to be charged.* The level of fees to be charged by the Authority, the General Counsel, the Panel, or the IG, in accordance with the schedule set forth in paragraph (d) of this section, depends on the category of the requester. The fee levels to be charged are as follows:

(1) A request for documents appearing to be for commercial use will be charged to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.

(2) A request for documents from an educational or non-commercial scientific institution will be charged for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research.

(3) The Authority, the General Counsel, the Panel or the IG shall provide documents to requesters who are representatives of the news media for the cost of reproduction alone, excluding charges for the first 100 pages.

(4) The Authority, the General Counsel, the Panel or the IG shall charge requesters who do not fit into any of the categories of this section fees which recover the full direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time shall be furnished without charge. Requests from record subjects for records about themselves filed in Authority, General Counsel, Panel, or IG systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974, which permits fees only for reproduction.

(d) The following fees shall be charged in accordance with paragraph (c) of this section:

(1) *Manual searches for records.* The salary rate (*i.e.*, basic pay plus 16 percent) of the employee(s) making the search. Search time under this paragraph and paragraph (d)(2) of this section may be charged for even if the Authority, the General Counsel, the Panel or the IG fails to locate records or if records located are determined to be exempt from disclosure.

(2) *Computer searches for records.* The actual direct cost of providing the service, including computer search time directly attributable to searching for records responsive to a FOIA request, runs, and operator salary apportionable to the search.

(3) *Review of records.* The salary rate (*i.e.*, basic pay plus 16 percent) of the

employee(s) conducting the review. This charge applies only to requesters who are seeking documents for commercial use, and only to the review necessary at the initial administrative level to determine the applicability of any relevant FOIA exemptions, and not at the administrative appeal level of an exemption already applied.

(4) *Duplication of records.* Twenty-five cents per page for paper copy reproduction of documents, which the Authority, the General Counsel, the Panel and the IG determined is the reasonable direct cost of making such copies, taking into account the average salary of the operator and the cost of the reproduction machinery. For copies of records prepared by computer, such as tapes or printouts, the Authority, the General Counsel, the Panel or the IG shall charge the actual cost, including operator time, of production of the tape or printout.

(5) *Forwarding material to destination.* Postage, insurance and special fees will be charged on an actual cost basis.

(e) *Aggregating requests.* When the Authority, the General Counsel, the Panel or the IG reasonably believes that a requester or group of requesters is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Authority, the General Counsel, the Panel or the IG will aggregate any such requests and charge accordingly.

(f) *Charging interest.* Interest at the rate prescribed in 31 U.S.C. 3717 may be charged those requesters who fail to pay fees charged, beginning on the 30th day following the billing date. Receipt of a fee by the Authority, the General Counsel, the Panel or the IG, whether processed or not, will stay the accrual of interest.

(g) *Advanced payments.* The Authority, the General Counsel, the Panel or the IG will not require a requester to make an advance payment, i.e., payment before work is commenced or continued on a request, unless:

(1) The Authority, the General Counsel, the Panel or the IG estimates or determines that allowable charges that a requester may be required to pay are likely to exceed $250. Then the Authority, the General Counsel, the Panel or the IG will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) A requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing), in which case the Authority, the General Counsel, the Panel or the IG requires the requester to pay the full amount owed plus any applicable interest as provided in this section or demonstrate that the requester has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before the agency begins to process a new request or a pending request from that requester. When the Authority, the General Counsel, the Panel or the IG acts under paragraph (g)(1) or (2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (*i.e.*, 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extension of these time limits) will begin only after the Authority, the General Counsel, the Panel or the IG has received fee payments described in this section.

(h) When a person other than a party to a proceeding before the agency makes a request for a copy of a transcript, diskette, or other recordation of the proceeding, the Authority, the General Counsel, the Panel or the IG, as appropriate, will handle the request under this part.

(i) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

§ 2411.14 Record retention and preservation.

The Authority, the General Counsel, the Panel, and the IG shall preserve all correspondence pertaining to the requests that it receives under this subpart, as well as copies of all requested records, until such time as disposition or destruction is authorized by title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Records will not be disposed of while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 2411.15 Annual report.

On or before February 1 annually, the Chief FOIA Officer of the Authority shall submit a report of the activities of the Authority, the General Counsel, the Panel, and the IG with regard to public information requests during the preceding fiscal year to the Attorney General of the United States. The report shall include those matters required by 5 U.S.C. 552(e), and shall be made available electronically.

Dated: September 25, 2009.

Carol Waller Pope,

Chairman.

[FR Doc. E9–23553 Filed 9–30–09; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Doc. No. AMS–FV–08–0045; FV08–981–2 FIR]

Almonds Grown in California; Revision of Outgoing Quality Control Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim final rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting as a final rule, without change, an interim final rule that revised the outgoing quality control regulations issued under the California almond marketing order (order). The interim final rule revised the term ''validation'' under the *Salmonella* bacteria (*Salmonella*) treatment program by specifying that validation data must be both submitted to and accepted by the Almond Board of California's (Board) Technical Expert Review Panel (TERP) for all treatment equipment prior to its use under this program. The interim final rule was necessary to ensure that all treatment equipment meets a 4-log reduction of *Salmonella* in almonds.

DATES: *Effective Date:* Effective October 2, 2009.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or E-mail: *Terry.Vawter@ams.usda.gov,* or *Kurt.Kimmel@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide*; or by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237;

Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

The order is administered locally by the Board. Under the order, handlers are required to treat shipments of almonds to reduce the potential for *Salmonella* contamination, with limited exceptions. Various equipment systems must be in place and must be ''validated'' by the Board's TERP to ensure that treatments meet a required 4-log reduction of *Salmonella* in almonds destined for consumers in the United States, Canada, and Mexico. The TERP consists of four scientists, with a representative from the Food and Drug Administration serving as an ex-officio member.

In an interim final rule published in the **Federal Register** on June 18, 2009, and effective on June 19, 2009 (74 FR 28872, Doc. No. AMS–FV–08–0045; FV08–981–2 IFR), § 981.442 was amended by specifying that validation means that the treatment technology and equipment have been demonstrated to achieve in total a minimum 4-log reduction of *Salmonella* bacteria in almonds. Validation data must be both submitted to and accepted by the TERP for each piece of equipment used to treat almonds prior to its use under the program. Prior to the change, the regulation did not specify that validation data must be both submitted to and accepted by the TERP for each piece of equipment prior to its use under the program.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 6,200 producers of almonds in the production area and approximately 100 handlers subject to regulation under the marketing order. Additionally, the Board estimates there are about 15 process authorities and 30 almond manufacturers under the *Salmonella* treatment program. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000.

Data for the most recently-completed crop year indicate that about 50 percent of the handlers shipped under $7,000,000 worth of almonds. Dividing average almond crop value for 2006–07 reported by the National Agricultural Statistics Service of $2.258 billion by the number of producers (6,200) yields an average annual producer revenue estimate of about $364,190. Based on the foregoing, about half of the handlers and a majority of almond producers may be classified as small entities. While data regarding the size of the process authorities and almond manufacturers is not available, it may be assumed that some process authorities and manufacturers may be classified as small entities.

This rule continues in effect the action that revised § 981.442(b)(3)(i) of the order's administrative rules and regulations specifying that the term ''validation'' under the *Salmonella* treatment program means that validation data must be both submitted to and accepted by the TERP for each piece of treatment equipment prior to its use under the program. This revision will help ensure that all treatment equipment meets the program's 4-log requirement prior to its use. Authority for this action is provided in § 981.42(b) of the order.

Regarding the overall impact of this action on the affected entities, it is expected to be minimal. Validation data had previously been submitted to the Board's TERP for review. This interim final rule simply specified that such data must be accepted by the TERP for all treatment equipment prior to its use under the program.

The Board's Food Quality and Safety Committee (committee) met prior to the board meeting to consider this change. The committee considered the alternative to this action, which maintained the status quo whereby equipment could be used under the program that had completed validation testing, but had not been accepted by the TERP. The committee, and subsequently the Board, concluded that acceptance by the TERP was important in order to help ensure that all treatment equipment consistently meets the 4-log requirement of the program.

The Board, with the expertise of various committees and subcommittees, makes recommendations regarding the revisions to the marketing order rules and regulations after consideration of all available information, including comments received by Board staff. At the meetings, the impact of and alternatives to these recommendations are deliberated. The Board and its committees and subcommittees consist of individual producers and handlers with many years of experience in the industry, who are familiar with industry practices and trends. All Board, committee, and subcommittee meetings are open to the public and comments are widely solicited. In addition, minutes of all meetings are distributed to Board, committee, and subcommittee members and others who have requested them, and are also posted on the board's Web site, thereby increasing the availability of this critical information within the industry.

This rule will not impose any additional reporting and recordkeeping requirements on California almonds handlers, process authorities, or almond manufacturers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the subcommittee, committee, and Board meetings where this issue was discussed were widely publicized throughout the California almond industry, and all interested persons were encouraged to attend the meetings and participate in deliberations on all issues. The issue was discussed at two Food Quality and Safety Committee meetings in April 2008 and at two Board meetings, one in April and one in May 2008. All of these meetings were public meetings, and all entities, both large and small, were able to express views on this issue.

Comments on the interim final rule were required to be received on or before August 17, 2009. No comments were received. Therefore, for the reasons given in the interim final rule, we are

adopting the interim final rule as a final rule, without change.

To view the interim final rule, go to *http://www.regulations.gov/search/Regs/home.html#documentDetail?R=09000064809d2903*.

This action also affirms information contained in the interim final rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (74 FR 28872, June 18, 2009) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule that amended 7 CFR part 981 and that was published at 74 FR 28872, on June 18, 2009, is adopted as a final rule, without change.

Dated: September 25, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–23648 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0521; Directorate Identifier 2008–NM–187–AD; Amendment 39–16034; AD 2009–20–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–300, –400, and –500 Series Airplanes Equipped With a Digital Transient Suppression Device (DTSD) Installed in Accordance With Supplemental Type Certificate (STC) ST00127BO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 737–300, –400, and –500 series airplanes. This AD requires revising the maintenance program to include new fuel system limitations for airplanes modified in accordance with STC ST00127BO. This AD also requires inspections and checks of the DTSDs and corrective actions, if necessary. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent a potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank fire or explosion and consequent loss of the airplane.

DATES: This AD is effective November 5, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of November 5, 2009.

ADDRESSES: For service information identified in this AD, contact Goodrich Corporation, Fuel and Utility Systems, 100 Panton Road, Vergennes, Vermont 05491–1008; telephone 802–877–4476; e-mail *lgd.TechPubs.Oakville@goodrich.com;* Internet *http://www.goodrich.com/TechPubs.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Marc Ronell, Aerospace Engineer, ANE–150, FAA, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7776; fax (781) 238–7170.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 737–300, –400, and –500 series airplanes. That NPRM was published in the **Federal Register** on June 9, 2009 (74 FR 27254). That NPRM proposed to require revising the maintenance program to include new fuel system limitations for airplanes modified in accordance with Supplemental Type Certificate (STC) ST00127BO. That NPRM also proposed to require inspections and checks of the digital transient suppression devices and corrective actions, if necessary.

Comments

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

Actions Since NPRM was Issued

Since we issued the NPRM, we have determined that it is necessary to clarify the AD's intended effect on spare and on-airplane fuel tank system components, regarding the use of maintenance manuals and instructions for continued airworthiness.

Section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403(c)) specifies the following:

> No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitation section unless the mandatory * * * procedures * * * have been complied with.

Some operators have questioned whether existing components affected by the new CDCCLs must be reworked. We did not intend for the AD to retroactively require rework of components that had been maintained using acceptable methods before the effective date of the AD. Owners and operators of the affected airplanes therefore are not required to rework affected components identified as airworthy or installed on the affected airplanes before the required revisions of the maintenance program. But once the CDCCLs are incorporated into the maintenance program, future maintenance actions on components must be done in accordance with those CDCCLs.

We have added Note 2 to this AD to clarify the intended effect of the AD on spare and on-airplane fuel tank system components.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 12 airplanes of U.S. registry. The following table provides the estimated costs for

U.S. operators to comply with this AD. The average labor rate is $80 per work hour.

ESTIMATED COSTS

Action	Work hours	Cost per product	Fleet cost
Revision to maintenance program	8	$640	$7,680
Operational check, per cycle	1	80	960
Bond damage inspection, per cycle	1	80	960
Separation inspection, per cycle	1	80	960

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–20–11 Boeing: Amendment 39–16034. Docket No. FAA–2009–0521; Directorate Identifier 2008–NM–187–AD.

Effective Date

(a) This airworthiness directive (AD) is effective November 5, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 737–300, –400, and –500 series airplanes, certificated in any category, equipped with a digital transient suppression device (DTSD) installed in accordance with Supplemental Type Certificate (STC) ST00127BO.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (m) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to prevent a potential of ignition sources inside fuel tanks, which in combination with flammable fuel vapors, could result in a fuel tank fire or explosion and consequent loss of the airplane.

Compliance

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

Revision to the Maintenance Program to Add Critical Design Configuration Control Limitations (CDCCLs) Specified in Section 10.1 of the Service Information

(g) Within 30 days after the effective date of this AD: Revise the maintenance program to incorporate the fuel system limitations specified in Section 10.1 of the Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007.

Revision to the Maintenance Program to Add Scheduled Inspections/Operational Checks

(h) Within 30 days after the effective date of this AD: Revise the maintenance program to incorporate the scheduled inspections/operational checks specified in Section 2.2.3 of the Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007; except that the initial inspections/checks required by paragraphs (i), (j), and (k) of this AD must be done at the compliance times specified in those paragraphs. Repeat the inspections/checks thereafter at the applicable compliance times in the column, ''Frequency,'' of the table specified in Section 2.2.3 of the Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007.

Initial Inspections and Repair if Necessary

(i) Prior to the accumulation of 39,000 flight hours after modification in accordance with STC ST00127BO, or within 12 months after the effective date of this AD, whichever occurs later: Do an operational check of the DTSDs, in accordance with Section 2.2.3, ''Scheduled Inspections/Operational Checks,'' of the Goodrich Instructions for

Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007. If the DTSD fails the operational check, repair before further flight, in accordance with the section of the Goodrich Aircraft Maintenance Manual Supplement with Wiring Diagrams, 737–300/–400/–500 FQIS with Goodrich Digital Indicators and Transient Suppression Device, STC Number: ST00127BO, Revision 5, dated December 20, 2006, that corresponds to the operational check specified in Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007.

(j) Prior to the accumulation of 4,000 flight hours after modification in accordance with STC ST00127BO, or within 6 months after the effective date of this AD, whichever occurs later: Do a general visual inspection for critical bond damage of the DTSD safe-side harnesses (critical bond damage includes measuring the bonding resistance across the ground strap and verifying the resistance is less than 2.0 milliohms), in accordance with Section 2.2.3, ''Scheduled Inspections/Operational Checks,'' of Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007, which includes Items 5, 6, 7, and 8 of Table 6 in Section 10.1, ''Fuel System Limitations.'' If any damage is found, repair before further flight, in accordance with the section of the Goodrich Aircraft Maintenance Manual Supplement with Wiring Diagrams for 737–300/–400/–500 FQIS with Goodrich Aircraft Maintenance Manual Supplement with Wiring Diagrams, 737–300/–400/–500 FQIS with Goodrich Digital Indicators and Transient Suppression Device, STC Number: ST00127BO, Revision 5, dated December 20, 2006, that corresponds to the general visual inspection specified in Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007.

(k) Prior to the accumulation of 24,000 flight hours after modification in accordance with STC ST00127BO, or within 12 months after the effective date of this AD, whichever occurs later: Do a general visual inspection for physical separation of the DTSD safe-side harnesses from other airplane wiring, hydraulic tubing, structure, control cables, and bleed air ducts, in accordance with Section 2.2.3, ''Scheduled Inspections/Operational Checks,'' of the Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007. If any damage is found, repair before further flight, in accordance with the section of the Goodrich Aircraft Maintenance Manual Supplement with Wiring Diagrams for 737–300/–400/–500 FQIS with Goodrich Digital Indicators and Transient Suppression Device, STC Number: ST00127BO, Revision 5, dated December 20, 2006, that corresponds to the general visual inspection specified in Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101, Revision D, dated January 16, 2007.

No Alternative Inspections/Checks, Inspection/Check Intervals, or CDCCLs

(l) After accomplishing the actions specified in paragraphs (g) and (h) of this AD, no alternative inspections/checks, inspection/check intervals, or CDCCLs may be used unless the inspections/checks, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (m) of this AD.

Note 2: Notwithstanding any other maintenance or operational requirements, components that have been identified as airworthy or installed on the affected airplanes before the revision of the maintenance program, as required by paragraph (g) of this AD, do not need to be reworked in accordance with the CDCCLs. However, once the maintenance program has been revised, future maintenance actions on these components must be done in accordance with the CDCCLs.

AMOCs

(m)(1) The Manager, Boston Aircraft Certification 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: Marc Ronell, Aerospace Engineer, ANE–150, FAA, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (781) 238–7776; fax (781) 238–7170.

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

Material Incorporated by Reference

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

TABLE 1—MATERIAL INCORPORATED BY REFERENCE

Document	Revision	Date
Goodrich Aircraft Maintenance Manual Supplement with Wiring Diagrams, 737–300/–400/–500 FQIS with Goodrich Digital Indicators and Transient Suppression Device, STC Number: ST00127BO.	5	December 20, 2006.
Goodrich Instructions for Continued Airworthiness for the Transient Suppression Device Installation Applicable to Boeing 737–300, –400, & –500 Airplanes Supplemental Type Certificate—ST00127BO, Document T2007–0010–0101.	D	January 16, 2007.

(The List of Effective Pages (LOEP) for Goodrich Aircraft Maintenance Manual Supplement with Wiring Diagrams, 737–300/–400/–500 FQIS with Goodrich Digital Indicators and Transient Suppression Device, STC Number: ST00127BO, contains the following errors: Page TOC–1 is dated December 20, 2006, not June 1, 2002, as indicated in the LOEP; the odd-numbered pages of the Appendix—Wiring Diagrams are dated April 16, 2004, not August 15, 2005, as indicated in the LOEP.)

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

(2) For service information identified in this AD, contact Goodrich Corporation, Fuel and Utility Systems, 100 Panton Road, Vergennes, Vermont 05491–1008; telephone 802–877–4476; e-mail *lgd.TechPubs.Oakville@goodrich.com*; Internet *http://www.goodrich.com/TechPubs*.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–23509 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0293; Directorate Identifier 2008–NM–221–AD; Amendment 39–16035; AD 2009–20–12]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, and 747SR Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 747 airplanes identified above. This AD requires replacing the inboard trailing edge (TE) flap transmission carbon disk no-back brakes with skewed roller no-back brakes at the TE flap transmission, positions 4 and 5. This AD results from reports of the inboard TE flaps blowing back due to the failure of a transmission carbon disk no-back brake. The no-back brake did not hold the TE flaps in the commanded position. We are issuing this AD to prevent a decrease of the aerodynamic controllability of the airplane, which could adversely affect the airplane's continued safe flight and landing.

DATES: This AD is effective November 5, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 5, 2009.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Douglas Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6487; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 747 Airplanes. That NPRM was published in the **Federal Register** on April 1, 2009 (74 FR 14750). That NPRM proposed to require replacing the inboard trailing edge (TE) flap transmission carbon disk no-back brakes with skewed roller no-back brakes at the TE flap transmission, positions 4 and 5.

Comments

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

Support for the NPRM

Boeing concurs with the contents of the NPRM.

Clarification of Criteria for AD

Lufthansa has doubts that all criteria for the issuance of an AD are met. The commenter states that there is no comprehensible technical background.

We infer that the commenter is requesting that we withdraw the NPRM. We disagree. Although Boeing Special Attention Service Bulletin 747–27–2422, dated October 30, 2008, states that ''since 1999, four operators have reported that the inboard TE flaps blew back due to the failure of a transmission carbon disk no-back brake,'' there have been ten reports of failed inboard and outboard carbon disk no-back brakes since 1973, and six reports since 1999. Nine of the reports were for the inboard no-back, and one for an outboard no-back. All of the failures (i.e., uncommanded blowbacks) occurred at a sufficient altitude for the pilots to react and control the airplane. As a result of these events, Boeing conducted extensive lab tests to check the wear properties and friction characteristics of new and used carbon disk brakes. The tests revealed a wide variation in friction capability but no wear correlation between friction coefficient and the number of cycles. Therefore, the carbon brake may be ineffective regardless of wear. Because of the test results and the number of events that have occurred in the fleet, we find it was necessary to proceed with issuing this AD to ensure the safety of the fleet.

Request to Include an Optional Method of Compliance

Lufthansa requests that we include a repetitive D-Check shop overhaul (with updated procedures, if necessary) as an optional method of compliance to the proposed modification. Lufthansa states that no-back brakes are removed every 6 years during D-Check and are overhauled in accordance with the latest Boeing overhaul manuals. Lufthansa states that since 1995 there have been no failures of the brake system, or a flap blow back event (which Lufthansa states is extremely improbable due to the fact that a simultaneous double failure has to exist). With the above-mentioned overhaul and an additional maintenance task, Lufthansa states that it is reducing if not even excluding the risk of a double failure. Lufthansa requests a compliance time of 8 years for the first D-check, 8 years for the second D-check, and 6 years for subsequent D-checks.

We do not agree with the commenter's request to include an optional method of compliance. Based on the results of Boeing's extensive testing of carbon disk brakes, the carbon brakes may be ineffective regardless of wear. Therefore, overhauling the carbon brakes at D-check intervals would not adequately address the unsafe condition. In addition, we do not consider that the brake system failure—which involves a latent failure of the no-back brake, combined with an active failure of the flap drive system—is extremely improbable. No change to this AD is necessary.

Request to Delay Issuing Final Rule

Japan Airlines (JAL) requests that we issue the AD after Revision 1 of Boeing Service Bulletin 747–27–2422 is available. The NPRM cited Boeing Special Attention Service Bulletin 747–27–2422, dated October 30, 2008, as the appropriate source of service information for installing the skewed roller no-back brakes at the trailing edge flap transmission. JAL requests that Boeing amend Service Bulletin 747–27–2422 to improve Figure 3 to show part

numbers and the assembly sequence. JAL adds that Boeing is considering issuing Revision 1.

We agree that adding part numbers and the assembly sequence to Figure 3 in Boeing Service Bulletin 747–27–2422, dated October 30, 2008, may be beneficial. However, we do not consider that delaying the final rule until after the release of a future service bulletin revision is warranted. Boeing Service Bulletin 747–27–2422, dated October 30, 2008, already includes sufficient information to install the skewed roller no-back brakes at the trailing edge flap transmission within the compliance time. However, paragraph (h) of the final rule provides operators the opportunity to request an AMOC or an extension of the compliance time if data are presented to justify such an extension.

Conclusion

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

Costs of Compliance

We estimate that this AD would affect 249 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

TABLE—ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost	Number of U.S.-registered airplanes	Fleet cost
Replacement	25	$80	$60,670	$62,670	249	$15,604,830

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–20–12 Boeing: Amendment 39–16035. Docket No. FAA–2009–0293; Directorate Identifier 2008–NM–221–AD.

Effective Date

(a) This airworthiness directive (AD) is effective November 5, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 747–100, –100B, –100B SUD, –200B, –200C, –200F, –300, –400, –400D, –400F, and 747SR series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 747–27–2422, dated October 30, 2008.

Subject

(d) Air Transport Association (ATA) of America Code 27: Flight controls.

Unsafe Condition

(e) This AD results from reports of the inboard trailing edge (TE) flaps blowing back due to the failure of a transmission carbon disk no-back brake. The no-back brake did not hold the flaps in the commanded position. The Federal Aviation Administration is issuing this AD to prevent a decrease of the aerodynamic controllability of the airplane, which could adversely affect the airplane's continued safe flight and landing.

Compliance

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

Corrective Action

(g) Within 5 years after the effective date of this AD, replace the trailing edge flap transmission no-back brakes with skewed roller no-back brakes at the trailing edge flap transmission, positions 4 and 5, in accordance with Boeing Special Attention Service Bulletin 747–27–2422, dated October 30, 2008.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Douglas Tsuji, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6487; fax (425) 917–6590.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector

(PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

Material Incorporated by Reference

(i) You must use Boeing Special Attention Service Bulletin 747–27–2422, dated October 30, 2008, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com*.

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–23555 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0897; Directorate Identifier 2009–CE–048–AD; Amendment 39–16036; AD 2009–20–13]

RIN 2120–AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–100 Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

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

During a pre-flight inspection of a DG–100 sailplane, a rod end of the aileron control push-rod at the control column was found broken.

The investigation revealed that the broken rod end was made of machining steel as initially used in the first years at Glaser-Dirks.

This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective October 21, 2009.

On October 21, 2009, the Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD.

We must receive comments on this AD by November 16, 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 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: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Emergency AD No.: 2009–0167–E, dated July 30, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During a pre-flight inspection of a DG–100 sailplane, a rod end of the aileron control push-rod at the control column was found broken.

The investigation revealed that the broken rod end was made of machining steel as initially used in the first years at Glaser-Dirks.

This new Airworthiness Directive (AD) mandates inspection and as necessary replacement of the control column rod ends with high-strength steel rod ends.

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

Relevant Service Information

DG Flugzeugbau GmbH has issued Technical note No. 301/25, 323/16, Rev. 1, dated August 4, 2009. 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 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 issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences between this AD and the MCAI or Service Information

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

We might have also required different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the AD. These requirements take precedence over those copied from the MCAI.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a recent pre-flight inspection detected a broken rod end of the aileron control push rod in the control column. An investigation revealed that the broken rod end was made of machining steel that was used in the initial production years of Glaser-Dirks. The aileron control column push rod has been redesigned and is now made from high strength steel. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0897; Directorate Identifier 2009–CE–048–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–20–13 Glaser-Dirks Flugzeugbau GmbH: Amendment 39–16036; Docket No. FAA–2009–0897; Directorate Identifier 2009–CE–048–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective October 21, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model DG–100 gliders, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

Reason

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

''During a pre-flight inspection of a DG–100 sailplane, a rod end of the aileron control push-rod at the control column was found broken. The investigation revealed that the broken rod end was made of machining steel as initially used in the first years at Glaser-Dirks. This new Airworthiness Directive (AD) mandates inspection and as necessary replacement of the control column rod ends with high-strength steel rod ends.''

Actions and Compliance

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

(1) Before further flight after October 21, 2009 (the effective date of this AD), inspect the control column rod end following paragraph 1 of the Instructions section of DG Flugzeugbau Technical note No. 301/25, 323/16, Rev. 1, dated August 4, 2009.

(2) If, during the inspection, an X is not found on the rod end, replace the rod end with a high-strength steel rod end (identified with an X on the rod end) following paragraph 2 of the Instructions section of DG Flugzeugbau Technical note No. 301/25, 323/16, Rev. 1, dated August 4, 2009, as follows:

(i) Before further flight if any defects (cracks, corrosion pits, etc.) are found; or

(ii) Within 3 months after October 21, 2009 (the effective date of this AD) if no defects are found.

(3) As of the effective date of this AD, adhere to the following using the referenced service information:

(i) If installing a rod end without an X, ensure it has passed the inspection in paragraph (f)(1) of this AD and replace it with one with an X no later than 3 months after October 21, 2009 (the effective date of this AD); and

(ii) As of 3 months after October 21, 2009 (the effective date of this AD), only install a rod end with an X.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows:

(1) DG Flugzeugbau GmbH Technical Note No. 301/25, 323/16, Rev. 1, dated August 4, 2009, states that instruction 1 may be executed by the pilot/owner. By FAA regulations, this AD requires all affected gliders to have the required actions done by an appropriately-rated mechanic.

(2) The MCAI states to do the actions following DG Flugzeugbau GmbH Technical Note No. 301/25 or DG Flugzeugbau GmbH Technical Note No. 323/16, both initial issue dated July 17, 2009. DG Flugzeugbau GmbH updated the technical note after the MCAI was issued. We are requiring you use the updated technical note (DG Flugzeugbau GmbH Technical Note No. 301/25, 323/16, Rev. 1, dated August 4, 2009) to do the actions required.

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: Greg Davison, Glider Program Manager, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4130; 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 European Aviation Safety Agency (EASA) Emergency AD No.: 2009–0167–E, dated July 30, 2009, and DG Flugzeugbau GmbH Technical Note No. 301/25, 323/16, Rev. 1, dated August 4, 2009, for related information.

Material Incorporated by Reference

(i) You must use DG Flugzeugbau GmbH Technical Note No. 301/25, 323/16, Rev. 1, dated August 4, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact DG Flugzeugbau GmbH, Otto-Lilienthal-Weg 2, 76646 Bruchsal, Federal Republic of Germany; telephone: + 49 (0) 7251 3020140; Fax: +49 (0) 7251 3020149; Internet: *http://www.dg-flugzeugbau.de/index-e.html*; E-Mail: *dirks@dg-flugzeugbau.de.*

(3) You may review copies of the service information incorporated by reference for this AD at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the Central Region, call (816) 329–3768.

(4) You may also review copies of the service information incorporated by reference for this AD at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Kansas City, Missouri on September 24, 2009.

Scott A. Horn,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–23543 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0646; Directorate Identifier 2007–NM–359–AD; Amendment 39–16031; AD 2009–20–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Boeing Model 727 airplanes. This AD requires performing an operational test of the engine fuel suction feed of the fuel system, and other related testing and corrective actions if necessary. This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed capability of the fuel system, which could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

DATES: This AD becomes effective November 5, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 5, 2009.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Boeing Model 727 airplanes. That supplemental NPRM was published in the **Federal Register** on December 10, 2008 (73 FR 75009). That supplemental NPRM proposed to require performing an operational test of the engine fuel suction feed of the fuel system, and other related testing and corrective actions if necessary. That supplemental NPRM also proposed to reduce the compliance time for low-utilization airplanes.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments received on the supplemental NPRM.

Support for the AD

Boeing concurs with the content of the supplemental NPRM.

Request for Credit for Certain Actions in AD 2007–11–08

FedEx Express states that the operational test of the engine fuel suction feed of the fuel system, provided in Boeing Service Bulletin 727–28–80, dated June 21,1985, and specified in paragraph (f) of the supplemental NPRM, seems to be equivalent to the operational test required by AD 2007–11–08, amendment 39–15065 (72 FR 28594, May 22, 2007). We referred to Boeing Alert Service Bulletin 727–28–A0132, dated February 22, 2007, as the appropriate source of service information for doing certain requirements (including an operational test) in AD 2007–11–08. FedEx Express believes that the supplemental NPRM

accomplishes the same operational test as AD 2007–11–08.

From this comment, we infer that FedEx Express is requesting that we give credit in this AD for operational tests done in accordance with Boeing Alert Service Bulletin 727–28–A0132, dated February 22, 2007, as required by AD 2007–11–08. We agree. The operational test specified in Boeing Alert Service Bulletin 727–28–A0132, dated February 22, 2007; and Boeing Service Bulletin 727–28–80, dated June 21, 1985; are equivalent procedures found in the Boeing 727 airplane maintenance manual (AMM). Therefore, we have added a new paragraph (g) to this AD, and reidentified subsequent paragraphs accordingly, to give credit for operational tests done in accordance with AD 2007–11–08.

Request for Clarification of Compliance With Special Federal Aviation Regulation 88 (SFAR 88) Requirements

FedEx Express asks if Boeing has reviewed and identified any critical design configuration control limitations (CDCCLs) items in Boeing Service Bulletin 727–28–80, dated June 21, 1985.

From this question, we infer that FedEx Express is asking for clarification of whether this AD is compliant with SFAR 88. We reviewed Boeing Service Bulletin 727–28–80, and found that the actions specified do not change the airplane type design. During SFAR 88 evaluations, the original design in this area was not identified as one requiring a CDCCL to comply with the SFAR 88 requirements. Therefore, there are no SFAR 88 CDCCLs associated with Boeing Service Bulletin 727–28–80, dated June 21, 1985, or this AD. We have made no change to the AD in this regard.

Request for Clarification of Functional Test

FedEx Express states that page 24, Step G., of Boeing Service Bulletin 727–28–80, dated June 21, 1985, specifies performing a functional test per the Boeing 727 AMM. FedEx Express notes that there is no functional test specified in the current Boeing 727 AMM.

From this statement, we infer that FedEx Express is requesting clarification of the functional test that is provided in Boeing Service Bulletin 727–28–80. We have reviewed Subject 28–22–0 of the Boeing 727 AMM, and have determined that the title of the functional test specified in the AMM has changed from ''Engine Fuel Feed System Functional Test'' to ''Engine Fuel Suction Feed—Operational Test.'' Although the title of this action has changed, we have confirmed that doing the operational test, as specified in Boeing Service Bulletin 727–28–80, fulfills the functional test requirements of this AD. We have not changed the AD in this regard.

Request for Clarification of AD Requirements

FedEx Express asks for clarification of whether the current actions in the supplemental NPRM are applicable to airplanes on which the auxiliary fuel tanks have been removed and/or deactivated.

We agree that clarification in this regard is necessary. The effectivity of Boeing Service Bulletin 727–28–80, dated June 21, 1985, has been divided into airplane groups to reflect different engine fuel feed systems and fuel tank configurations based on the original type certificate configuration. The work instructions of Boeing Service Bulletin 727–28–80, dated June 21, 1985, do not address airplane configurations on which the auxiliary fuel tanks have been removed or deactivated.

Regardless, as provided in sections 39.15 through 39.21 of the Federal Aviation Regulations (14 CFR 39.15 through 39.21), an AD applies to each product identified in the AD, even if an individual product has been changed in the area addressed by the AD. If a change in a product affects an operator's ability to accomplish actions required by the AD, the operator must request approval of an alternative method of compliance (AMOC). According to the provisions of paragraph (i) of this AD, we may approve a request to allow an AMOC to the requirements of this AD for airplanes that have had the auxiliary fuel tanks removed or deactivated, if the request includes data that show that it would provide an acceptable level of safety. We have not changed the AD in this regard.

Request to Change Compliance Time

FedEx Express states that the repetitive detailed inspections and engine fuel suction feed operational tests in AD 2007–11–08 are required at intervals not to exceed 15,000 flight cycles, whereas the repetitive operational tests in the supplemental NPRM are required at intervals not to exceed 7,000 flight hours or 18 months, whichever occurs first. FedEx Express adds that the operational test in the supplemental NPRM would be repeated twice as often within those time periods.

From these statements, we infer that FedEx Express is asking that the repetitive intervals in the supplemental NPRM be changed to match the repetitive intervals in AD 2007–11–08. We do not agree. The requirements in AD 2007–11–08 mandate inspection for wear or chafing of the aluminum conduit of the fuel boost pump. That AD was issued after an outboard fuel tank exploded due to arcing of the wire against the metal conduit. The intervals for the suction feed check in that AD coincide with re-inspection of the wire bundles. In addition, the latent failure condition addressed in the supplemental NPRM was re-analyzed based on allowable failure rates to preclude unsafe system performance, while taking into account the timing of heavy maintenance checks. Although the repetitive interval in the supplemental NPRM does equate to performing the test twice as often as the interval in AD 2007–11–08, analysis indicates that doing the test at the proposed intervals is necessary to address the unsafe condition identified in this AD in a timely manner and to provide an acceptable level of safety. We have not changed the AD in this regard.

Conclusion

We have carefully reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Costs of Compliance

We estimate that this AD affects 709 airplanes of U.S. registry. We also estimate that it takes 1 work-hour per product, per test, to comply with this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $56,720, or $80 per product, per test.

Authority for this Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for

safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

2009–20–08 Boeing: Amendment 39–16031. Docket No. FAA–2008–0646; Directorate Identifier 2007–NM–359–AD.

Effective Date

(a) This AD becomes effective November 5, 2009.

Affected ADs

(b) None.

Applicability

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

Unsafe Condition

(d) This AD results from a report of in-service occurrences of loss of fuel system suction feed capability, followed by total loss of pressure of the fuel feed system. We are issuing this AD to detect and correct failure of the engine fuel suction feed of the fuel system, which could result in multi-engine flameout, inability to restart the engines, and consequent forced landing of the airplane.

Compliance

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

Operational Test/Other Specified Actions

(f) Within 7,000 flight hours or 18 months after the effective date of this AD, whichever occurs first: Perform an operational test of the engine fuel suction feed of the fuel system, and perform all other related testing and corrective actions, as applicable, before further flight, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–28–80, dated June 21, 1985. Repeat the operational test thereafter at intervals not to exceed 7,000 flight hours or 36 months, whichever occurs first.

Credit for Actions Done in Accordance With AD 2007–11–08, Amendment 39–15065

(g) Operational tests of the engine fuel suction feed of the fuel system and follow-on corrective actions done in accordance with the requirements of AD 2007–11–08 are acceptable for compliance with the corresponding requirements of this AD if done within the compliance time specified in this AD.

Operator's Equivalent Procedure

(h) If any discrepancy is found, and Boeing Service Bulletin 727–28–80, dated June 21, 1985, specifies that certain actions (*i.e.,* a vacuum test of the fuel feed system) may be accomplished using an operator's ''equivalent procedure'' (with substitute test equipment): The actions must be accomplished in accordance with Figure 4 of Boeing Service Bulletin 727–28–80, dated June 21, 1985.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sue Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6438; fax (425) 917–6590. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

Material Incorporated by Reference

(j) You must use Boeing Service Bulletin 727–28–80, dated June 21, 1985, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com*; Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–23508 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1363; Directorate Identifier 2008–NM–104–AD; Amendment 39–16032; AD 2009–20–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 767–200, –300, and –300F series airplanes. This AD requires repetitive inspections for fatigue cracking and corrosion of the upper link

fuse pin of the nacelle struts, and related investigative and corrective actions if necessary. This AD also provides terminating action for the repetitive inspections. This AD results from two reports of cracked upper link fuse pins. We are issuing this AD to prevent fatigue cracking or corrosion of the upper link fuse pin, which could result in failure of the fuse pin and consequent reduced structural integrity of the nacelle strut and possible separation of the strut and engine from the airplane during flight.

DATES: This AD is effective November 5, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 5, 2009.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain Boeing Model 767–200, –300, and –300F series airplanes. That NPRM was published in the **Federal Register** on January 12, 2009 (74 FR 1155). That NPRM proposed to require repetitive inspections for fatigue cracking and corrosion of the upper link fuse pin of the nacelle struts, and related investigative and corrective actions if necessary. That NPRM also proposed to provide terminating action for the repetitive inspections.

Comments

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

Support for the AD

Boeing concurs with the content of the NPRM. Air Transport Association (ATA) on behalf of its members Delta Airlines and United Airlines (UAL) agrees with the intent of the NRPM, and provides the following recommendations from its members.

Request to Add a Note of Clarification

Delta asks that we revise the NPRM to include a note in the AD which specifies that the upper link inspections can be done with the pylon and/or engine in any position. Delta states that Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008, specifies doing a visual inspection with ''the fuse pin in place, without engine removal and strut removal.'' Delta notes that there are times when engines or pylons are removed for other reasons, and it would prefer not to wait until the engine and strut are reinstalled. Delta states that the procedures specified in Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008, allow fuse pin inspections with the engines and pylons in any position. Delta adds that related service information, Boeing Telex 1–1154785301, dated January 21, 2009 (released after the NPRM was issued), specifies that the upper link inspections can be done with the pylon and/or engine in any position.

We agree with the commenter's request. For the reasons provided by Delta, we have included a new Note 1 after paragraph (f) of this AD to specify that the upper link inspections can be done with the pylon and/or engine in any position.

Request to Define ''References''

Delta asks that we revise the NPRM to include a note to clarify that the ''References'' column in the table in Figure 2 of Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008, should be treated as ''refer to'' material (which is information that provides guidance for using related procedures), as defined in Note 9 of paragraph 3.A. of that service bulletin. Delta points out that the procedures in Boeing Telex 1–1154785301, dated January 21, 2009, specify that the airplane maintenance manual (AMM) and standard operating procedures manual (SOPM) are identified in the ''References'' column of that table as ''refer to'' material so that operator equivalent procedures may be used.

We agree that the material in the ''References'' column in the table in Figure 2 of Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008, refers to the procedures in the specified manuals and should be treated as guidance for using related procedures. However, to add a note to this AD could be confusing because none of the paragraphs in the AD refer to the procedures in those manuals. Therefore, we have made no change to the AD in this regard.

Request to Add a Note Clarifying Application of Primer

Delta asks that we revise the NPRM to include a note to clarify that re-application of primer in accordance with Steps 4.b.(1) and 4.b.(2) of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008, is necessary only to touch up bare areas of the fuse pin. Delta states that paragraph 3.B, Step 4.b., of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008, specifies applying two coats of Boeing Material Specification (BMS) 10–11 primer after each inspection if no cracks are found during the inspection. Delta notes that the procedure does not specify ''touching up primer'' but rather applying two coats each time. Delta adds that since the repeat inspection interval is much shorter, the fuse pin will have ten coats of primer built up over the next ten years, and asserts that the inspection cannot be done through ten coats of primer. Delta points out that Boeing has confirmed in Boeing Telex 1–1154785301, dated January 21, 2009, that two coats of primer are required only to touch up bare areas on the fuse pin.

We agree that clarification is necessary for the reasons provided by Delta. We have included a new Note 2 after paragraph (f) of this AD to specify that two coats of primer are necessary only to touch up bare areas of the fuse pin.

Request to Provide Credit for Inspections Done Using Previous Service Information

UAL asks that operators be given credit for inspections done before the effective date of the AD in accordance with Boeing Service Bulletin 767–54–0074, dated March 27, 1997. UAL notes

that paragraph (h) of the NPRM provides credit for the replacement of fuse pins done in accordance with Boeing Service Bulletin 767–54–0074, dated March 27, 1997, but does not provide credit for the inspections, even though the procedures in the original issue and Revision 1 of the service bulletin are the same.

We agree with the commenter. We have confirmed that inspections done before the effective date of this AD in accordance with Boeing Service Bulletin 767–54–0074, dated March 27, 1997, are acceptable for compliance with the inspection requirements of paragraph (f) of this AD. However, we point out that Boeing Service Bulletin 767–54–0074, dated March 27, 1997, allows the use of operator's equivalent procedures, which Boeing Service Bulletin 767–54–0074, Revision 1, dated April 24, 2008, does not allow. Therefore, we have revised paragraph (h) of this AD to give credit for inspections done before the effective date of this AD in accordance with Boeing Service Bulletin 767–54–0074, dated March 27, 1997, provided that the inspection was not done using operator's equivalent procedures.

Request to Clarify Certain Language in Paragraph (h) of the NPRM

UAL suggests that paragraph (h) of the NPRM be revised to clarify the meaning of ''corresponding requirements.'' UAL states that paragraph (h) of the NPRM specifies that replacement of the fuse pins in accordance with Boeing Service Bulletin 767–54–0074, dated March 27, 1997, is acceptable for compliance with the ''corresponding requirements'' of this AD. UAL notes that the phrase ''for compliance with the 'corresponding requirements' of this AD'' is very vague.

We agree that clarification is necessary for the reasons provided by the commenter. We have changed paragraph (h) of this AD to refer to paragraph (f) of this AD for the inspections and paragraph (g) of this AD for the modification.

Request to Extend Grace Period

Aeroflot asks that we increase the grace period for the inspections so that operators can prepare for accomplishment of the requirements in the AD. Aeroflot states that it is convenient to plan the work with common access SC-Checks, and adds that the NPRM gives a simple C-Check preparation period. Aeroflot states that this work has an economic impact with the time used in preparation and gaining access.

We do not agree with the commenter's request. In developing an appropriate compliance time for this AD, we considered not only the safety implications, but the manufacturer's recommendations, and the practical aspect of accomplishing the actions within an interval of time that corresponds to typical scheduled maintenance for affected operators. However, under the provisions of paragraph (i) of this AD, we may consider requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have made no change to the AD in this regard.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 354 airplanes of U.S. registry. We also estimate that it will take 4 work-hours per product to comply with this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $113,280, or $320 per product.

Authority for this Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–20–09 Boeing: Amendment 39–16032. Docket No. FAA–2008–1363; Directorate Identifier 2008–NM–104–AD.

Effective Date

(a) This airworthiness directive (AD) is effective November 5, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Boeing Model 767–200, –300, and –300F series airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008.

Unsafe Condition

(d) This AD results from two reports of cracked upper link fuse pins. We are issuing this AD to prevent fatigue cracking or corrosion of the upper link fuse pin, which could result in failure of the fuse pin and consequent reduced structural integrity of the nacelle strut and possible separation of the strut and engine from the airplane during flight.

Compliance

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

Initial and Repetitive Inspections/ Investigative and Corrective Actions

(f) Inspect the upper link fuse pin of the nacelle struts for fatigue cracking and corrosion at the applicable time specified in Table 1 of this AD. Do the applicable inspection by doing all the applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008; and do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspection at intervals not to exceed 3,000 flight cycles or 24 months, whichever is first, until the requirements of paragraph (g) of this AD have been done.

TABLE 1—COMPLIANCE TIMES

Engine type	At the later of: initial inspection threshold	Grace period
JT9D	14,000 total flight cycles	Within 3,000 flight cycles or 18 months after the effective date of this AD, whichever is first.
CF6–80A	24,000 total flight cycles	Within 3,000 flight cycles or 18 months after the effective date of this AD, whichever is first.
PW4000	8,000 total flight cycles	Within 3,000 flight cycles or 18 months after the effective date of this AD, whichever is first.
CF6–80C2	10,000 total flight cycles	Within 3,000 flight cycles or 18 months after the effective date of this AD, whichever is first.
RB211	24,000 total flight cycles	Within 3,000 flight cycles or 18 months after the effective date of this AD, whichever is first.

Note 1: The upper link inspections can be done with the pylon and/or engine in any position.

Note 2: In paragraph 3.B, Steps 4.b.(1)(a) and 4.b.(2)(b)2){a} of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008, the procedures specify to apply two layers of Boeing Material Specification (BMS) 10–11 primer to the inside surface of the fuse pin if no crack indication is found. However, two layers of primer are only necessary to touch up bare areas on the fuse pin if no crack indication is found.

Terminating Action in AD 2000–19–09, Amendment 39–11910, and AD 2004–16–12, Amendment 39–13768

(g) Accomplishment of the modification specified in paragraph (g)(1) or (g)(2) of this AD, as applicable, terminates the inspections required by paragraph (f) of this AD.

(1) For Model 767 series airplanes powered by Rolls-Royce RB211 series engines, as identified in AD 2000–19–09: Modification of the nacelle strut and wing structure, as required by paragraphs (a) and (b) of AD 2000–19–09.

(2) For Model 767–200, –300, and –300F series airplanes powered by Pratt & Whitney and General Electric engines, as identified in AD 2004–16–12: Modification of the nacelle strut and wing structure, as required by paragraphs (a), (b), (d), and (e) of AD 2004–16–12.

Credit for Actions Done Using Previous Service Information

(h) Inspection of the fuse pins before the effective date of this AD in accordance with Boeing Service Bulletin 767–54–0074, dated March 27, 1997, is acceptable for compliance with the inspections required by paragraph (f) of this AD if the inspections are accomplished without using an operator's equivalent procedure. Replacement of the fuse pins with new fuse pins before the effective date of this AD in accordance with Boeing Service Bulletin 767–54–0074, dated March 27, 1997, is acceptable for compliance with the modification required by paragraph (g) of this AD.

Alternative Methods of Compliance (AMOCs)

(i)(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, ATTN: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 917–6577; fax (425) 917–6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Or, e-mail information to *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

Material Incorporated by Reference

(j) You must use Boeing Alert Service Bulletin 767–54A0074, Revision 1, dated April 24, 2008; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1, fax 206–766–5680; e-mail *me.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–23506 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30687 Amdt. No 3340]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 1, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2009.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on September 18, 2009.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14,

Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 22 OCT 2009

Quinhagak, AK, Quinhagak, RNAV (GPS) RWY 12, Orig
Quinhagak, AK, Quinhagak, RNAV (GPS) RWY 30, Orig
Quinhagak, AK, Quinhagak, Takeoff Minimums and Obstacle DP, Orig
Alabaster, AL, Shelby County, VOR–A, Amdt 7
Birmingham, AL, Birmingham-Shuttlesworth Intl, ILS OR LOC RWY 6, ILS RWY 6 (CAT II) Amdt 42
Birmingham, AL, Birmingham-Shuttlesworth Intl, ILS OR LOC/DME RWY 24, Amdt 2
Birmingham, AL, Birmingham-Shuttlesworth Intl, LOC RWY 18, Amdt 1
Birmingham, AL, Birmingham-Shuttlesworth Intl, RNAV (GPS) RWY 6, Amdt 1
Birmingham, AL, Birmingham-Shuttlesworth Intl, RNAV (GPS) RWY 18, Amdt 1
Birmingham, AL, Birmingham-Shuttlesworth Intl, RNAV (GPS) RWY 24, Amdt 2
Birmingham, AL, Birmingham-Shuttlesworth Intl, RNAV (GPS) RWY 36, Amdt 1
Demopolis, AL, Demopolis Muni, NDB RWY 4, Amdt 1
Napa, CA, Napa County, RNAV (GPS) Z RWY 36L, Orig-A
Tracy, CA, Tracy Muni, GPS RWY 25, Orig, CANCELLED
Tracy, CA, Tracy Muni, NDB RWY 12, Amdt 1
Tracy, CA, Tracy Muni, RNAV (GPS) RWY 26, Orig
Tracy, CA, Tracy Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Tracy, CA, Tracy Muni, VOR/DME RWY 26, Orig
Tracy, CA, Tracy Muni, VOR OR GPS–A, Amdt 5, CANCELLED
Twentynine Palms, CA, Twentynine Palms, VOR RWY 26, Amdt 2A
Aspen, CO, Aspen-Pitkin Co/Sardy Field, LOC/DME–E, Amdt 1
Gunnison, CO, Gunnison-Crested Butte Rgnl, ILS OR LOC RWY 6, Amdt 5
Willimantic, CT, Windham, LOC RWY 27, Amdt 3
Washington, DC Washington Dulles Intl, RNAV (RNP) Z RWY 1C, Orig-C
Washington, DC Washington Dulles Intl, RNAV (RNP) Z RWY 1R, Orig-A
Washington, DC Washington Dulles Intl, RNAV (RNP) Z RWY 19C, Orig-B
Washington, DC Washington Dulles Intl, RNAV (RNP) Z RWY 19L, Orig-A
Wilmington, DE, New Castle, GPS RWY 9, Orig-B, CANCELLED
Wilmington, DE, New Castle, GPS RWY 27, Orig-A, CANCELLED
Wilmington, DE, New Castle, RNAV (GPS) RWY 1, Orig
Wilmington, DE, New Castle, RNAV (GPS) RWY 9, Orig
Wilmington, DE, New Castle, RNAV (GPS) RWY 19, Orig
Wilmington, DE, New Castle, RNAV (GPS) RWY 27, Orig
Miami, FL, Kendall-Tamiami Executive, RNAV (GPS) RWY 9L, Orig
Miami, FL, Kendall-Tamiami Executive, RNAV (GPS) RWY 27L, Amdt 1
Miami, FL, Kendall-Tamiami Executive, RNAV (GPS) RWY 27R, Orig
Titusville, FL, Space Coast Rgnl, ILS OR LOC RWY 36, Amdt 11
Titusville, FL, Space Coast Rgnl, RNAV (GPS) RWY 36, Orig
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS OR LOC RWY 26L, Amdt 19B
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS OR LOC RWY 26R, ILS RWY 26R (CAT II), Amdt 5
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS PRM RWY 26L (Simultaneous Close Parallel), Orig-A
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS PRM RWY 26R (Simultaneous Close Parallel), ILS PRM RWY 26R (CAT II), Amdt 1
Atlanta, GA, Newnan Coweta County, LOC RWY 32, Amdt 2
Atlanta, GA, Newnan Coweta County, RNAV (GPS) RWY 14, Amdt 1
Atlanta, GA, Newnan Coweta County, RNAV (GPS) RWY 32, Amdt 2
Brunswick, GA, Brunswick Golden Isles, ILS OR LOC RWY 7, Amdt 10
Cochran, GA, Cochran, RNAV (GPS) RWY 29, Orig
Cochran, GA, Cochran, Takeoff Minimums and Obstacle DP, Amdt 2
Cochran, GA, Cochran, VOR/DME RWY 5, Amdt 6
Jefferson, GA, Jackson County, RNAV (GPS) RWY 17, Amdt 1
Jefferson, GA, Jackson County, RNAV (GPS) RWY 35, Amdt 1
Jefferson, GA, Jackson County, Takeoff Minimums and Obstacle DP, Amdt 2
Jefferson, GA, Jackson County, VOR/DME RWY 35, Amdt 1
Jesup, GA, Jesup-Wayne County, NDB RWY 11, Amdt 2
Jesup, GA, Jesup-Wayne County, NDB RWY 29, Amdt 3
Jesup, GA, Jesup-Wayne County, RNAV (GPS) RWY 11, Orig
Jesup, GA, Jesup-Wayne County, RNAV (GPS) RWY 29, Orig
Jesup, GA, Jesup-Wayne County, Takeoff Minimums and Obstacle DP, Orig
Thomaston, GA, Thomaston-Upson County, ILS OR LOC RWY 30, Amdt 2
Thomaston, GA, Thomaston-Upson County, NDB RWY 30, Amdt 2
Thomaston, GA, Thomaston-Upson County, RNAV (GPS) RWY 12, Orig
Jerome, ID, Jerome County, GPS RWY 8, Orig, CANCELLED
Jerome, ID, Jerome County, GPS RWY 26, Orig, CANCELLED
Jerome, ID, Jerome County, RNAV (GPS) RWY 9, Orig
Jerome, ID, Jerome County, RNAV (GPS) RWY 27, Orig
Jerome, ID, Jerome County, Takeoff Minimums and Obstacle DP, Amdt 2
Jerome, ID, Jerome County, VOR/DME–A, Amdt 2
Fairfield, IL, Fairfield Muni, GPS RWY 9, Orig, CANCELLED
Fairfield, IL, Fairfield Muni, RNAV (GPS) RWY 9, Orig
Bogalusa, LA, George R Carr Memorial Air Fld, NDB OR GPS RWY 18, Amdt 3A, CANCELLED
Bogalusa, LA, George R Carr Memorial Air Fld, RNAV (GPS) RWY 18, Orig
Sault Ste Marie, MI, Chippewa County Intl, Takeoff Minimums and Obstacle DP, Orig
Boonville, MO, Jesse Viertel Memorial, NDB RWY 18, Amdt 10A, CANCELLED
Malden, MO, Malden Rgnl, RNAV (GPS) RWY 14, Orig
Malden, MO, Malden Rgnl, RNAV (GPS) RWY 18, Amdt 1
Malden, MO, Malden Rgnl, RNAV (GPS) RWY 32, Amdt 1
Malden, MO, Malden Rgnl, RNAV (GPS) RWY 36, Amdt 1
Malden, MO, Malden Rgnl, Takeoff Minimums and Obstacle DP, Orig
Malden, MO, Malden Rgnl, VOR RWY 32. Amdt 9
Malden, MO, Malden Rgnl, VOR/DME RWY 14. Amdt 1
Philadelphia, MS, Philadelphia Muni, RNAV (GPS) RWY 18, Amdt 1
Philadelphia, MS, Philadelphia Muni, RNAV (GPS) RWY 36, Amdt 1
Philadelphia, MS, Philadelphia Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Greensboro, NC, Piedmont Triad Intl, ILS OR LOC RWY 5L, ILS RWY 5L (CAT II), ILS RWY 5L (CAT III), Orig
Greensboro, NC, Piedmont Triad Intl, ILS OR LOC RWY 5R, ILS RWY 5R (CAT II), Amdt 7
Greensboro, NC, Piedmont Triad Intl, ILS OR LOC RWY 23R, Orig
Greensboro, NC, Piedmont Triad Intl, RNAV (GPS) RWY 5L, Orig
Greensboro, NC, Piedmont Triad Intl, RNAV (GPS) RWY 23R, Orig
Reidsville, NC, Rockingham County NC Shiloh, GPS RWY 31, Orig, CANCELLED
Reidsville, NC, Rockingham County NC Shiloh, NDB RWY 31, Amdt 5
Reidsville, NC, Rockingham County NC Shiloh, RNAV (GPS) RWY 13, Orig
Reidsville, NC, Rockingham County NC Shiloh, RNAV (GPS) RWY 31, Orig
Reidsville, NC, Rockingham County NC Shiloh, Takeoff Minimums and Obstacle DP, Amdt 2
Reidsville, NC, Rockingham County NC Shiloh, VOR/DME–A, Amdt 9
Potsdam, NY, Potsdam Muni/Damon Fld, Takeoff Minimums and Obstacle DP, Orig
Rochester, NY, Greater Rochester Intl, ILS OR LOC RWY 4, ILS RWY 4 (CAT II), Amdt 20
Boise City, OK, Boise City, Takeoff Minimums and Obstacle DP, Orig

Columbia, SC, Jim Hamilton L.B. Owens, RADAR–1, Amdt 2
Brownfield, TX, Terry County, GPS RWY 2, Amdt 1A, CANCELLED
Brownfield, TX, Terry County, RNAV (GPS) RWY 2, Orig
Brownfield, TX, Terry County, RNAV (GPS) RWY 20, Orig
Brownfield, TX, Terry County, Takeoff Minimums and Obstacle DP, Orig
Corpus Christi, TX, Corpus Christi Intl, ILS OR LOC RWY 13, Amdt 27
Corpus Christi, TX, Corpus Christi Intl, ILS OR LOC RWY 35, Amdt 12
Corpus Christi, TX, Corpus Christi Intl, RNAV (GPS) RWY 13, Amdt 1
Floydada, TX, Floydada Muni, RNAV (GPS) RWY 17, Orig
Floydada, TX, Floydada Muni, RNAV (GPS) RWY 35, Orig
Floydada, TX, Floydada Muni, Takeoff Minimums and Obstacle DP, Orig
Houston, TX, West Houston, Takeoff Minimums and Obstacle DP, Amdt 3
Orange, TX, Orange County, NDB OR GPS–A, Amdt 1, CANCELLED
Orange, TX, Orange County, RNAV (GPS) RWY 22, Orig
Orange, TX, Orange County, Takeoff Minimums and Obstacle DP, Orig
Emporia, VA, Emporia-Greensville Rgnl, RNAV (GPS) RWY 15, Orig
Hoquiam, WA, Bowerman, RNAV (GPS) RWY 6, Amdt 1
Hoquiam, WA, Bowerman, RNAV (GPS) RWY 24, Amdt 1
Clarksburg, WV, North Central West Virginia, ILS OR LOC RWY 21, Amdt 2
Jackson, WY, Jackson Hole, RNAV (RNP) Y RWY 1, Orig-A
Jackson, WY, Jackson Hole, RNAV (RNP) Z RWY 1, Orig-B
Jackson, WY, Jackson Hole, RNAV (RNP) Z RWY 19, Orig-A
Pinedale, WY, Pinedale/Ralph Wenz Field, NDB RWY 29, Amdt 1A, CANCELLED
Pinedale, WY, Pinedale/Ralph Wenz Field, NDB–A, Orig
Pinedale, WY, Pinedale/Ralph Wenz Field, Takeoff Minimums and Obstacle DP, Amdt 2

On Monday, September 14, 2009 (74 FR 176) The FAA published several Amendments in Docket No. 30683; Amdt No. 3336 to Part 97 of the Federal Aviation Regulations under sections 97.23 and 97.33. The following entries are hereby corrected to have an effective date of October 22, 2009:

Daggett, CA, Barstow-Daggett, RNAV (GPS) RWY 22, Amdt 1
Daggett, CA, Barstow-Daggett, RNAV (GPS) RWY 26, Amdt 1
Daggett, CA, Barstow-Daggett, Takeoff Minimums and Obstacle DP, Amdt 2
Daggett, CA, Barstow-Daggett, VOR OR TACAN RWY 22, Amdt 9

[FR Doc. E9–23101 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 97

[Docket No. 30688; Amdt. No. 3341]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 1, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2009.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169, or

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125), telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures

(TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on September 18, 2009.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.29 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22–Oct–09	TX	Llano	Llano Muni	9/7728	9/3/2009	VOR–A, AMDT 3.
22–Oct–09	NY	Saratoga Springs	Saratoga County	9/8985	9/10/2009	RNAV (GPS) RWY 23, AMDT 1.
22–Oct–09	AK	Kotlik	Kotlik	9/8994	9/10/2009	RNAV (GPS) RWY 2, ORIG–A.
22–Oct–09	CA	Long Beach	Long Beach/Daugherty Field	9/9048	9/10/2009	VOR OR TACAN RWY 30, AMDT 8A.
22–Oct–09	CA	Long Beach	Long Beach/Daugherty Field	9/9049	9/10/2009	ILS OR LOC RWY 30, AMDT 32D.
22–Oct–09	OR	Newport	Newport Muni	9/9058	9/10/2009	VOR/DME RWY 34, AMDT 1.
22–Oct–09	CA	Grass Valley	Nevada County Airpark	9/9062	9/10/2009	GPS RWY 7, ORIG.
22–Oct–09	CA	Grass Valley	Nevada County Airpark	9/9064	9/10/2009	VOR OR GPS–A, AMDT 1.

[FR Doc. E9–23103 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 622

[Docket No. 071025620–91118–03]

RIN 0648–AW19

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery off the Southern Atlantic States; Amendment 7

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 7 to the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). For South Atlantic rock shrimp, this final rule renames the rock shrimp permit and endorsement; requires all South Atlantic shrimp permit holders to provide economic data if selected; reinstates all limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement; removes the 15,000–lb (6,804–kg) rock shrimp landing requirement; and reinstates all limited access rock shrimp endorsements lost due to not meeting the landing requirement. NMFS also implements several non-substantive changes in codified text through this final rule. NMFS also informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirement contained in this final rule and publishes the OMB control number for that collection. The intended effect of this final rule is to improve data collection, reduce permit confusion, and maintain a viable rock shrimp fishery in the South Atlantic region.

DATES: This final rule is effective November 2, 2009.

ADDRESSES: Copies of the Environmental Assessment, the Final Regulatory Flexibility Analysis (FRFA), and the Finding of No Significant Impact may be obtained from Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information

requirements contained in this final rule may be submitted to Rich Malinowski, Southeast Regional Office, NMFS, and by e-mail to *David_Rostker@omb.eop.gov*, or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, telephone: 727–824–5305.

SUPPLEMENTARY INFORMATION: The shrimp fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On June 1, 2009, NMFS published a notice of availability for Amendment 7 and requested public comments (74 FR 26170). On June 24, 2009, NMFS published the proposed rule to implement Amendment 7 and requested public comments (74 FR 30034). NMFS approved Amendment 7 on August 19, 2009. The rationale for the measures contained in Amendment 7 is provided in the amendment and the preamble to the proposed rule and is not repeated here.

Comments and Responses

NMFS received 153 public comments on Amendment 7 and the proposed rule, including 1 comment from a governmental agency, 148 comments from individuals (including 145 copies of a form letter sent by individuals), and 4 comments from non-governmental agencies. Six comments were in favor of the measures contained in the amendment and the rule, and the remaining comments, including all those in the form letter, were opposed to the amendment and the rule. The following is a summary of the comments received that were opposed to the amendment and the rule, and NMFS' respective responses.

Comment 1: Commenters who signed the form letter stated that rock shrimping kills juvenile red snapper and grouper; therefore, all shrimping in the EEZ should be eliminated.

Response: No evidence exists that the rock shrimp trawl fleet captures juvenile red snapper. During 2001-2006, NMFS initiated observer coverage of the rock shrimp fishery in the U.S. southeastern Atlantic (east coast). The primary objective of this effort was to estimate catch rates for target and non-target species. Results of this study show rock shrimp comprised 16 percent of the total catch, followed by dusky flounder (13 percent), inshore lizardfish (11 percent), iridescent swimming crab (7 percent), longspine swimming crab (6 percent), spot (5 percent), blotched swimming crab and brown shrimp (3 percent each), and horned searobin and brown rock shrimp (2 percent each). Other finfish species were rock sea bass, bluespotted searobin, red goatfish, and lefteye flounder. Most of these species, with the exception of spot, are not targeted in commercial or recreational fisheries. A summary of bycatch issues for the rock shrimp fishery and a report on the above study can be found in Amendment 7 to the Shrimp FMP.

Confusion about rock shrimp bycatch likely results from evidence that the fishery for penaeid shrimp (pink, white, and brown shrimp) in the Gulf of Mexico catches a high level of juvenile red snapper. However, no evidence exists that the penaeid shrimp fishery in the South Atlantic has the same level of red snapper catch. In fact, the Southeast Area Monitoring and Assessment Program - South Atlantic Coastal Survey has not caught any red snapper during shallow water trawl studies since 2007, and no more than two red snapper in any year during 1995–2007.

Comment 2: One individual stated no permits should be required for rock shrimp fishing because the cost and difficulty of finding rock shrimp effectively regulate the fishery.

Response: Permits have been required in the South Atlantic rock shrimp fishery since 1996. Permits provide NMFS with a vehicle to collect data on fishing activity and catch, and to help enforce regulations for vessels subject to Federal jurisdiction. The data on fishing activity and catch are necessary for the Council and NMFS to comply with the Magnuson-Stevens Act and other applicable laws.

Other Non-Substantive Changes Implemented by NMFS

This final rule corrects a number of non-substantive errors in 50 CFR part 622. In § 622.6, this rule corrects a subject heading that was misidentified as ''Gulf and South Atlantic EEZ'', as it should read ''South Atlantic EEZ''. In § 622.34, a subject heading is added to paragraph (k)(1) because it had been inadvertently removed in a prior rulemaking. In § 622.41, paragraphs (a)(4)(i)-(iii) are added to paragraph (a)(4), as these paragraphs were inadvertently removed in a prior rulemaking. These corrections are unrelated to the actions taken via Amendment 7.

Classification

The Administrator, Southeast Region, NMFS, determined that Amendment 7 is necessary for the conservation and management of the shrimp fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

An FRFA was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant economic issues raised by public comments, NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

This final rule will rename the rock shrimp permit and endorsement, require all South Atlantic shrimp permit holders to provide economic data if selected, reinstate all limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement, remove the 15,000–lb (6,804–kg) rock shrimp landing requirement, and reinstate all limited access rock shrimp endorsements lost due to not meeting the landing requirement. The purposes of this final rule are to ensure that sufficient effort remains active to sustain the fishery and its infrastructure and the Council has necessary economic data to satisfy requirements under the Magnuson-Stevens Act and other statutes.

No significant issues associated with the economic analysis were raised through public comment on the proposed rule. A summary of all comments is provided in the previous section of this preamble. No changes were made in the final rule as a result of these comments.

Within the South Atlantic shrimp fisheries, vessels may possess one or more of the following Federal permits: a penaeid shrimp permit, an open access rock shrimp permit, and a limited access rock shrimp endorsement. As of April 2008, NMFS issued 266 open access rock shrimp permits, 620 penaeid shrimp permits, and 155 limited access rock shrimp endorsements. Of the 155 limited access rock shrimp endorsements, 125 were active or renewable and 30 had been terminated. The total number of vessels that possessed one or more of these permits or endorsements was 694, and, thus, this is the maximum number of vessels that could be directly impacted by the actions in this final rule. Of these 694 vessels, 293 vessels also possessed Gulf shrimp moratorium permits, and, therefore, only 401 vessels are unique to the South Atlantic shrimp fisheries.

The fleet of vessels with limited access rock shrimp endorsements is fairly homogeneous with respect to its physical characteristics. The average or typical vessel in this fleet is approximately 20 years old, nearly 73 ft (22.3 m) in length, gross tonnage of 132 tons, with a fuel capacity of approximately 16,000 gallons (60,567 liters), and a hold capacity of more than 63,000 lb (28,576 kg) of shrimp. The average vessel typically uses four nets averaging between 55 and 60 ft (17.2–18.3 m) in length and uses between three and four crew on each trip. More than 90 percent of these vessels are large (60 ft (18.3 m) in length or greater) while less than 9 percent are small (less than 60 ft (18.3 m) in length). More than 87 percent of these vessels have on-board freezing capacity. More than two-thirds of these vessels have steel hulls, while the other vessels are nearly equally split between fiberglass and wood hulls.

Of the 155 vessels with limited access rock shrimp endorsements, 145 were commercially fishing at some point between 2003 and 2007, and 10 vessels with endorsements were not commercially active during these years. All of the commercially inactive vessels are state-registered boats that are older, smaller, and less powerful than the average vessel in the fleet.

Between 2003 and 2007, commercially active vessels with endorsements averaged nearly $284,000 in total revenue per year. These vessels' dependence on landings from the South Atlantic rock shrimp fishery was relatively low, on average, accounting for 7 percent of their total revenue during this time. These vessels were most dependent on revenue from the Gulf shrimp fishery, which, on average, accounted for nearly 46 percent of their total revenue. Revenue from South Atlantic penaeid shrimp landings and Northeast non-shrimp landings were also important, with each representing approximately 22 percent of their total revenue on average. The vast majority of the Northeast non-shrimp revenue came from Atlantic sea scallop landings. Thus, although South Atlantic rock shrimp landings were not unimportant to these vessels' operations, these vessels were considerably more dependent on other fisheries.

The fleet of 694 vessels that possessed one or more South Atlantic shrimp permits or endorsements is very heterogeneous with respect to its physical characteristics. For example, approximately 65 percent of the vessels are large while 35 percent are small. Less than 40 percent have on-board freezing capacity while nearly 60 percent rely on ice for storage purposes. With respect to their hulls, the fleet is approximately evenly split between steel, wood, and fiberglass. On average, this group of vessels is somewhat smaller, older, less technologically advanced and uses less crew and gear relative to vessels that only possess limited access rock shrimp endorsements. Related, between 2003 and 2007, the average total revenue per vessel was $185,000, or 35 percent less than vessels that only possess a limited access rock shrimp endorsement. Further, revenue from the Gulf shrimp, Northeast non-shrimp, and South Atlantic penaeid shrimp fisheries have accounted for 36 percent, 31 percent and 24 percent of total revenue on average during this time. Also, during this time period, the maximum total revenue for a single vessel was approximately $3.7 million.

With respect to the 401 vessels that possessed one or more South Atlantic shrimp permits or endorsements and did not possess a Gulf shrimp moratorium permit, they are also fairly heterogeneous with respect to their physical characteristics. However, on average, they are smaller, older, less technologically advanced and use less crew and gear than the fleet as a whole, and even more so compared to the vessels that only possess a limited access rock shrimp endorsement. For example, nearly 56 percent of these vessels are small, only 10 percent have on-board freezing capacity, and less than 18 percent have steel hulls. Related, between 2003 and 2007, the average total revenue per vessel was only about $135,000, or 27 percent less than the fleet as a whole and 53 percent less than vessels that only possess a limited access rock shrimp endorsement. Since these vessels do not possess a Gulf shrimp moratorium permit and thus cannot participate in the Federal Gulf shrimp fishery, approximately 40 percent of their total revenue comes from both the South Atlantic shrimp and Northeast non-shrimp fisheries respectively, with 15 percent coming from South Atlantic non-shrimp fisheries.

The Small Business Administration defines a small business in the commercial fishing industry as an entity that is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million annually (NAICS codes 114111 and 114112, finfish and shellfish fishing). Based on the annual revenues for the fishery provided above, all shrimp vessels expected to be directly impacted by this final rule are determined, for the purpose of this analysis, to be small entities.

The action to remove the 15,000–lb (6,804–kg) landing requirement will directly affect 27 vessels with active or renewable endorsements, the action to reinstate limited access rock shrimp endorsements lost due to not meeting the landing requirement will directly affect 43 vessels with active or renewable endorsements, the action to reinstate limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement will directly affect 5 vessels with terminated endorsements, and the action to rename the rock shrimp permit and endorsement will directly affect all 125 vessels with active or renewable endorsements and 5 vessels with terminated endorsements. In general, the action to require all South Atlantic shrimp permit holders to provide economic data if selected would apply to all 694 vessels with a South Atlantic penaeid or rock shrimp permit or endorsement. However, since 293 of these vessels possess a Gulf shrimp moratorium permit and therefore must already comply with economic data reporting requirements in that fishery, only 401 vessels will be directly affected by this action. Thus, NMFS determines that this final rule will affect a substantial number of small entities.

The action to remove the 15,000–lb (6,804–kg) landing requirement is expected to directly benefit at least 27 vessels by allowing them to retain their limited access rock shrimp endorsements. Under current regulations, these vessels would be expected to lose their endorsements during the next few years. By retaining their endorsements, these vessels are able to retain the market value of their endorsements, which is estimated to be $5,000. Further, they will retain their ability to participate in the fishery, which in the short term is expected to increase these vessels' average total revenue by only $600 per vessel but could be greater in the long term if they increase their level of participation in the fishery.

The action to reinstate limited access rock shrimp endorsements lost due to not meeting the landing requirement is expected to directly benefit 43 vessels by allowing them to retain their limited access rock shrimp endorsements. By retaining their endorsements, these vessels are able to retain the market value of their endorsements, which is estimated to be $5,000. Further, they will retain their ability to participate in the fishery, which in the short term is

expected to increase these vessels' average total revenue by $4,600 per vessel but could be greater in the long term if they increase their level of participation in the fishery.

The action to reinstate limited access rock shrimp endorsements for those vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement is expected to directly benefit 5 vessels by reinstating their endorsements. At present, these vessels' endorsements have been terminated and thus cannot be used to participate in the fishery and in turn have no market value. Reinstatement of these endorsements will allow these vessels to regain the market value of their endorsements, which is estimated to be $5,000. Further, they will regain their ability to participate in the fishery, which in the short term is expected to increase these vessels' average total revenue by $6,000 per vessel but could be greater in the long term if they increase their level of participation in the fishery.

The action to rename the rock shrimp permit and endorsement is expected to directly benefit 130 vessels by reducing the number of permits these vessels must possess and pay for in order to participate in the limited access rock shrimp fishery. The annual benefit is only $10 per vessel and therefore minimal.

The action to require all South Atlantic shrimp permit holders to provide economic data if selected is expected to adversely affect 401 vessels by requiring a sample to provide economic data on an annual basis. However, this reporting requirement would only impose an annual opportunity cost of approximately $15 per vessel. Therefore, this action is not expected to increase these vessels' operating costs and thus would not be expected to decrease their profits.

Three alternatives, including the status quo, were considered for the action to remove the 15,000–lb (6,804–kg) rock shrimp landing requirement. The first alternative, the status quo, would retain the landing requirement. In the long term, retention of the landing requirement would be expected to significantly and permanently reduce the maximum fleet size in the rock shrimp fishery. Specifically, the maximum fleet size under this alternative would only be approximately 37 percent of the Council's desired fleet size and 44 percent of its current fleet size. Such a result would be inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure. The second alternative to the proposed removal of the landing requirement would have reduced the landing requirement from 15,000 lb (6,804 kg) in at least one out of every four calendar years to 7,500 lb (3,402 kg) in at least one out of every four calendar years. Although this represents a 50–percent reduction in the landings requirement, few additional vessels would be able to meet this requirement relative to the 15,000–lb (6,804–kg) requirement. Therefore, similar to the status quo, this alternative would result in a significant and permanent reduction in the rock shrimp fishery's long-term maximum fleet size. Specifically, the maximum fleet size under this alternative would only be approximately 39 percent of the Council's desired fleet size and 47 percent of its current fleet size. Such a result would be inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure.

Three alternatives, including the status quo, were considered for the action to reinstate endorsements lost due to not meeting the 15,000–lb (6,804–kg) rock shrimp landing requirement at the end of the 2007 calendar year. The first alternative, the status quo, would not reinstate endorsements lost due to not meeting the 15,000–lb (6,804–kg) rock shrimp landing requirement at the end of the 2007 calendar year. Of the 125 vessels currently possessing active or renewable endorsements, 83 vessels were required to meet the landing requirement by the end of the 2007 calendar year. However, 43 vessels did not meet the landing requirement and thus their endorsements were not eligible for renewal in 2008. Upon these endorsements' termination, the maximum fleet size would be permanently reduced from 125 vessels to 82 vessels. Such a significant and permanent reduction in the maximum fleet size would be inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure. The second alternative considered for this action would reinstate endorsements to vessels landing at least 7,500 lb (3,402 kg) of rock shrimp in one of four consecutive calendar years. This alternative would only allow three more vessels with active or renewable endorsements to remain in the fishery relative to the no-action alternative. Hence, this alternative did not adequately address the Council's objective.

Three alternatives, including the status quo, were considered for the action to reinstate endorsements lost through failure to renew for vessels that renewed their open access permits. The first alternative, the status quo, would not reinstate endorsements that were lost through failure to renew for vessels that renewed their open access permits. At present, an open access permit is needed to harvest rock shrimp in the EEZ off of North and South Carolina while both the open access permit and the limited access endorsement are needed to harvest rock shrimp in the EEZ off of Georgia and east Florida. Five vessels that previously possessed endorsements renewed their open access permits but failed to simultaneously renew their endorsements. By renewing their open access permits, these vessels indicated that they intended to continue participating in the limited access component of the fishery in the future. Their failure to renew their endorsements at the same time may have been the result of confusion over the application and renewal process associated with the open access permit and the limited access endorsement. The Council does not consider the permanent loss of these endorsements to be an equitable outcome. Further, the unintended loss of these endorsements from the fishery is inconsistent with the Council's objective of retaining sufficient productive capacity in order to support the onshore infrastructure. The second alternative would extend the time allowed to renew endorsements by one calendar year after the effective date of this action. The outcome of this alternative is uncertain as it is dependent on whether the five affected vessel owners take the proper actions within the specified time period. Any vessel owners that did not would not have their vessels' endorsements reinstated, which in turn would result in an unintended and undesired reduction in the maximum fleet size, and, thus, this alternative is also potentially inconsistent with the Council's objective of retaining sufficient productive capacity in order to support the onshore infrastructure.

Two alternatives, including the status quo, were considered for the action to rename the rock shrimp permit and endorsement. At present, an open access permit is needed to harvest rock shrimp in the EEZ off of North and South Carolina while both the open access permit and the limited access endorsement are needed to harvest rock shrimp in the EEZ off of Georgia and

east Florida. Five vessels have already lost their endorsements possibly due to confusion associated with the current naming practice and more could be lost in the future. This unintended loss of additional endorsements from the fishery in the future possibly due to vessel owners' confusion with the current naming practice is inconsistent with the Council's objective of retaining sufficient productive capacity in order to support the onshore infrastructure.

Two alternatives, including the status quo, were considered for the action to specify VMS requirements for owners of vessels with limited access rock shrimp endorsements. The alternative to require VMS verification for all vessels with limited access endorsements, which would include those not operating in South Atlantic waters, could cause some vessel owners to relinquish their limited access endorsements, particularly those whose vessels are very small by industry standards and thus technologically incapable of supporting a VMS. Twenty-one vessels would be impacted by this alternative possibly resulting in additional reductions in the number of limited access endorsements. This is inconsistent with the Council's objective of retaining sufficient productive capacity in the fishery in order to support the onshore infrastructure.

Three alternatives, including the status quo, were considered for the action to require all South Atlantic shrimp permit holders to provide economic data if selected. The first alternative, the status quo, would not require South Atlantic shrimp permit holders to provide economic data. At present, economic data are lacking for the South Atlantic shrimp fisheries. The lack of such data makes it difficult for the Council to conduct regulatory impacts analyses that meet the requirements of the Magnuson-Stevens Act, National Environmental Protection Act, the Regulatory Flexibility Act, E.O. 12866, and other Federal statutes. Further, the reauthorized Magnuson-Stevens Act explicitly states that all fishery management plans must indicate all economic information necessary to meet the requirements of the Act. Thus, these data are needed in order for the Council to comply with these various mandates. Furthermore, the lack of such data can lead to potentially misleading information and guidance. Such misinformation can adversely affect decisions made by the Council and NMFS and thereby lead to unforeseen and unintended adverse economic and social consequences on fishery participants. The second alternative would require all shrimp permit holders to provide economic data each year. In effect, this alternative would require a census rather than a sample of permit holders to provide the necessary economic data. A census of permit holders is not required to provide statistically accurate and reliable estimates of important economic variables for the fishery and thus would constitute an unnecessarily onerous time burden on fishery participants.

Copies of the FRFA are available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all vessel permit holders for the South Atlantic shrimp fishery.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648–0591. NMFS will collect economic data from shrimp vessel owners who operate in Federal waters of the South Atlantic. The public reporting burden for this collection of information is estimated to average 45 minutes per response. This estimate of the public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 25, 2009

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter VI are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b), under 50 CFR is amended, by adding in numerical order the entry ''622.5(a)(1)(vii)'', to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (All numbers begin with 0648–)
* * * *	*
50 CFR	
* * * *	*
622.5(a)(1)(vii)	–0591
* * * *	*

50 CFR Chapter VI

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 3. The authority citation for part 622 continues to read as follows:

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

■ 4. In § 622.4, in the first sentence of paragraph (g)(1), the words ''commercial vessel permit for South Atlantic rock shrimp'' are removed and the words ''Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ)'' are added in their place, and paragraph (a)(2)(viii) is revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(viii) *South Atlantic rock shrimp.* (A) Until January 27, 2010, the permit requirements specified in paragraphs (a)(2)(viii)(A)(*1*) and (*2*) of this section apply.

(*1*) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ or possess rock shrimp in or from the South Atlantic EEZ, a commercial vessel permit for rock shrimp must be issued to the vessel and must be on board. (See paragraph (a)(5) of this section for the requirements for operator permits for the South Atlantic rock shrimp fishery.)

(*2*) In addition, for a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off Georgia or off Florida, a limited access endorsement for South Atlantic rock shrimp must be issued to the vessel and must be on board. See § 622.19 for limitations on the issuance, transfer, renewal, and reissuance of a limited access endorsement for South Atlantic rock shrimp.

(B) During January 2010, and prior to January 26, 2010, a currently valid (not expired) commercial vessel permit for rock shrimp with an expiration date after January 27, 2010, that does not have a limited access endorsement for South Atlantic rock shrimp will be replaced by the RA with a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone), and a currently valid (not expired) commercial vessel permit for rock shrimp with an expiration date after January 27, 2010, that has a limited access endorsement for South Atlantic rock shrimp will be replaced by the RA with a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ). However, a person with an expired limited access endorsement for South Atlantic rock shrimp who desires a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must apply for such a permit before the date 1 year after the expiration date of the expired limited access endorsement for South Atlantic rock shrimp.

(C) On and after January 27, 2010, the permit requirements specified in paragraphs (a)(2)(viii)(C)(*1*) and (*2*) of this section apply.

(*1*) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off North Carolina or off South Carolina or possess rock shrimp in or from the South Atlantic EEZ off those states, a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must be issued to the vessel and must be on board.

(*2*) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must be issued to the vessel and must be on board. A Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) is a limited access permit. See § 622.19(b) for limitations on the issuance, transfer or renewal of a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ).

(D) The provisions of paragraph (f) of this section notwithstanding, neither a commercial vessel permit for rock shrimp nor a limited access endorsement for South Atlantic rock shrimp remains valid on or after January 27, 2010.

* * * * *

■ 5. In § 622.5, paragraph (a)(1)(vii) is revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(1) * * *

* * * * *

(vii) *South Atlantic shrimp*. The owner or operator of a vessel that fishes for shrimp in the South Atlantic EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide information for any fishing trip, as requested by the SRD, including, but not limited to, vessel identification, gear, effort, amount of shrimp caught by species, shrimp condition (heads on/heads off), fishing areas and depths, and person to whom sold.

* * * * *

■ 6. In § 622.6, the heading for paragraph (b)(1)(i)(B) is revised to read as follows:

§ 622.6 Vessel and gear identification.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(B) *South Atlantic EEZ*. * * *

* * * * *

■ 7. In § 622.9, the first sentence of paragraph (a)(1) is revised to read as follows:

§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirements for use of a VMS*—(1) *South Atlantic rock shrimp*. An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. * * *

* * * * *

■ 8. § 622.19 is revised to read as follows:

§ 622.19 South Atlantic rock shrimp limited access off Georgia and Florida.

(a) *Initial applicability*. (1) The measures in paragraph (a) of this section are applicable on November 2, 2009 through January 26, 2010.

(2) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off Georgia or off Florida, a limited access endorsement for South Atlantic rock shrimp must be issued to the vessel and must be on board.

(3) A limited access endorsement for South Atlantic rock shrimp is valid only for the vessel and owner named on the permit/endorsement. To change either the vessel or the owner, a complete application for transfer must be submitted to the RA. An owner of a vessel with an endorsement may request that the RA transfer the endorsement to another vessel owned by the same entity, to the same vessel owned by another entity, or to another vessel with another owner. A transfer of an endorsement under this paragraph will include the transfer of the vessel's entire catch history of South Atlantic rock shrimp to a new owner; no partial transfers are allowed. No transfer of a limited access endorsement for South Atlantic rock shrimp will be allowed after November 2, 2009.

(4) The RA will not reissue a limited access endorsement for South Atlantic rock shrimp if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(b) *Subsequent applicability*. (1) The measures in paragraph (b) of this section are applicable on and after January 27, 2010.

(2) For a person aboard a vessel to fish for rock shrimp in the South Atlantic EEZ off Georgia or off Florida or possess rock shrimp in or from the South Atlantic EEZ off those states, a Commercial Permit for Rock Shrimp (South Atlantic EEZ) must be issued to the vessel and must be on board.

(3) *Applications*. No applications for additional Commercial Vessel Permits for Rock Shrimp (South Atlantic EEZ) will be accepted, except as follows:

(i) *Failure to renew*. An owner of a vessel may apply for a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) and such permit will be issued provided the owner,

(A) Had a limited access endorsement for South Atlantic rock shrimp;

(B) Failed to request renewal of his or her endorsement within 1 year after the endorsement's expiration date; and

(C) Renewed his or her commercial vessel permit for rock shrimp within 1 year after its expiration date.

(ii) *Inactive endorsement.* An owner of a vessel may apply for a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) and such permit will be issued provided the owner,

(A) Has a commercial vessel permit for rock shrimp;

(B) Had a limited access endorsement for South Atlantic rock shrimp and;

(C) Was unable to renew the endorsement because the endorsement was ''inactive'' for a period of 4 consecutive calendar years. ''Inactive'' means that the vessel with the endorsement did not land at least 15,000 lb (6,804 kg) of rock shrimp from the South Atlantic EEZ in a calendar year.

(iii) *Application period.* Applications under paragraph (b)(3) of this section must be received by NMFS by January 27, 2011.

(iv) *Continuity of ownership.* An applicant who believes he or she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his or her continuity of ownership.

(c) *Transfer of an existing permit.* A Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) is valid only for the vessel and owner named on the permit. To change either the vessel or the owner, a complete application for transfer must be submitted to the RA. An owner of a vessel with a permit may request that the RA transfer a valid permit to another vessel owned by the same entity, to the same vessel owned by another entity, or to another vessel with another owner. A transfer of a permit under this paragraph will include the transfer of the vessel's entire catch history of South Atlantic rock shrimp to a new owner; no partial transfers are allowed.

(d) *Renewal.* The RA will not reissue a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) if the permit is revoked or if the RA does not receive an application for renewal of the permit within 1 year after the expiration date of the permit.

(e) *Limitation on permits.* A vessel for which a permit for South Atlantic rock shrimp is required may be issued either a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ), depending on its eligibility. However, no such vessel may be issued both permits for the same period of effectiveness.

■ 9. In § 622.34, a heading is added to paragraph (k)(1) to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(k) * * *

(1) *Descriptions of Areas.* * * *

* * * * *

■ 10. In § 622.41, paragraphs (a)(4)(i)—(a)(4)(iii) are added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(a) * * *

(4) * * *

(i) Permit number of site to be harvested and date of harvest.

(ii) Name and official number of the vessel to be used in harvesting.

(iii) Date, port, and facility at which aquacultured live rock will be landed.

* * * * *

[FR Doc. E9–23703 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9458]

RIN 1545–BI72

Modification to Consolidated Return Regulation Permitting an Election To Treat a Liquidation of a Target, Followed by a Recontribution to a New Target, as a Cross-Chain Reorganization; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to temporary regulations (TD 9458) that were published in the **Federal Register** on Friday, September 4, 2009 (74 FR 45757) modifying the election under which a consolidated group can avoid immediately taking into account an intercompany item after the liquidation of a target corporation. This modification was made necessary in light of the regulations under section 368 that were issued in October 2007 addressing transfers of assets or stock following a reorganization.

DATES: These regulations are effective on October 1, 2009, and are applicable on September 4, 2009.

FOR FURTHER INFORMATION CONTACT: Mary W. Lyons, (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this document are under section 1502 of the Internal Revenue Code.

Need for Correction

As published, the temporary regulations (TD 9458) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (TD 9458), which were the subject of FR Doc. E9–21324, is corrected as follows:

1. On page 45757, column 2, in the preamble, under the caption **DATES:**, line 12, the language ''§ 1.1502–13(f)(ii)(B)(*1*) and (*2*) in effect'' is corrected to read ''§ 1.1502–13(f)(5)(ii)(B)(*1*) and (*2*) in effect''.

2. On page 45758, column 1, in the preamble, under the paragraph heading ''*1. Results Prior to the Issuance of § 1.368–2(k) Regulations'',* last line of the third paragraph of the column, the language ''accomplished. See § 1.1502–13(a)(1)).'' is corrected to read ''accomplished. See § 1.1502–13(a)(1).''.

3. On page 45758, column 2, in the preamble, under the paragraph heading ''*2. Results After the Issuance of § 1.368–2(k) Regulations'',* line 7 from the bottom of the first paragraph of the column, the language ''of assets, and would no longer be'' is corrected to read ''of assets, and could no longer be''.

4. On page 45758, column 3, in the preamble, under the paragraph heading ''*5. Effective/Applicability Date'',* line 10, the language ''13(f)(ii)(B)(*1*) and (*2*) in effect prior to'' is corrected to read ''13(f)(5)(ii)(B)(*1*) and (*2*) in effect prior to''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. E9–23646 Filed 9–30–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–0877]

Drawbridge Operation Regulation; Cerritos Channel, Long Beach, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eleventh Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Commodore Schuyler F. Heim drawbridge across Cerritos Channel, mile 4.9, at Long Beach, CA. The deviation is necessary to allow film industry use of the drawbridge. This deviation allows the bridge to remain secured at various elevations including the closed-to-navigation position during the filming operation.

DATES: This deviation is effective from 12 midnight October 1, 2009 through 5 a.m. on October 5, 2009.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–0877 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–0877 in the ''Keyword'' box and then clicking ''Search.'' 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 rule, call or e-mail David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, e-mail *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Caltrans requested a temporary change to the operation of the Commodore Schuyler F. Heim highway bridge, mile 4.9 at Long Beach, CA. The drawbridge navigation span provides a vertical clearance of 37 feet above Mean High Water in the closed-to-navigation position and 163 feet in the full open to navigation position. Under the governing drawbridge regulation, 33 CFR 117.147, the draw of the Commodore Schuyler F. Heim highway bridge, mile 4.9 at Long Beach, shall open on signal; except that, from 6:30 a.m. to 8 a.m. and 3:30 p.m. to 6 p.m. Monday through Friday except Federal holidays, the draw need not be opened for the passage of vessels. The opening signal for the Commodore Schuyler Heim Bridge is three prolonged blasts. The acknowledging signal is two prolonged blasts followed by one short blast when the draw will open immediately and five short blasts when the draw will not open immediately. VHF–FM Channel 13 (156.65 MHZ) or other assigned frequencies may be used. Navigation on the waterway is commercial, recreational, search and rescue, and law enforcement.

The drawspan will be secured at various elevations including the closed-to-navigation position from 7 p.m. on September 18, 2009 through 5 a.m. on October 5, 2009, to allow film industry use of the drawbridge. The alternative path around Terminal Island will be available for routine and emergency navigation. This temporary deviation has been coordinated with commercial and recreational waterway users. No objections to the proposed temporary deviation were raised.

Vessels that can transit the bridge, while in the closed-to-navigation position, should contact the Coast Guard Captain of the Port LA/LB, for information on waterway closures.

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

Dated: September 18, 2009.

J.R. Castillo,

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

[FR Doc. E9–23643 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–1016]

RIN 1625–AA87

Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is expanding a naval security zone. The expanded zone will encompass a nearby, separate security zone in its entirety. The subsumed security zone will be removed from the regulations. This action also includes the installation of water barriers within the expanded security zone. These water borne barriers will provide a line of demarcation and a defensive measure as a safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. No persons or vessel may enter or remain in the security zone without permission of the Captain of the Port, the Commander of Naval Base Point Loma, the Commander of Naval Region Southwest, or a designated representative of those individuals.

DATES: This rule is effective November 2, 2009.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2008–1016 and are available online by going to *http://www.regulations.gov,* inserting USCG–2008–1016 in the ''keyword'' box, and then clicking ''search.'' 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 rule, call or e-mail Lieutenant Commander Mike Dolan, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7261, e-mail *Michael.B.Dolan@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 February 11, 2009, we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA in the **Federal Register** (74 FR 6842). We received no comments on the proposed rule. There were no requests for a public meeting, therefore no meeting was held.

Background and Purpose

The U.S. Navy requested an expansion of an existing security zone. The new zone will allow for installation of water barriers to provide a line of demarcation and defensive measures as

a safeguard from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature. The expanded security zone will entirely subsume a nearby existing security zone, which will be removed.

Discussion of Comments and Changes

It was determined that Point B (32°42.48′ N, 117°14.17′ W) and Point C (32°42.17′ N, 117°14.00′ W) were plotted in the channel to the south entrance of Shelter Island. These points were brought out of the channel and the new coordinates are 32°42.48′ N, 117°14.22′ W (Point B) and 32°42.17′ N, 117°14.05′ W (Point C).

Point H (32°41.04′ N, 117°14.14′ W) was relocated to 32°41.17′ N, 117°13.97′ W. The original point caused the security zone to run along the shoreline and was deemed unnecessary.

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 security zone. Vessels do not routinely operate for commercial purposes within the area encompassed by the security zone expansion, which is currently within a charted restricted area (33 CFR 334.870). Recreational vessels will not be allowed to transit through the established security zone.

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.

This security zone will not have a significant economic impact on a substantial number of small entities because vessel traffic can pass safely around the security zone.

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 023–1 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 changing and disestablishing a security 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, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.1102 to read as follows:

§ 165.1102 Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a security zone: The water adjacent to the Naval Base Point Loma, San Diego, CA, enclosed by the following coordinates: 32°42.48′ N, 117°14.22′ W (Point A); 32°42.48′ N, 117°14.21′ W (Point B); 32°42.17′ N, 117°14.05′ W (Point C); 32°41.73′ N, 117°14.21′ W (Point D); 32°41.53′ N, 117°14.23′ W (Point E); 32°41.55′ N, 117°14.02′ W (Point F); 32°41.17′ N, 117°13.95′ W (Point G); 32°41.17′ N, 117°13.97′ W (Point H); thence running generally north along the shoreline to Point A.

(b) *Regulations.* (1) The general regulations governing security zones found in 33 CFR 165.33 apply to the security zone described in paragraph (a) of this section.

(2) Entry into, or remaining in, the area of this zone is prohibited unless authorized by the Captain of the Port San Diego; Commanding Officer, Naval Base Point Loma; or Commander, Navy Region Southwest.

(3) Persons desiring to transit the area of the security zone may request permission from the Captain of the Port San Diego at telephone number (619) 278–7033 or on VHF channel 16 (156.8 MHz) or from either the Commanding Officer, Naval Base Point Loma or the Commander, Navy Region Southwest by calling the Navy Port Operation Dispatch at telephone number (619) 556–1433 or on VHF–FM channels 16 or 12. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Diego or his or her designated representative.

(c) *Definitions.* For purposes of this section: *Captain of the Port San Diego*, means the Commanding Officer of the Coast Guard Sector San Diego; *Commander, Navy Region Southwest*, means Navy Region Commander responsible for the Southwest Region; *Commanding Officer, Naval Base Point Loma*, means the Installation Commander of the naval base located on Point Loma, San Diego, California; *Designated Representative*, means any U.S. Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port San Diego to assist in the enforcement of the security zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

■ 3. Remove § 165.1103.

Dated: May 1, 2009.

T.H. Farris,

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

[FR Doc. E9–23642 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–15–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009–40 and CP2009–61; Order No. 295]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding Parcel Select & Parcel Return Service Contract 2 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective October 1, 2009 and is applicable beginning September 4, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 or *stephen.sharfman@prc.gov.*

SUPPLEMENTARY INFORMATION:

Regulatory History, 74 FR 44881 (August 31, 2009).

I. Introduction
II. Background
III. Comments
IV. Commission Analysis
V. Ordering Paragraphs

I. Introduction

The Postal Service seeks to add a new product identified as Parcel Select & Parcel Return Service Contract 2 to the Competitive Product List. For the reasons discussed below, the Commission approves the Request.

II. Background

On August 21, 2009, the Postal Service filed a formal request pursuant to 39 U.S.C. 3642 and 39 CFR 3020.30, *et seq.,* to add Parcel Select & Parcel Return Service Contract 2 to the Competitive Product List.[1] The Postal Service asserts that the Parcel Select & Parcel Return Service Contract 2 product is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). *Id.* at 1. The Request has been assigned Docket No. MC2009–40.

The Postal Service contemporaneously filed a contract related to the proposed new product pursuant to 39 U.S.C. 3632(b)(3) and 39 CFR 3015.5. *Id.* The contract has been assigned Docket No. CP2009–61.

[1] Request of the United States Postal Service to Add Parcel Select & Parcel Return Service Contract 2 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, August 21, 2009 (Request).

In support of its Request, the Postal Service filed the following materials: (1) A redacted version of the Governors' Decision authorizing the new product which also includes an analysis of Parcel Select & Parcel Return Service Contract 2 and certification of the Governors' vote;[2] (2) a redacted version of the contract which, among other things, provides (a) that the effective date of the contract is the day after the date on which the Commission issues all regulatory approvals, and (b) that the contract will expire on May 31, 2011, unless it is extended for an additional year;[3] (3) requested changes in the Mail Classification Schedule product list;[4] (4) a Statement of Supporting Justification as required by 39 CFR 3020.32;[5] (5) a certification of compliance with 39 U.S.C. 3633(a);[6] and (7) an application for non-public treatment of materials.[7]

In the Statement of Supporting Justification, Daniel J. Barrett, Manager, Sales Strategy and Customer Support, Ground Shipping Services, asserts that the service to be provided under the contract will cover its attributable costs, make a positive contribution to coverage of institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.,* Attachment D. Thus, Mr. Barrett contends there will be no issue of subsidization of competitive products by market dominant products as a result of this contract. *Id.* W. Ashley Lyons, Manager, Regulatory Reporting and Cost Analysis, Finance Department, certifies that the contract complies with 39 U.S.C. 3633(a). *See id.,* Attachment E.

The Postal Service filed much of the supporting materials, including the unredacted Governors' Decision, the unredacted contract, and supporting financial analysis,[8] under seal. In its application for non-public treatment of materials, the Postal Service maintains that the contract and related financial information, including the customer's name and the accompanying analyses that provide prices, terms, conditions, and financial projections, should remain confidential. *Id.,* Attachment F.

In Order No. 288, the Commission gave notice of the two dockets, appointed a public representative, requested supplemental information, and provided the public with an opportunity to comment.[9] On August 27, 2009, the Postal Service filed a response to the Commission's request for supplemental information.[10]

III. Comments

Comments were filed by the Public Representative.[11] No filings were submitted by other interested parties. The Public Representative states that the Postal Service's filing and the Parcel Select & Parcel Return Service Contract 2 agreement comply with applicable Commission rules of practice. *Id.* at 3. He also addresses the relationship between the data systems used to calculate costs in this case and the Postal Service's proposal to change that established methodology as ''proposal fourteen'' in Commission Docket No. RM2009–10. Specifically, he notes that ''the Commission's determination on the costing methodology might impact the data supplied for the instant contract.'' *Id.* at 4. However, the Public Representative ''concede[s] that pricing for this PS&PRS NSA appears to fully comply with the three-pronged requirements of 39 U.S.C. 3633(a), and with the other pricing, cost coverage, and contribution provisions of title 39.'' *Id.*

The Public Representative believes that the Postal Service has provided adequate justification for maintaining confidentiality in this case. *Id.* at 2. He also believes that because the contract is designed to help acquire new volume, the contract appears to benefit the general public. *Id.* at 5.

IV. Commission Analysis

The Commission has reviewed the Request, the contract, the financial analysis provided under seal, the supplemental information filed by the Postal Service, and the comments filed by the Public Representative.

Statutory requirements. The Commission's statutory responsibilities in this instance entail assigning Parcel Select & Parcel Return Service Contract 2 to either the Market Dominant Product List or to the Competitive Product List. 39 U.S.C. 3642. As part of this responsibility, the Commission also reviews the proposal for compliance with the Postal Accountability and Enhancement Act (PAEA) requirements. This includes, for proposed competitive products, a review of the provisions applicable to rates for competitive products. 39 U.S.C. 3633.

Product list assignment. In determining whether to assign Parcel Select & Parcel Return Service Contract 2 as a product to the Market Dominant Product List or the Competitive Product List, the Commission must consider whether

> [T]he Postal Service exercises sufficient market power that it can effectively set the price of such product substantially above costs, raise prices significantly, decrease quality, or decrease output, without risk of losing a significant level of business to other firms offering similar products.

39 U.S.C. 3642(b)(1). If so, the product will be categorized as market dominant. The competitive category of products shall consist of all other products.

The Commission is further required to consider the availability and nature of enterprises in the private sector engaged in the delivery of the product, the views of those who use the product, and the likely impact on small business concerns. 39 U.S.C. 3642(b)(3).

The Postal Service asserts that its bargaining position is constrained by the existence of other shippers who can provide similar services, thus precluding it from taking unilateral action to increase prices without the risk of losing volume to private companies. Request, Attachment D, at para. (d). The Postal Service also contends that it may not decrease quality or output without risking the loss of business to competitors that offer similar ground shipping services. *Id.* It further states that the contract partner supports the addition of the contract to the Competitive Product List to effectuate the negotiated contractual terms. *Id.* at para. (g). Finally, the Postal Service states that the market for ground shipping services is highly competitive and requires a substantial infrastructure to support a national network. It indicates that large carriers serve this market. Accordingly, the Postal Service states that it is unaware of any small business concerns that could offer comparable service for this customer. *Id.* at para. (h).

No commenter opposes the proposed classification of Parcel Select & Parcel Return Service Contract 2 as

[2] Attachment A to the Request. The analysis that accompanies the Governors' Decision notes, among other things, that the contract will result in new and more profitable volume for the Postal Service.

[3] Attachment B to the Request.

[4] Attachment C to the Request.

[5] Attachment D to the Request.

[6] Attachment E to the Request.

[7] Attachment F to the Request.

[8] The Commission appreciates the Postal Service's efforts to ensure its financial analysis is complete and thorough. The financial analysis filed in this docket should serve as a model for future requests.

[9] PRC Order No. 288, Notice and Order Concerning Parcel Select & Parcel Return Service Contract 2 Negotiated Service Agreement, August 25, 2009 (Order No. 288).

[10] Response of the United States Postal Service to Request for Supplemental Information in Order No. 288, August 27, 2009.

[11] Public Representative Comments in Response to United States Postal Service Request to Add Parcel Select & Parcel Return Service Contract 2 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, September 2, 2009 (Public Representative Comments).

competitive. Having considered the statutory requirements and the support offered by the Postal Service, the Commission finds that Parcel Select & Parcel Return Service Contract 2 is appropriately classified as a competitive product and should be added to the Competitive Product List.

Cost considerations. The Postal Service presents a financial analysis showing that Parcel Select & Parcel Return Service Contract 2 ensures that the contract covers its attributable costs, does not result in subsidization of competitive products by market dominant products, and increases contribution from competitive products.

Based on the data submitted, the Commission finds that Parcel Select & Parcel Return Service Contract 2 should cover its attributable costs (39 U.S.C. 3633(a)(2)), should not lead to the subsidization of competitive products by market dominant products (39 U.S.C. 3633(a)(1)), and should have a positive effect on competitive products' contribution to institutional costs (39 U.S.C. 3633(a)(3)). Thus, an initial review of proposed Parcel Select & Parcel Return Service Contract 2 indicates that it comports with the provisions applicable to rates for competitive products.

In his comments, the Public Representative raises the issue of the pending Parcel Select and Parcel Return Service methodological changes. *See* Docket No. RM2009–10, Proposal Fourteen. In the instant filing, the Postal Service correctly uses the current approved methodology concerning Parcel Select and Parcel Return Service Transportation and Mail Processing costs. Nevertheless, the Commission believes the changes presented in Proposal Fourteen, if approved, would not harm the potential profitability of this contract.

Application for non-public treatment. The Postal Service believes that the 10-year period of non-public treatment, as specified in 39 U.S.C. 3007.30, is insufficient to protect customer identifying information. Notice, Attachment F, at 6. It asserts that such information should be protected permanently and requests that the Commission enter an order extending that duration indefinitely.

The request is premature. Should the need for non-public treatment remain due to ongoing business relationships, the Postal Service may submit a motion to the Commission to extend the duration at the appropriate time.

Other considerations. The Postal Service shall notify the Commission if the contract is extended for an additional year. If the agreement terminates earlier than anticipated, the Postal Service shall inform the Commission prior to the new termination date. The Commission will then remove the product from the Competitive Product List.

In conclusion, the Commission approves Parcel Select & Parcel Return Service Contract 2 as a new product. The revision to the Competitive Product List is shown below the signature of this order and is effective upon issuance of this order.

V. Ordering Paragraphs

It is ordered:

1. Parcel Select & Parcel Return Service Contract 2 (MC2009–40 and CP2009–61) is added to the Competitive Product List as a new product under Negotiated Service Agreements, Domestic.

2. The Postal Service shall notify the Commission if the contract is extended for an additional year and update the Commission if termination occurs prior to that date, as discussed in this order.

3. The Secretary shall arrange for the publication of this order in the **Federal Register**.

List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

By the Commission.

Judith M. Grady,

Acting Secretary.

■ For the reasons stated in the preamble, under the authority at 39 U.S.C. 503, the Postal Regulatory Commission amends 39 CFR part 3020 as follows:

PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

Authority: 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise Appendix A to Subpart A of Part 3020—Mail Classification Schedule to read as follows:

Appendix A to Subpart A of Part 3020—Mail Classification Schedule

Part A—Market Dominant Products

1000 Market Dominant Product List

First-Class Mail
- Single-Piece Letters/Postcards
- Bulk Letters/Postcards
- Flats
- Parcels
- Outbound Single-Piece First-Class Mail International
- Inbound Single-Piece First-Class Mail International

Standard Mail (Regular and Nonprofit)
- High Density and Saturation Letters
- High Density and Saturation Flats/Parcels
- Carrier Route
- Letters
- Flats
- Not Flat-Machinables (NFMs)/Parcels

Periodicals
- Within County Periodicals
- Outside County Periodicals

Package Services
- Single-Piece Parcel Post
- Inbound Surface Parcel Post (at UPU rates)
- Bound Printed Matter Flats
- Bound Printed Matter Parcels
- Media Mail/Library Mail

Special Services
- Ancillary Services
- International Ancillary Services
- Address List Services
- Caller Service
- Change-of-Address Credit Card Authentication
- Confirm
- International Reply Coupon Service
- International Business Reply Mail Service
- Money Orders
- Post Office Box Service

Negotiated Service Agreements
- HSBC North America Holdings Inc. Negotiated Service Agreement
- Bookspan Negotiated Service Agreement
- Bank of America Corporation Negotiated Service Agreement
- The Bradford Group Negotiated Service Agreement
- Inbound International
- Canada Post—United States Postal Service Contractual Bilateral Agreement for Inbound Market Dominant Services

Market Dominant Product Descriptions

First-Class Mail

[Reserved for Class Description]
- Single-Piece Letters/Postcards
  - [Reserved for Product Description]
- Bulk Letters/Postcards
  - [Reserved for Product Description]
- Flats
  - [Reserved for Product Description]
- Parcels
  - [Reserved for Product Description]
- Outbound Single-Piece First-Class Mail International
  - [Reserved for Product Description]
- Inbound Single-Piece First-Class Mail International
  - [Reserved for Product Description]

Standard Mail (Regular and Nonprofit)

[Reserved for Class Description]
- High Density and Saturation Letters
  - [Reserved for Product Description]
- High Density and Saturation Flats/Parcels
  - [Reserved for Product Description]
- Carrier Route
  - [Reserved for Product Description]
- Letters
  - [Reserved for Product Description]
- Flats
  - [Reserved for Product Description]
- Not Flat-Machinables (NFMs)/Parcels
  - [Reserved for Product Description]

Periodicals

[Reserved for Class Description]
- Within County Periodicals
  - [Reserved for Product Description]
- Outside County Periodicals
  - [Reserved for Product Description]

Package Services

[Reserved for Class Description]

Single-Piece Parcel Post
[Reserved for Product Description]
Inbound Surface Parcel Post (at UPU rates)
[Reserved for Product Description]
Bound Printed Matter Flats
[Reserved for Product Description]
Bound Printed Matter Parcels
[Reserved for Product Description]
Media Mail/Library Mail
[Reserved for Product Description]
Special Services
[Reserved for Class Description]
Ancillary Services
[Reserved for Product Description]
Address Correction Service
[Reserved for Product Description]
Applications and Mailing Permits
[Reserved for Product Description]
Business Reply Mail
[Reserved for Product Description]
Bulk Parcel Return Service
[Reserved for Product Description]
Certified Mail
[Reserved for Product Description]
Certificate of Mailing
[Reserved for Product Description]
Collect on Delivery
[Reserved for Product Description]
Delivery Confirmation
[Reserved for Product Description]
Insurance
[Reserved for Product Description]
Merchandise Return Service
[Reserved for Product Description]
Parcel Airlift (PAL)
[Reserved for Product Description]
Registered Mail
[Reserved for Product Description]
Return Receipt
[Reserved for Product Description]
Return Receipt for Merchandise
[Reserved for Product Description]
Restricted Delivery
[Reserved for Product Description]
Shipper-Paid Forwarding
[Reserved for Product Description]
Signature Confirmation
[Reserved for Product Description]
Special Handling
[Reserved for Product Description]
Stamped Envelopes
[Reserved for Product Description]
Stamped Cards
[Reserved for Product Description]
Premium Stamped Stationery
[Reserved for Product Description]
Premium Stamped Cards
[Reserved for Product Description]
International Ancillary Services
[Reserved for Product Description]
International Certificate of Mailing
[Reserved for Product Description]
International Registered Mail
[Reserved for Product Description]
International Return Receipt
[Reserved for Product Description]
International Restricted Delivery
[Reserved for Product Description]
Address List Services
[Reserved for Product Description]
Caller Service
[Reserved for Product Description]
Change-of-Address Credit Card Authentication
[Reserved for Product Description]
Confirm
[Reserved for Product Description]
International Reply Coupon Service
[Reserved for Product Description]
International Business Reply Mail Service
[Reserved for Product Description]
Money Orders
[Reserved for Product Description]
Post Office Box Service
[Reserved for Product Description]
Negotiated Service Agreements
[Reserved for Class Description]
HSBC North America Holdings Inc. Negotiated Service Agreement
[Reserved for Product Description]
Bookspan Negotiated Service Agreement
[Reserved for Product Description]
Bank of America Corporation Negotiated Service Agreement
The Bradford Group Negotiated Service Agreement
Part B—Competitive Products
2000 Competitive Product List
Express Mail
Express Mail
Outbound International Expedited Services
Inbound International Expedited Services
Inbound International Expedited Services 1 (CP2008–7)
Inbound International Expedited Services 2 (MC2009–10 and CP2009–12)
Priority Mail
Priority Mail
Outbound Priority Mail International
Inbound Air Parcel Post
Royal Mail Group Inbound Air Parcel Post Agreement
Parcel Select
Parcel Return Service
International
International Priority Airlift (IPA)
International Surface Airlift (ISAL)
International Direct Sacks—M-Bags
Global Customized Shipping Services
Inbound Surface Parcel Post (at non-UPU rates)
Canada Post—United States Postal service Contractual Bilateral Agreement for Inbound Competitive Services (MC2009–8 and CP2009–9)
International Money Transfer Service
International Ancillary Services
Special Services
Premium Forwarding Service
Negotiated Service Agreements
Domestic
Express Mail Contract 1 (MC2008–5)
Express Mail Contract 2 (MC2009–3 and CP2009–4)
Express Mail Contract 3 (MC2009–15 and CP2009–21)
Express Mail Contract 4 (MC2009–34 and CP2009–45)
Express Mail & Priority Mail Contract 1 (MC2009–6 and CP2009–7)
Express Mail & Priority Mail Contract 2 (MC2009–12 and CP2009–14)
Express Mail & Priority Mail Contract 3 (MC2009–13 and CP2009–17)
Express Mail & Priority Mail Contract 4 (MC2009–17 and CP2009–24)
Express Mail & Priority Mail Contract 5 (MC2009–18 and CP2009–25)
Express Mail & Priority Mail Contract 6 (MC2009–31 and CP2009–42)
Express Mail & Priority Mail Contract 7 (MC2009–32 and CP2009–43)
Express Mail & Priority Mail Contract 8 (MC2009–33 and CP2009–44)
Parcel Select & Parcel Return Service Contract 2 (MC2009–40 and CP2009–61)
Parcel Return Service Contract 1 (MC2009–1 and CP2009–2)
Priority Mail Contract 1 (MC2008–8 and CP2008–26)
Priority Mail Contract 2 (MC2009–2 and CP2009–3)
Priority Mail Contract 3 (MC2009–4 and CP2009–5)
Priority Mail Contract 4 (MC2009–5 and CP2009–6)
Priority Mail Contract 5 (MC2009–21 and CP2009–26)
Priority Mail Contract 6 (MC2009–25 and CP2009–30)
Priority Mail Contract 7 (MC2009–25 and CP2009–31)
Priority Mail Contract 8 (MC2009–25 and CP2009–32)
Priority Mail Contract 9 (MC2009–25 and CP2009–33)
Priority Mail Contract 10 (MC2009–25 and CP2009–34)
Priority Mail Contract 11 (MC2009–27 and CP2009–37)
Priority Mail Contract 12 (MC2009–28 and CP2009–38)
Priority Mail Contract 13 (MC2009–29 and CP2009–39)
Priority Mail Contract 14 (MC2009–30 and CP2009–40)
Priority Mail Contract 15 (MC2009–35 and CP2009–54)
Priority Mail Contract 16 (MC2009–36 and CP2009–55)
Priority Mail Contract 17 (MC2009–37 and CP2009–56)
Outbound International
Direct Entry Parcels Contracts
Direct Entry Parcels 1 (MC2009–26 and CP2009–36)
Global Direct Contracts (MC2009–9, CP2009–10, and CP2009–11)
Global Expedited Package Services (GEPS) Contracts
GEPS 1 (CP2008–5, CP2008–11, CP2008–12, and CP2008–13, CP2008–18, CP2008–19, CP2008–20, CP2008–21, CP2008–22, CP2008–23, and CP2008–24)
Global Expedited Package Services 2 (CP2009–50)
Global Plus Contracts
Global Plus 1 (CP2008–8, CP2008–46 and CP2009–47)
Global Plus 2 (MC2008–7, CP2008–48 and CP2008–49)
Inbound International
Inbound Direct Entry Contracts with Foreign Postal Administrations (MC2008–6, CP2008–14 and CP2008–15)
International Business Reply Service Competitive Contract 1 (MC2009–14 and CP2009–20)
Competitive Product Descriptions
Express Mail
[Reserved for Group Description]
Express Mail
[Reserved for Product Description]
Outbound International Expedited Services
[Reserved for Product Description]
Inbound International Expedited Services
[Reserved for Product Description]
Priority

[Reserved for Product Description]
Priority Mail
[Reserved for Product Description]
Outbound Priority Mail International
[Reserved for Product Description]
Inbound Air Parcel Post
[Reserved for Product Description]
Parcel Select
[Reserved for Group Description]
Parcel Return Service
[Reserved for Group Description]
International
[Reserved for Group Description]
International Priority Airlift (IPA)
[Reserved for Product Description]
International Surface Airlift (ISAL)
[Reserved for Product Description]
International Direct Sacks—M–Bags
[Reserved for Product Description]
Global Customized Shipping Services
[Reserved for Product Description]
International Money Transfer Service
[Reserved for Product Description]
Inbound Surface Parcel Post (at non-UPU rates)
[Reserved for Product Description]
International Ancillary Services
[Reserved for Product Description]
International Certificate of Mailing
[Reserved for Product Description]
International Registered Mail
[Reserved for Product Description]
International Return Receipt
[Reserved for Product Description]
International Restricted Delivery
[Reserved for Product Description]
International Insurance
[Reserved for Product Description]
Negotiated Service Agreements
[Reserved for Group Description]
Domestic
[Reserved for Product Description]
Outbound International
[Reserved for Group Description]
Part C—Glossary of Terms and Conditions [Reserved]
Part D—Country Price Lists for International Mail [Reserved]

[FR Doc. E9–23687 Filed 9–30–09; 8:45 am]
BILLING CODE 7710–FW–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1538–CN]

RIN 0938–AP56

Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2010; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on August 7, 2009 entitled ''Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2010'' (74 FR 39762).

DATES: *Effective Date.* The correction to the average length of stay value for CMG 0501, tier 2, in Table 1 on page 39768 of the final rule (74 FR 39762) is effective October 1, 2009. The correction to the preamble text at the top of the middle column of page 39791 of the final rule (74 FR 39762) is effective January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Susanne Seagrave, (410) 786–0044.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. E9–18616 of August 7, 2009 (74 FR 39762), there are technical errors that we are identifying and correcting in the Correction of Errors section below. The corrections in this notice are effective as if they were included in the final rule published on August 7, 2009. Accordingly, the correction to the average length of stay value for CMG 0501, tier 2, in Table 1 on page 39768 of the final rule (74 FR 39762) is effective October 1, 2009. This change is applicable for IRF discharges occurring on or after October 1, 2009 and on or before September 30, 2010 (FY 2010). The correction to the preamble text at the top of the middle column of page 39791 of the final rule is effective January 1, 2010.

II. Summary of Errors

In the August 7, 2009 final rule (74 FR 39762), the average length of stay value for CMG 0501, tier 2, in Table 1 on page 39768 should have been listed as 10, but was inadvertently listed as 0. In the FY 2010 IRF PPS proposed rule (74 FR 21052 at 21057), we proposed the average length of stay value for CMG 0501, tier 2, as 10. The proposal was based on FY 2007 IRF claims data, which was the most recent available data we had at the time. The updated FY 2008 data that we used for the final rule contained no IRF cases for CMG 0501, tier 2. When there are not enough cases in a particular CMG and tier (referred to herein as a ''payment group'') to calculate an average length of stay, we combine the cases in that payment group with the next highest-paying payment group to calculate an average length of stay value. Accordingly, for the final rule, we used the average length of stay value of 10 from CMG 0501, tier 1 for CMG 0501, tier 2, but in Table 1 we inadvertently indicated a value of 0 instead of 10. Thus, we are correcting Table 1 to show the average length of stay value for CMG 0501, tier 2, is 10.

In addition, we are correcting certain language in the preamble that could be misread, resulting in confusion with the regulatory requirements that must be met with respect to the preadmission screening required under § 412.622(a)(4)(A). Section 412.622(a)(4)(A) requires that the comprehensive preadmission screening be conducted by a licensed or certified clinician(s) designated by the rehabilitation physician described in § 412.622(a)(3(iv) within 48 hours immediately preceding the IRF admission. Our policy is that the IRF personnel conducting the screening must be a clinician or group of clinicians who are appropriately trained and qualified to assess the patient's medical and functional status, assess the risk for clinical and rehabilitation complications, and assess other aspects of the patient's condition both medically and functionally. As we stated in the final rule, we do not believe that non-clinical personnel can adequately perform these assessments. In the final rule (74 FR 39791), we stated that, ''* * * we believe that the IRF personnel involved in collecting the information for the preadmission screening must be appropriately trained and qualified to assess the patient's medical and functional status, assess the risk for clinical and rehabilitation complications, and assess other aspects of the patient's condition both medically and functionally'' (emphasis added). As the discussion in which this sentence was embedded only pertained to clinical staff assessments under § 412.622(a)(4)(A), we should have utilized terminology that referenced ''clinical staff'' and ''assessment,'' not ''IRF personnel'' and ''collecting.'' Consistent with the discussion in which the statement appears, we meant to convey that the IRF clinical staff conducting the preadmission screening must be trained and qualified to make the appropriate assessments. The appropriate use of non-clinical staff in the collection of the information that is used in the § 412.622(a)(4)(A) assessment is beyond the scope of the preamble discussion. Therefore, to eliminate any confusion, we are revising the sentence in the middle column at the top of page 39791 of the final rule to read, ''* * * we believe that the clinician(s) conducting the preadmission screening must be appropriately trained and qualified to assess the patient's medical and functional status, assess the risk for clinical and rehabilitation

complications, and assess other aspects of the patient's condition both medically and functionally.''

III. Correction of Errors

In FR Doc. E9–18616 of August 7, 2009 (74 FR 39762), make the following corrections:

■ 1. On page 39768, in Table 1, in CMG 0501, under ''Average length of stay,'' tier 2, the value ''0'' is corrected to read ''10.''

■ 2. On page 39791, in column 2, in line 7 from the top, the phrase ''IRF personnel involved in collecting the information for,'' is corrected to read, ''clinician(s) conducting.''

IV. Waiver of Proposed Rulemaking and Delayed Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a rule in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both notice and comment procedures and the 30-day delay in effective date if the Secretary finds, for good cause, that such procedures are impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons into the notice.

The policies and payment methodology expressed in the FY 2010 IRF PPS final rule (74 FR 39762) have previously been subjected to notice and comment procedures. This correction notice provides technical corrections to the FY 2010 final rule that was promulgated through notice and comment rulemaking, and does not make substantive changes to the policies or payment methodologies that were expressed in the final rule. Therefore, we find it unnecessary to undertake further notice and comment procedures with respect to this correction notice. We also believe that it is in the public interest (and would be contrary to the public interest to do otherwise) to waive notice and comment procedures and the 30-day delay in effective date for this notice. This correction notice is intended to ensure that the FY 2010 final rule accurately reflects the policies expressed in the final rule, and that the correct information is made available to the public prior to the effective dates of the final rule. Therefore, we find good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 25, 2009.

Dawn L. Smalls,

Executive Secretary to the Department.

[FR Doc. E9–23708 Filed 9–30–09; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 501, 502, 503, 504, 506, 508, 515, 520, 525, 530, 531, 535, 540, 545, 550, 551, 555, 560, and 565.

[Docket No. 09–06]

RIN 3072–AC37

Recodification of the Shipping Act as Positive Law

September 16, 2009.

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This rule amends Commission regulations to reflect the codification of the Shipping Act as positive law. No substantive change is involved.

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

FOR FURTHER INFORMATION CONTACT: Karen V. Gregory, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001. (202) 523–5725. *E-mail: secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION: The House of Representatives introduced H.R. 1442 to complete the codification of title 46, United States Code, ''Shipping,'' as positive law, by reorganizing and restating the laws previously set forth in the appendix to title 46. On October 6, 2006, H.R. 1442 was enacted as Public Law 109–304. This rule changes prior references in the Commission regulations to reflect the codification and involves no substantive changes. This rule also corrects typographical errors in the Commission regulations.

Because this rule involves no substantive changes, the Commission finds, pursuant to 5 U.S.C. 553(b)(B), that notice and public procedure on this rule is unnecessary. The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. *et seq.,* that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

This rule is not a ''major rule'' under 5 U.S.C. 804(2).

List of Subjects

46 CFR Part 501

Administrative practice and procedure, Authority delegations, Organization and functions, Seals and insignia.

46 CFR Part 502

Administrative practice and procedure, Claims, Investigations, Lawyers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 503

Freedom of information, Sunshine Act.

46 CFR Part 504

Environmental impact statements, Reporting and recordkeeping requirements.

46 CFR Part 506

Administrative practice and procedure, Penalties.

46 CFR Part 508

Conflict of interests.

46 CFR Part 515

Freight forwarders, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 520

Freight, Intermodal transportation, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 525

Freight, Harbors, Reporting and recordkeeping requirements, Warehouses.

46 CFR Part 530

Freight, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 531

Freight, Non-vessel-operating common carriers, Reporting and recordkeeping requirements.

46 CFR Part 535

Administrative practice and procedure, Maritime carriers, Terminal operators, Reporting and recordkeeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Surety bonds.

46 CFR Part 545

Antitrust, Maritime carriers.

46 CFR Part 550

Administrative practice and procedure, Maritime carriers, Penalties.

46 CFR Part 551

Unfavorable conditions, foreign trade.

46 CFR Part 555

Administrative practice and procedure, Investigations, Maritime carriers.

46 CFR Part 560

Administrative practice and procedure, Maritime carriers.

46 CFR Part 565

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

■ For the reasons set forth above, the Federal Maritime Commission amends 46 CFR Part 501, 502, 503, 504, 505, 506, 508, 515, 520, 525, 530, 531, 535, 540, 545, 550, 551, 555, 560, and 565, as follows:

PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

■ 1. Revise the authority citation for part 501 to read as follows:

Authority: 5 U.S.C. 551–557, 701–706, 2903, and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501–520 and 3501–3520; 46 U.S.C. 301–307, 40101–41309, 42101–42109, 44101–44106; Reorganization Plan No. 7 of 1961, 26 FR 7315, August 12, 1961; Pub. L. 89–56, 70 Stat. 195; 5 CFR Part 2638; Pub. L. 104–320, 110 Stat. 3870.

Subpart A—Organization and Functions

■ 2. Section 501.2(a) is revised to read as follows:

§ 501.2 General

(a) Statutory functions. The Commission regulates common carriers by water and other persons involved in the oceanborne foreign commerce of the United States under provisions of the Shipping Act of 1984 (46 U.S.C. 40101–41309); section 19 of the Merchant Marine Act, 1920 (46 U.S.C. 42101–42109); the Foreign Shipping Practices Act of 1988 (46 U.S.C. 42301–42307); sections 2 and 3, Public Law 89–777, Financial Responsibility for Death or Injury to Passengers and for Non-Performance of Voyages (46 U.S.C. 44101–44106); and other applicable statutes.

* * * * *

§ 501.5 [Amended]

■ 3. In § 501.5(d)(6), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3(8) of the Shipping Act of 1984	section 3(8) of the Shipping Act of 1984 (46 U.S.C. 40102(8)).

Subpart B—Official Seal

§ 501.11 [Amended]

■ 4. In § 501.11(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 201(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. app. 1111(c)).	section 201(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 301(d)).

Subpart C—Delegation and Redelegation of Authorities

§ 501.23 [Amended]

■ 5. In § 501.23, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3(8) of the Shipping Act of 1984	section 3(8) of the Shipping Act of 1984 (46 U.S.C. 40102(8)).

§ 501.24 [Amended]

■ 6. In § 501.24(e), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5 of the Shipping Act of 1984	section 5 of the Shipping Act of 1984 (46 U.S.C. 40301(d)–(e), 40302, 0940303, 40305).

§ 501.27 [Amended]

■ 7. In § 501.27(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 6(c)(1), and to shorten the review period under section 6(e), of the Shipping Act of 1984.	section 6(c)(1), and to shorten the review period under section 6(e), of the Shipping Act of 1984 (46 U.S.C. 40304(c)(1) and (e)(1)).

■ 8. In § 501.27(e), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 6(c)(1) of the Shipping Act of 1984	section 6(c)(1) of the Shipping Act of 1984 (46 U.S.C. 40304(c)(1)).

■ 9. In § 501.27(i), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5 of the Shipping Act of 1984	section 5 of the Shipping Act of 1984 (46 U.S.C. 40301(d)–(e), 40302–40303, 40305).

■ 10. In § 501.27(j), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9(d) of the Shipping Act of 1984	section 9(d) of the Shipping Act of 1984 (46 U.S.C. 40704(b)–(e)).

■ 11. In § 501.27(l)(1), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 8 of the Shipping Act of 1984	section 8 of the Shipping Act of 1984 (46 U.S.C. 40501–40503).

■ 12. In § 501.27(m)(1), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9 of the Shipping Act of 1984	section 9 of the Shipping Act of 1984 (46 U.S.C. 40701–40706).

PART 502—RULES OF PRACTICE AND PROCEDURE

■ 13. Revise the authority citation for part 502 to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 5 U.S.C. 571–584; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. 305, 40103–40104, 40304, 40306, 40501–40503, 40701–40706, 41101–41109, 41301–41309, 44101–44106; E.O. 11222 of May 8, 1965, 30 FR 6469, 3 CFR, 1964–1965 Comp. P. 306; 21 U.S.C. 853a.

Subpart C—Parties

§ 502.41 [Amended]

■ 14. In § 502.41, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 11(c) of the Shipping Act of 1984	section 11(c) of the Shipping Act of 1984 (46 U.S.C. 41302(a)–(b), 41307(b)).

§ 502.44 [Amended]

■ 15. In § 502.44(c), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5(a) of the Shipping Act of 1984	section 5(a) of the Shipping Act of 1984 (46 U.S.C. 40302).

Subpart E—Proceedings; Pleadings; Motions; Replies

§ 502.63 [Amended]

■ 16. In § 502.63(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 11 of the Shipping Act of 1984	section 11 of the Shipping Act of 1984 (46 U.S.C. 41301–41302, 41305–41307(a)).

§ 502.67 [Amended]

■ 17. In § 502.67(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 16 of the Shipping Act of 1984	section 16 of the Shipping Act of 1984 (46 U.S.C. 40103).

§ 502.68 [Amended]

■ 18. In § 502.68(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 11 of the Shipping Act of 1984	section 11 of the Shipping Act of 1984 (46 U.S.C. 41301–41302, 41305–41307(a)).

§ 502.75 [Amended]

■ 19. In § 502.75(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5(e) of the Shipping Act of 1984	section 5(e) of the Shipping Act of 1984 (46 U.S.C. 40301(e), 40305).

Subpart H—Form, Execution, and Service of Documents

§ 502.114 [Amended]

■ 20. In § 502.114(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
under section 19 of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b) (part 550), and proceedings under section 13(b)(6) of the Shipping Act of 1984 (part 560).	under section 19 of the Merchant Marine Act, 1920 (46 U.S.C. 42101) (part 550), and proceedings under section 13(b)(6) of the Shipping Act of 1984 (46 U.S.C. 41108(d)) (part 560).

Subpart O—Reparation

§ 502.254 [Amended]

■ 21. In § 502.254(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 11 of the Shipping Act of 1984	section 11 of the Shipping Act of 1984 (46 U.S.C. 41301–41302, 41305–41307(a)).

Subpart S—Informal Procedure for Adjudication of Small Claims

§ 502.301 [Amended]

■ 22. In § 502.301(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
Section 11(a) of the Shipping Act of 1984	Section 11(a) of the Shipping Act of 1984 (46 U.S.C. 41301(a)).

Subpart T—Formal Procedure for Adjudication of Small Claims

§ 502.318 [Amended]

■ 23. In § 502.318(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 11 of the Shipping Act of 1984	section 11 of the Shipping Act of 1984 (46 U.S.C. 41301–41302, 41305–41307(a)).

Subpart W—Compromise, Assessment, Mitigation, Settlement, and Collection of Civil Penalties

§ 502.601 [Amended]

■ 24. In § 502.601, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 19 of the Merchant Marine Act, 1920, section 13 of the Shipping Act of 1984, and sections 2(c) and 3(c) of Pub. L. 89–777.	section 19 of the Merchant Marine Act, 1920 (46 U.S.C. 42101–42109), section 13 of the Shipping Act of 1984 (46 U.S.C. 41107–41109), and sections 2(c) and 3(c) of Pub. L. 89–777 (46 U.S.C. 44104).

§ 502.602 [Amended]

■ 25. In § 502.602(h), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 19(6)(d), 19(7)(d) and 19(11) of the Merchant Marine Act, 1920; any provision of the Shipping Act of 1984; sections 2 and 3 of Pub. L. 89–777.	sections 19(f)(4), 19(g)(4) and 19(k) of the Merchant Marine Act, 1920 (46 U.S.C. 42104(a), 42104(d), and 42108); any provision of the Shipping Act of 1984 (46 U.S.C. 40101–41309); sections 2 and 3 of Pub. L. 89–777 (46 U.S.C. 44101–44106).

PART 503—PUBLIC INFORMATION

Subpart C—Records, Information and Materials Generally Available to the Public Without Resort to Freedom of Information Act Procedures

■ 26. The authority citation for Part 503 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 12958 of April 20, 1995 (60 FR 19825), sections 5.2(a) and (b).

§ 503.23 [Amended]

■ 27. In § 503.23(a)(1), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 5 and 6 of the Shipping Act of 1984	section 5 (46 U.S.C. 40301(d)–(e), 40302–40303, 40305) and 6 (46 U.S.C. 40304, 40306, 41307(b)–(d)) of the Shipping Act of 1984.

■ 28. In § 503.23(a)(2), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5 of the Shipping Act of 1984	section 5 of the Shipping Act of 1984 (46 U.S.C. 40301(d)–(e), 40302–40303, 40305).

PART 504—PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

■ 29. Revise the authority citation for part 504 to read as follows:

Authority: 5 U.S.C. 552, 553; 46 U.S.C. 305 and 41107–41109; 42 U.S.C. 4332(2)(b), and 42 U.S.C. 6362.

§ 504.1 [Amended]

■ 30. In § 504.1(c), remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
section 15 of the Shipping Act of 1984	section 15 of the Shipping Act of 1984 (46 U.S.C. 40104).
section 13 of the Shipping Act of 1984	section 13 of the Shipping Act of 1984 (46 U.S.C. 41107–41109).

§ 504.2 [Amended]

■ 31. In § 504.2(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
Shipping Act of 1984 (46 U.S.C. app. 1701–1720)	Shipping Act of 1984 (46 U.S.C. 40101–41309).

■ 32. In § 504.2(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3 of the Shipping Act of 1984	section 3 of the Shipping Act of 1984 (46 U.S.C. 40102).

§ 504.4 [Amended]

■ 33. In § 504.4(a)(9), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5 of the Shipping Act of 1984	section 5 of the Shipping Act of 1984 (46 U.S.C. 40301(d)–(e), 40302–40303, 40305).

■ 34. In § 504.4(a)(15), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9 of the Shipping Act of 1984	section 9 of the Shipping Act of 1984 (46 U.S.C. 40701–40706).

§ 504.9 [Amended]

■ 35. In § 504.9(d), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 15 of the Shipping Act of 1984	section 15 of the Shipping Act of 1984 (46 U.S.C. 40104).

PART 506—CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

■ 36. The authority citation for Part 506 continues to read as follows:

Authority: 61 FR 52705, Oct. 8, 1996, unless otherwise noted.

§ 506.1 [Amended]

■ 37. In § 506.1, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
the Federal Civil Penalties Inflation Adjustment Act of 1990, 46 U.S.C. 2461.	the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).

PART 508—EMPLOYEE ETHICAL CONDUCT STANDARDS AND FINANCIAL DISCLOSURE REGULATIONS

■ 38–39. Revise the authority citation for part 508 to read as follows:

Authority: 5 U.S.C. 553; 5 U.S.C. 7301; 46 U.S.C. 305.

PART 515—LICENSING, FINANCIAL RESPONSIBILITY REQUIREMENTS, AND GENERAL DUTIES FOR OCEAN TRANSPORTATION INTERMEDIARIES

■ 40. Revise the authority citation for part 515 to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. 305, 40102, 40104, 40501–40503, 40901–40904, 41101–41109, 41301–41302, 41305–41307; Pub. L. 105–383, 112 Stat. 3411; 21 U.S.C. 862.

Subpart A—General

§ 515.1 [Amended]

■ 41. In § 515.1(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
(46 U.S.C. app. 1712)	(46 U.S.C. 41107–41109).

Subpart C—Financial Responsibility Requirements; Claims Against Ocean Transportation Intermediaries

§ 515.22 [Amended]

■ 42. In § 515.22(d)(4), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 11 of the Act, or any penalty assessed against the ocean transportation intermediary pursuant to section 13 of the Act.	section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)), or any penalty assessed against the ocean transportation intermediary pursuant to section 13 of the Act (46 U.S.C. 41107–41109).

■ 43. In § 515.22(d)(5)(i), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 11 of the Act, or any penalty assessed against each covered member ocean transportation intermediary pursuant to section 13 of the Act.	section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)), or any penalty assessed against each covered member ocean transportation intermediary pursuant to section 13 of the Act (46 U.S.C. 41107–41109).

§ 515.23 [Amended]

■ 44. In § 515.23(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
pursuant to sections 11 or 14 of the Act, or assesses a penalty pursuant to section 13 of the Act.	pursuant to sections 11 (46 U.S.C. 41301–41302, 41305–41307(a)) or 14 (46 U.S.C. 41304, 41308–41309) of the Act, or assesses a penalty pursuant to section 13 of the Act (46 U.S.C. 41107–41109).

■ 45. In § 515.23(b)(1), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
pursuant to section 11 of the Act	pursuant to section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)).

§ 515.27 [Amended]

■ 46. In § 515.27(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 8 and 19 of the Act	sections 8 (46 U.S.C. 40501–40503) and 19 (46 U.S.C. 40901–40904) of the Act.

■ 47. In § 515.27(c), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
under section 10(b)(11) of the Act	under section 10(b)(11) of the Act (46 U.S.C. 41104(11)).

Appendix A to Subpart C of Part 515—Ocean Transportation Intermediary (OTI) Bond Form [Form 48]

Form FMC–48 [Amended]

■ 48. In Form FMC–48, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Section 19, Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998.	Section 19, Shipping Act of 1984 (46 U.S.C. 40901–40904).
46 U.S.C. app 1702	46 U.S.C. 40102.
section 11 of the 1984 Act, 46 U.S.C. app. 1710, or any penalty assessed against the Principal pursuant to section 13 of the 1984 Act, 46 U.S.C. app. 1712.	section 11 of the 1984 Act (46 U.S.C. 41301–41302, 41305–41307(a)), or any penalty assessed against the Principal pursuant to section 13 of the 1984 Act (46 U.S.C. 41107–41109).

Appendix B to Subpart C of Part 515—Ocean Transportation Intermediary (OTI) Insurance [Form 67]

Form FMC–67 [Amended]

■ 49. In Form FMC–67, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Under 46 U.S.C. app. 1718	Under 46 U.S.C. 40901–40904.
with the provisions of 46 U.S.C. app. 1718	with the provisions of 46 U.S.C. 40901–40904.
subject to the 1984 Act, 46 U.S.C. app. 1701 *et seq.*	subject to the 1984 Act (46 U.S.C. 40101–41309).
section 19 of the 1984 Act, 46 U.S.C. app. 1718	section 19 of the 1984 Act (46 U.S.C. 40901–40904).
section 11 of the 1984 Act, 46 U.S.C. app. 1710	section 11 of the 1984 Act (46 U.S.C. 41301–41302, 41305–41307(a)).
section 13 of the 1984 Act, 46 U.S.C. app. 1712	section 13 of the 1984 Act (46 U.S.C. 41107–41109).

Appendix C to Subpart C of Part 515—Ocean Transportation Intermediary (OTI) Guaranty Form [Form 68]

Form FMC–68 [Amended]

■ 50. In Form FMC–68, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
46 U.S.C. app. 1701 *et seq.,*	(46 U.S.C. 40101–41309).
section 11 of the 1984 Act, 46 U.S.C. app. 1710	section 11 of the 1984 Act (46 U.S.C. 41301–41302, 41305–41307(a)).
section 13 of the 1984 Act, 46 U.S.C. app. 1712	section 13 of the 1984 Act (46 U.S.C. 41107–41109).

Appendix D to Subpart C of Part 515—Ocean Transportation Intermediary (OTI) Group Bond Form [Form 69]

Form FMC–69 [Amended]

■ 51. In Form FMC–69, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Section 19, Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998.	Section 19, Shipping Act of 1984 (46 U.S.C. 40901–40904).
under the 1984 Act, 46 U.S.C. app. 1701 *et seq.*	under the 1984 Act (46 U.S.C. 40101–41309).
pursuant to section 11 of the 1984 Act, 46 U.S.C. app. 1710	pursuant to section 11 of the 1984 Act (46 U.S.C. 41301–41302, 41305–41307(a)).
pursuant to section 13 of the 1984 Act, 46 U.S.C. app. 1712	pursuant to section 13 of the 1984 Act (46 U.S.C. 41107–41109).

Appendix E to Subpart C of Part 515—Optional Rider for Additional NVOCC Financial Responsibility (Optional Rider to Form FMC–48) [Form 48A]

Form FMC–48A [Amended]

■ 52. In Form FMC–48A, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718	section 19 of the Shipping Act of 1984 (46 U.S.C. 40901–40904).

Appendix F to Subpart C of Part 515—Optional Rider for Additional NVOCC Financial Responsibility for Group Bonds [Optional Rider to Form FMC–69)

Form FMC–69A [Amended]

■ 53. In Form FMC–69A, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718	section 19 of the Shipping Act of 1984 (46 U.S.C. 40901–40904).

Subpart E—Freight Forwarding Fees and Compensation

§ 515.42 [Amended]

■ 54. In § 515.42(d), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
19(e)(4) of the Act	19(e)(4) of the Act (46 U.S.C. 40904(d)).

PART 520—CARRIER AUTOMATED TARIFFS

■ 55. Revise the authority citation for part 520 to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40101–40102, 40501–40503, 40701–40706, 41101–41109.

§ 520.1 [Amended]

■ 56. In § 520.1(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 8 of the Shipping Act of 1984 (''Act'')	section 8 of the Shipping Act of 1984 (''the Act'') (46 U.S.C. 40501–40503).

■ 57. In § 520.1(b)(2), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 8 of the Act	section 8 of the Act (46 U.S.C. 40501–40503).

■ 58. In § 520.1(b)(3), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 10 of the Act	section 10 of the Act (46 U.S.C. 41101–41106).

■ 59. In § 520.1(b)(4), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9 of the Act	section 9 of the Act (46 U.S.C. 40701–40706).

§ 520.4 [Amended]

■ 60. In § 520.4(a)(3), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3(17)(A) of the Act	section 3(17)(A) of the Act (46 U.S.C. 40102(18)).

■ 61. In § 520.4(i), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5(b)(6) of the Act	section 5(b)(6) of the Act (46 U.S.C. 40303(b)(6)).

§ 520.13 [Amended]

■ 62. In § 520.13(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 16 of the Act	section 16 of the Act (46 U.S.C. 40103).

§ 520.14 [Amended]

■ 63. In § 520.14(a), remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Section 8(d) of the Act	Section 8(d) of the Act (46 U.S.C. 40501(e)).
Section 9(c) of the Act	Section 9(c) of the Act (46 U.S.C. 40703, 40704(a)).

PART 525—MARINE TERMINAL OPERATOR SCHEDULES

■ 64. Revise the authority citation for Part 525 is to read as follows:

Authority: 46 U.S.C. 40102, 40501, 41101–41106.

§ 525.1 [Amended]

■ 65. In § 525.1(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 10 of the Act	section 10 of the Act (46 U.S.C. 41101–41106).

§ 525.2 [Amended]

■ 66. In § 525.2(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 10(d) of the Act	section 10(d) of the Act (46 U.S.C. 41102(c), 41103, 41106).

PART 530—SERVICE CONTRACTS

■ 67. Revise the authority citation for part 530 to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40301–40306, 40501–40503, 41307.

Subpart A—General Provisions

§ 530.1 [Amended]

■ 68. In § 530.1, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 8(c) of the Shipping Act of 1984 (''Act'')	section 8(c) of the Shipping Act of 1984 (''the Act'') (46 U.S.C. 40502).

§ 530.3 [Amended]

■ 69. In § 530.3(p), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3(17)(B) of the Act	section 3(17)(B) of the Act (46 U.S.C. 40102(16)).

§ 530.6 [Amended]

■ 70. In § 530.6(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 8 and 19 of the Act	sections 8 (46 U.S.C. 40501–40503) and 19 (46 U.S.C. 40901–40904) of the Act.

■ 71. In § 530.6(d), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 10(b)(12) of the Act	section 10(b)(12) of the Act (46 U.S.C. 41104(12)).

§ 530.7 [Amended]

■ 72. In § 530.7(f), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 8(c) of the Act	section 8(c) of the Act (46 U.S.C. 40502).

Subpart D—Exceptions and Implementation

§ 530.13 [Amended]

■ 73. In § 530.13(a), remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
section 3 of the Act	section 3 of the Act (46 U.S.C. 40102).
§ 530.3 or § 520.1 of this chapter	§ 530.3 or § 520.2 of this chapter.
section 8(c) of the Act	section 8(c) of the Act (46 U.S.C. 40502).

■ 74. In § 530.13(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 16 of the Act	section 16 of the Act (46 U.S.C. 40103).

§ 530.14 [Amended]

■ 75. In § 530.14(b), remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
section 9(d)	section 9(d) (46 U.S.C. 40704).
section 11a(e)(1)(B) of the Act	section 11 of the Act (46 U.S.C. 41301–41302, 41305–41307(a)).

PART 531—NVOCC SERVICE ARRANGEMENTS

■ 76. Revise the authority citation for Part 531 to read as follows:

Authority: 46 U.S.C. 40103.

Subpart A—General Provisions

§ 531.1 [Amended]

■ 77. In § 531.1, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
the Shipping Act of 1984 (''Act'')	the Shipping Act of 1984 (''the Act'').

§ 531.2 [Amended]

■ 78. In § 531.2, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 19 of the Act	section 19 of the Act (46 U.S.C. 40901–40904).

§ 531.3 [Amended]

■ 79. In § 531.3(o), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3(17)(B) of the Act	section 3(17)(B) of the Act (46 U.S.C. 40102(16)).

Subpart B—Filing Requirements

§ 531.6 [Amended]

■ 80. In § 531.6(d)(4), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 8 and 19 of the Act	sections 8 (46 U.S.C. 40501–40503) and 19 (46 U.S.C. 40901–40904) of the Act.

Subpart D—Exceptions and Implementation

§ 531.10 [Amended]

■ 81. In § 531.10(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
as defined in section 3 of the Act, the Commission's rules at 46 CFR 530.3 or 46 CFR 520.1.	as defined in section 3 of the Act (46 U.S.C. 40102) and § 530.3 or § 520.2 of this chapter.

■ 82. In Appendix A to Part 531, revise the Instructions for Form FMC–78 to read as follows:

Appendix A to Part 531—Instructions for Form FMC–78

* * * * *

BILLING CODE 6730–01–P

Instructions for Form FMC-78

Completed Form FMC-78 should be sent by mail or facsimile to:

Federal Maritime Commission
Bureau of Trade Analysis
800 N. Capitol Street, NW
Washington, DC 20573-0001
Fax (202) 523-5867

Line 1. Organization Number. This is the same as the Regulated Persons Index ("RPI") Number.

Line 2. Registrant. Provide the full name of the firm or individual registering for the automated NSA filing system and any trade names. The Registrant's name should match the corporate charter or business license, etc. The Registrant's name cannot be changed without submission of an amended registration form.

Line 3. FMC License Number. Provide name of Registrant as licensed by the Commission and date of the effectiveness of that license. If Registrant is a bonded but unlicensed foreign-based NVOCC operating pursuant to Commission's regulations at 46 C.F.R. § 515.3, indicate the name and address of the agent for service of process as required by 46 C.F.R. § 515.24. The name and address of the agent for service of process must be the same as that appearing in the NVOCC's tariff, as provided by 46 C.F.R. § 520.11 (b).

Line 4. Registration. Indicate whether this is the initial (first time) registration or an amendment to an existing NSA registration.

Line 5. Address of Headquarters Office. The complete street address of the Registrant's principal place of business should be shown in addition to a post office box (if any). Post office box alone is insufficient. Provide the Registrant's Federal Taxpayer Identification Number, if any.

Line 6. Mailing Address (if different). Provide the mailing address only if it differs from the headquarters address listed in Line 5. Show the street address as well as any post office box. This is the address to which the Registrant's log-on I.D. and password will be mailed via U.S. mail. Also, if the log-on I.D. and password is to be mailed to a third party, indicate here.

Line 7. Persons to be granted registration. Provide the full name of the individual for whom the log-on I.D. and password is requested. If you wish to transfer a log-on I.D. from an existing registration to a new individual, indicate the name of the new registrant and the log-on I.D. to be assigned.

Line 8. Registration by Third Party. Indicate, by checking the applicable box, whether the person to be granted registration in Line 7 is a third party (publisher, agent, etc.) of the registrant named in Line 1. The registration must be accompanied by an indication that the NVOCC has authorized the third party to file NVOCC service arrangements and related documents on its behalf.

Line 9. Signature of Authorized Official. Indicate the date the registration was signed and title of authorized official.

Paperwork Reduction Act Notice.

The collection of this information is authorized generally by section 16 of the Shipping Act of 1984, 46 U.S.C. app. § 1715.

This is an optional form. Submission is completely voluntary. Failure to submit this form will in no way impact the Federal Maritime Commission's assessment of your firm's financial responsibility; however, you will not be able to use the exemption set forth in the Commission's rules at 46 C.F.R. part 531.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. The valid control number for this information collection is 3072-0070 Copies of this form will be maintained until the filer indicates s/he will no longer file NSAs into the electronic filing system.

The time needed to complete and file this form will vary depending on individual circumstances. The total estimated average time to complete this form is: Recordkeeping, 20 minutes; Learning about the form, 20 minutes; Preparing and sending the form to the FMC, 20 minutes.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573-0001, or e-mail: secretary@fmc.gov.

BILLING CODE 6730–01–C

PART 535—OCEAN COMMON CARRIER AND MARINE TERMINAL OPERATOR AGREEMENTS SUBJECT TO THE SHIPPING ACT OF 1984

■ 83. Revise the authority citation for Part 535 to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40101–40104, 40301–40307, 40501–40503, 40901–40904, 41101–41109, 41301–41302, and 41305–41307.

Subpart A—General Provisions

§ 535.101 [Amended]

■ 84. In § 535.101, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 16, 17, and 19 of the Shipping Act of 1984 (''the Act'')..	sections 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 15, 16, 17, and 19 of the Shipping Act of 1984 (''the Act'') (46 U.S.C. 305, 40101–40104, 40301–40307, 40501–40503, 40901–40904, 41101–41109, 41301–41302, and 41305–41307).

§ 535.103 [Amended]

■ 85. In § 535.103(f)(5), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 10(c)(1) or 10(c)(3) of the Act	sections 10(c)(1) or 10(c)(3) of the Act (46 U.S.C. 41105(1) or 41105(3)).

Subpart C—Exemptions

§ 535.301 [Amended]

■ 86. In § 535.301(d), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 16 of the Act	section 16 of the Act (46 U.S.C. 40103).

§ 535.302 [Amended]

■ 87. In § 535.302(a)(1), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 4 agreement	section 4 agreement (46 U.S.C. 40301(a)–(c)).

§ 535.307 [Amended]

■ 88. In § 535.307(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 4 of the Act	section 4 of the Act (46 U.S.C. 40301(a)–(c)).

■ 89. In § 535.307(c), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 10(c) of the Act	section 10(c) of the Act (46 U.S.C. 41105).

Subpart D—Filing of Agreements

§ 535.401 [Amended]

■ 90. In § 535.401(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 6 of the Act	section 6 of the Act (46 U.S.C. 40304, 40306, 41307(b)–(d)).

§ 535.405 [Amended]

■ 91. In § 535.405(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 10(c)(1) or 10(c)(3) of the Act	sections 10(c)(1) or 10(c)(3) of the Act (46 U.S.C. 41105(1) or 41105(3)).

§ 535.408 [Amended]

■ 92. In § 535.408(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5 of the Act	section 5 of the Act (46 U.S.C. 40301(d)–(e), 40302–40303, 40305).

Subpart F—Action on Agreements

§ 535.604 [Amended]

■ 93. In § 535.604(c), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 6(d) of the Act	section 6(d) of the Act (46 U.S.C. 40304(d)).

§ 535.606 [Amended]

■ 94. In § 535.606(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
sections 6(i) and 6(k) of the Act	sections 6(i) and 6(k) of the Act (46 U.S.C. 41307(c) and 41307(d)).

§ 535.607 [Amended]

■ 95. In § 535.607(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 6(i) of the Act	section 6(i) of the Act (46 U.S.C. 41307(c)).

■ 96. In § 535.607(c), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 6(i)(2) of the Act	section 6(i)(2) of the Act (46 U.S.C. 41307(c)(2)).

§ 535.608 [Amended]

■ 97. In § 535.608(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5 of the Act	section 5 of the Act (46 U.S.C. 40301(d)–(e), 40302–40303, 40305).

Subpart H—Mandatory and Prohibited Provisions

§ 535.801 [Amended]

■ 98. In § 535.801(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 5(b)(8) of the Act	section 5(b)(8) of the Act (46 U.S.C. 40303(b)(8)).

§ 535.802 [Amended]

■ 99. In § 535.802(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 8(c)(3) of the Act	section 8(c)(3) of the Act (46 U.S.C. 40502(d)).

Subpart I—Penalties

§ 535.901 [Amended]

■ 100. In § 535.901, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
sections 4 and 5(a) of the Act	sections 4 and 5(a) of the Act (46 U.S.C. 40301(a)–(c) and 40302).
section 16 of the Act	section 16 of the Act (46 U.S.C. 40103).
section 13(a) of the Act	section 13(a) of the Act (46 U.S.C. 41107).

§ 535.902 [Amended]

■ 101. In § 535.902, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 13(a) of the Act	section 13(a) of the Act (46 U.S.C. 41107).

Appendix A to Part 535—Information Form and Instructions

Information Form Instructions [Amended]

■ 102. In the Privacy Act and Paperwork Reduction Act Notice in Appendix A to Part 535, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 15 of the Shipping Act of 1984, 46 U.S.C. app. § 1714	section 15 of the Shipping Act of 1984 (46 U.S.C. 40104).

Appendix B to Part 535—Monitoring Report and Instructions

Monitoring Report Instructions [Amended]

■ 103. In the Privacy Act and Paperwork Reduction Act Notice in Appendix B to Part 535, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 15 of the Shipping Act of 1984, 46 U.S.C. app. § 1714	section 15 of the Shipping Act of 1984 (46 U.S.C. 40104).

PART 540—PASSENGER VESSEL FINANCIAL RESPONSIBILITY

■ 104. Revise the authority citation for Part 540 to read as follows:

Authority: 5 U.S.C. 552, 553; 31 U.S.C. 9701; 46 U.S.C. 305, 44101–44106.

Subpart A—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation

§ 540.1 [Amended]

■ 105. In § 540.1(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
(46 U.S.C. app. 91, 817d and 817e)	(46 U.S.C. 44101–44106, 60105).

§ 540.4 [Amended]

■ 106. In § 540.4(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3 of Public Law 89–777 (80 Stat. 1357, 1358)	section 3 of Public Law 89–777 (46 U.S.C. 44101–44102, 44104–44106).

§ 540.5 [Amended]

■ 107. In § 540.5(d), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table, wherever it may appear:

Remove	Add
under section 3 of Public Law 89–777	under section 3 of Public Law 89–777 (46 U.S.C. 44101–44102, 44104–44106).

Form FMC–131 To Subpart A of Part 540

Form FMC–131 [Amended]

■ 108. In Form FMC–131, in paragraph 16.(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 2 of Public Law 89–777	section 2 of Public Law 89–777 (46 U.S.C. 44101, 44103–44106).

Form FMC–133A to Subpart A of Part 540

Form FMC–133A [Amended]

■ 109. In Form FMC–133A, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Guaranty in Respect of Liability for Nonperformance, Section 3 of the Act.	Guaranty in Respect of Liability for Nonperformance, Section 3 of the Act (46 U.S.C. 44101–44102, 44104–44106).
section 3 of Pub. L. 89–777, 89th Congress, approved November 6, 1966 (''the Act'').	section 3 of Pub. L. 89–777, 89th Congress, approved November 6, 1966 (''the Act'') (46 U.S.C. 44101–44102, 44104–44106).

Appendix A to Subpart A of Part 540—Example of Escrow Agreement for Use Under 46 CFR 540.5(b)

Escrow Agreement [Amended]

■ 110. In Escrow Agreement, in paragraph 12., remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3 of Public Law 89–777	section 3 of Public Law 89–777 (46 U.S.C. 44101–44102, 44104–44106).

Subpart B—Proof of Financial Responsibility, Bonding and Certification of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages

§ 540.23 [Amended]

■ 111. In § 540.23(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 2 of Pub. L. 89–777 (80 Stat. 1357, 1358)	section 2 of Public Law 89–777 (46 U.S.C. 44101, 44103–44106).

Form FMC–132B to Subpart B of Part 540

Form FMC–132B [Amended]

■ 112. In Form FMC–132B, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 2(a) of Pub. L. 89–777	section 2(a) of Pub. L. 89–777 (46 U.S.C. 44103(b)).

Form FMC–133B to Subpart B of Part 540

Form FMC–133B [Amended]

■ 113. In Form FMC–133B, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Guaranty in Respect of Liability for Death or Injury, Section 2 of the Act	Guaranty in Respect of Liability for Death or Injury, Section 2 of the Act (46 U.S.C. 44101, 44103–44106).
section 2(a) of the Act	section 2(a) of the Act (46 U.S.C. 44103(b)).
section 2(e) of the Act	section 2(e) of the Act (46 U.S.C. 44105).

PART 545—INTERPRETATIONS AND STATEMENTS OF POLICY

■ 114. Revise the authority citation for Part 545 to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40307, 40501–40503, 41101–41106, and 40901–40904; 46 CFR 515.23

§ 545.1 [Amended]

■ 115. In § 545.1(a), remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Section 8(c) of the Shipping Act of 1984 (''1984 Act'')	8(c) of the Shipping Act of 1984 (''the Act'') (46 U.S.C. 40502).
requirements of the 1984 Act	requirements of the Act.
Section 10(b)(10) of the 1984 Act	Section 10(b)(10) of the Act (46 U.S.C. 41104(10)).
Section 7(a)(2) of the 1984 Act	Section 7(a)(2) of the Act (46 U.S.C. 40307(a)(3)).

§ 545.2 [Amended]

■ 116. In § 545.2, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
Section 10(a)(1) of the Shipping Act of 1984	Section 10(a)(1) of the Shipping Act of 1984 (46 U.S.C. 41102(a)).

PART 550—REGULATIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES

■ 117. Revise the authority citation for Part 550 to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 301–307; sec. 19 (a)(2), (e), (f), (g), (h), (i), (j), (k) and (l) of the Merchant Marine Act, 1920, 46 U.S.C. 42101 and 42104–42109; and sec. 10002 of the Foreign Shipping Practices Act of 1988, 46 U.S.C. 42301–42307.

Subpart A—General Provisions

§ 550.101 [Amended]

■ 118. In § 550.101, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 19 of the Merchant Marine Act of 1920	section 19 of the Merchant Marine Act of 1920 (46 U.S.C. 42101–42109).

Subpart F—Corrective Actions

§ 550.601 [Amended]

■ 119. In § 550.601(f), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 4197 of the Revised Statutes, 46 U.S.C. app. 91	section 4197 of the Revised Statutes (46 U.S.C. 60105).

PART 551—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE U.S. FOREIGN TRADE

■ 120. Revise the authority citation for Part 551 to read as follows:

Authority: 46 U.S.C. 301–307; 46 U.S.C. 42101–42109; 46 CFR Part 550.

§ 551.1 [Amended]

■ 121. In § 551.1, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b).	section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 42101).

PART 555—ACTIONS TO ADDRESS ADVERSE CONDITIONS AFFECTING U.S.-FLAG CARRIERS THAT DO NOT EXIST FOR FOREIGN CARRIERS IN THE UNITED STATES

■ 122. Revise the authority citation for Part 555 to read as follows:

Authority: 5 U.S.C. 553; sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. 42301–42307).

§ 555.2 [Amended]

■ 123. In § 555.2(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 3 of the Shipping Act of 1984 (46 U.S.C. app. 1702)	section 3 of the Shipping Act of 1984 (46 U.S.C. 40102).

§ 555.5 [Amended]

■ 124. In § 555.5(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
ex parte contacts (§ 502.11 of this chapter)	*ex parte* communications (§ 502.11 of this chapter).

§ 555.8 [Amended]

■ 125. In § 555.8(a)(5), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 4197 of the Revised Statutes, 46 U.S.C. app. 91	section 4197 of the Revised Statutes (46 U.S.C. 60105).

PART 560—ACTIONS TO ADDRESS CONDITIONS UNDULY IMPAIRING ACCESS OF U.S.-FLAG VESSELS TO OCEAN TRADE BETWEEN FOREIGN PORTS

■ 126. Revise the authority citation for Part 560 to read as follows:

Authority: 5 U.S.C. 553; secs. 13(b)(6), 15 and 17 of the Shipping Act of 1984, 46 U.S.C. 305, 40104, and 41108(d); sec. 10002 of the Foreign Shipping Practices Act of 1988 (46 U.S.C. 42301–42307).

§ 560.1 [Amended]

■ 127. In § 560.1(a)(1), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 13(b)(6) of the Shipping Act of 1984 (''the Act'') (46 U.S.C. app. 1712(b)(6)).	section 13(b)(6) of the Shipping Act of 1984 (''the Act'') (46 U.S.C. 41108(d)).

■ 128. In § 560.1(a)(2), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 13(b)(6) may be invoked	section 13(b)(6) (46 U.S.C. 41108(d)) may be invoked.

■ 129. In § 560.1(a)(3), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 2 of the Act (46 U.S.C. app. 1701)	section 2 of the Act (46 U.S.C. 40101).

■ 130. In § 560.1(b)(2), remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
ex parte contacts (§ 502.11 of this chapter) service of documents and copies of documents (§§ 502.114(b) and 502.118 of this chapter.	*ex parte* communications (§ 502.11 of this chapter). service of documents and copies of documents (§§ 502.114(b) and 502.118 of this chapter).

§ 560.5 [Amended]

■ 131. In § 560.5(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
under section 13(b)(6) of the Act	under section 13(b)(6) of the Act (46 U.S.C. 41108(d)).

§ 560.7 [Amended]

■ 132. In § 560.7(b)(3)(ii), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
under the Act (46 U.S.C. app. 1712(b)(3))	under the Act (46 U.S.C. 41108(b)).

■ 133. In § 560.7(b)(6), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 4197 of the Revised Statutes, 46 U.S.C. app. 91	section 4197 of the Revised Statutes (46 U.S.C. 60105).

PART 565—CONTROLLED CARRIERS

■ 134. Revise the authority citation for Part 565 to read as follows:

Authority: 46 U.S.C. 40701–40706.

§ 565.1 [Amended]

■ 135. In § 565.1(a), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9 of the Shipping Act of 1984	section 9 of the Shipping Act of 1984 (46 U.S.C. 40701–40706).

■ 136. In § 565.1(b), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9(f) of the Shipping Act of 1984	section 9(f) of the Shipping Act of 1984 (46 U.S.C. 40706).

§ 565.5 [Amended]

■ 137. In § 565.5, remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9 of the Shipping Act of 1984	section 9 of the Shipping Act of 1984 (46 U.S.C. 40701–40706).

§ 565.7 [Amended]

■ 138. In § 565.7(b)(2)(ii), remove the reference in the ''Remove'' column and add in its place the reference in the ''Add'' column in the following table:

Remove	Add
section 9 of the Shipping Act of 1984	section 9 of the Shipping Act of 1984 (46 U.S.C. 40701–40706).

§ 565.8 [Amended]

■ 139. In § 565.8, remove the references in the ''Remove'' column and add in their place the references in the ''Add'' column in the following table:

Remove	Add
Section 8(d) of the Shipping Act of 1984	Section 8(d) of the Shipping Act of 1984 (46 U.S.C. 40501(e)).
Section 9(c) of the Shipping Act of 1984	Section 9(c) of the Shipping Act of 1984 (46 U.S.C. 40703, 40704(a)).

By the Commission.

Karen V. Gregory,

Secretary.

[FR Doc. E9–22659 Filed 9–30–09; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2095; MB Docket No. 09–147; RM–11554]

Television Broadcasting Services; New Orleans, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Louisiana Media Company, LLC, the licensee of station WVUE–DT, channel 8, New Orleans, Louisiana, requesting the substitution of its pre-transition DTV channel 29 for its post-transition DTV channel 8 at New Orleans.

DATES: This rule is effective October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 09–147, adopted September 22, 2009, and released September 23, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202)

418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Louisiana, is amended by adding channel 29 and removing channel 8 at New Orleans.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau, Federal Communications Commission.

[FR Doc. E9–23709 Filed 9–30–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

[Docket No. FWS–R9–NSR–2008–0042; 93270–1265–0000–4A]

RIN 1018–AV80

2008–2009 Refuge-Specific Hunting and Sport Fishing Regulations—Modifications; Corrections

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correcting amendments.

SUMMARY: On September 3, 2009, we published a final rule in the **Federal Register** implementing pertinent refuge-specific regulations and amending other existing refuge-specific regulations that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2008–2009 season. The rule contained errors in the amendatory language and the regulatory text. This document corrects those errors.

DATES: This correction is effective October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Leslie Marler (703) 358–2397.

SUPPLEMENTARY INFORMATION: On September 3, 2009, we published a final rule (74 FR 45674) that implemented pertinent refuge-specific regulations and amended other existing refuge-specific regulations pertaining to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2008–2009 season. This rule became effective on the day of publication, September 3, 2009. In the rule, several of our amendatory instructions for adding or revising paragraphs in the regulatory text section were not clear. This document corrects error that arose from those unclear instructions. In addition, this document contains the following corrections to the regulatory text:

In the State of Alabama, the correction for Cahaba National Wildlife Refuge reflects that conditions B.2., B.3., and B.7. apply rather than B.8. which does not exist. The correction for Mountain Longleaf National Wildlife Refuge reflects that conditions A.1. through A.4. apply rather than A.5. which does not exist.

In the State of Georgia, the correction for Savannah National Wildlife Refuge reflects the addition of a sentence to C.10. that was inadvertently omitted.

In the State of Maryland, the correction for Patuxent Research Refuge reflects removal of extraneous characters at the end of condition D.18.vi. inadvertently applied during XML coding of the document.

Administrative Procedure Act

We find good cause to waive notice and comment on this correction, under 5 U.S.C. 553(b)(B), and the 30-day delay in effective date under 5 U.S.C. 553(d). Notice and comment are unnecessary because these corrections are minor, editorial changes. The substance of the regulations remains unchanged. Therefore, this correction is being published as a final regulation and is effective upon publication.

List of Subjects in 50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

■ Accordingly, we amend 50 CFR part 32 as follows:

PART 32—HUNTING AND FISHING

■ 1. The authority citation for part 32 continues to read:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

■ 2. Amend § 32.20 by:

■ a. Revising paragraph C.6. of Cahaba National Wildlife Refuge and paragraphs B.1., and C.1.of Mountain Longleaf National Wildlife Refuge; and

■ b. Adding paragraph C.5.of Mountain Longleaf National Wildlife Refuge.

The addition and revisions read as follows:

§ 32.20 Alabama.

* * * * *

Cahaba River National Wildlife Refuge

* * * * *

C. Big Game Hunting. * * *

6. Conditions B2, B3, and B7 apply.

* * * * *

Mountain Longleaf National Wildlife Refuge

* * * * *

B. * * *

1. Conditions A1 through A4 apply.

* * * * *

C. * * *

1. Conditions A1 through A4 apply.

* * * * *

5. We require tree stand users to use a safety belt or harness.

* * * * *

■ 3. Amend § 32.29 by revising paragraphs C.10. and C.11. of Savannah National Wildlife Refuge to read as follows:

§ 32.29 Georgia.

* * * * *

Savannah National Wildlife Refuge

* * * * *

C. * * *

10. We allow turkey hunting during a special 16-day turkey hunt in April. We only allow shotguns with #2 shot or smaller and bows for turkey hunting in accordance with State regulations. We prohibit possession or use of slugs or buckshot during turkey hunts. We prohibit crossbows (see § 27.43 of this chapter).

11. You must remove hunt stands daily (see § 27.93 of this chapter).

* * * * *

■ 4. Amend § 32.31 by adding paragraphs A.4. and A.5. of Kootenai

National Wildlife Refuge to read as follows:

§ 32.31 Idaho.

* * * * *

Kootenai National Wildlife Refuge

A. * * *

4. On waterfowl hunt days, we allow public entry onto the refuge from 3:00 a.m. until 1 hour after legal sunset.

5. We prohibit overnight vehicle parking on the refuge.

* * * * *

■ 5. Amend § 32.39 by revising paragraph D.18.vi. of Patuxent Research Refuge to read as set forth below:

§ 32.39 Maryland.

* * * * *

Patuxent Research Refuge

* * * * *

D. Sport Fishing. * * *

* * * * *

18. * * *

vi. We prohibit the use of any type of watercraft.

* * * * *

§ 32.47 [Amended]

■ 6. Amend § 32.47 by removing Stillwater Management Area.

■ 7. Amend § 32.66 by adding paragraphs C.10. and C.11. of Great Dismal Swamp National Wildlife Refuge to read as follows:

§ 32.66 Virginia.

* * * * *

Great Dismal Swamp National Wildlife Refuge

* * * * *

C. * * *

10. We prohibit baiting or hunting over bait (see § 32.2(h)).

11. We prohibit possession of alcoholic beverages (see § 32.2(j)).

* * * * *

Dated: September 24, 2009.

Leslie A. Marler,

National Wildlife Refuge System Federal Register Liaison.

[FR Doc. E9–23482 Filed 9–30–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910091344–9056–02]

RIN 0648–XR92

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2009 total allowable catch (TAC) of Pacific cod allocated to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), October 1, 2009, until 2400 hrs, A.l.t., December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

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

The 2009 TAC of Pacific cod allocated to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA is 21,277 metric tons (mt) as established by the final 2009 and 2010 harvest specifications for groundfish of the GOA (74 FR 7333, February 17, 2009).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2009 TAC of Pacific cod allocated to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 20,277 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA. Delaying the closure of Pacific cod after the Regional Administrator has determined that the directed fishing allowance has been reached is a conservation concern. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 24, 2009.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

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

Dated: September 25, 2009.

Alan D. Risenhoover,

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

[FR Doc. E9–23694 Filed 9–28–09; 4:15pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 189
Thursday, October 1, 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

Animal and Plant Health Inspection Service

9 CFR Part 2

[Docket No. APHIS–2006–0023]

RIN 0579–AD03

Submission of Itineraries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Animal Welfare Act regulations to include more specific requirements in the regulations concerning the submission of itineraries by any person who is subject to the Animal Welfare Act regulations and who intends to exhibit any animal at any location other than the person's approved site(s). We believe APHIS' inspectors' access to animals, facilities, and records for unannounced inspections when animals are exhibited at a location other than at a regulated person's approved site(s) is necessary to improve compliance with the regulations and the Animal Welfare Act.

DATES: We will consider all comments that we receive on or before November 30, 2009.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0023* to submit or view comments and to view supporting and related materials available electronically.
- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS–2006–0023, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0023.

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

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

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234; (301) 734–7833.

SUPPLEMENTARY INFORMATION:

Background

The Animal Welfare Act (AWA) (7 U.S.C. 2131–2159) authorizes the Secretary of Agriculture to promulgate rules and standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, exhibitors, and other regulated entities. The Secretary of Agriculture has delegated the responsibility for enforcing the AWA to the Administrator of the Animal and Plant Health Inspection Service (APHIS). Regulations and standards established under the AWA are contained in 9 CFR parts 1, 2, and 3. The APHIS Animal Care program ensures compliance with the AWA regulations and standards by conducting unannounced inspections of premises with regulated animals.

The regulations contained in 9 CFR part 2 establish certain responsibilities of regulated persons under the AWA. These responsibilities include requirements for the licensing and registration of dealers, exhibitors, and research facilities, and standards for veterinary care, identification of animals, and recordkeeping.

Currently, APHIS requires licensees or registrants who intend to exhibit animals away from their approved sites to submit itineraries pursuant to §§ 2.126 and 2.125 of the regulations. Section 2.126, regarding access and inspection of records and property, provides that each dealer, exhibitor, intermediate handler, or carrier shall, during business hours, allow APHIS officials to enter its place of business, examine and make copies of records required by the AWA and the regulations, inspect the facilities, property, and animals, and document conditions and areas of noncompliance. Section 2.125 provides that each dealer, exhibitor, operator of an auction sale, intermediate handler, and carrier shall furnish to any APHIS official any information concerning their business which the APHIS official may request in connection with the enforcement of the provisions of the AWA and the regulations and standards. Such information shall be furnished within a reasonable time and as may be specified in the request for information.

To improve compliance with the regulations and the AWA, we are proposing to amend the AWA regulations to include more specific requirements concerning itineraries by any person subject to the AWA regulations who intends to exhibit any regulated animal at any location other than the person's approved site(s). Such itineraries shall be received by the Animal Care Regional Director no fewer than 2 days in advance of any travel. Such itineraries may be submitted by, for example, overnight mail, facsimile, regular mail, e-mail, or other method, but must be received within the specified timeframe.

By including more specific requirements for submission of itineraries, we would ensure that Animal Care inspectors have access to animals, facilities, and records for unannounced inspections when animals are exhibited at a location other than at an approved site(s). By including more specific requirements concerning itineraries, we would be able to better fulfill our obligations under the AWA without having to divert limited resources to locating noncompliant exhibitors.

In order for licensees and registrants to comply with the requirement of readily available access to the premises and animals by the APHIS inspector, we must be kept apprised of their location. This proposed action would ensure that APHIS inspectors have access to their facilities for unannounced inspections.

Accordingly, we propose to amend the regulations to add a new paragraph (c) to § 2.126 regarding access to and

inspection of records and property to specifically require the submission of itineraries by any person who is subject to the AWA and regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

APHIS is responsible for enforcing the AWA by promulgating regulations and standards and other requirements governing the humane handling, housing, care, treatment, and transportation of certain animals by dealers, exhibitors, and other regulated entities. APHIS' Animal Care program ensures compliance with the AWA and the regulations and standards issued thereunder by conducting unannounced inspections of premises with regulated animals.

The proposed rule would require that any person who is subject to the AWA regulations and who intends to exhibit any animal at any location other than the person's approved site(s) submit an itinerary.

According to APHIS' Animal Care Program, there were no fewer than 202 regulated persons exhibiting animals at locations other than their approved site(s) in the United States in 2009. These persons (including, for example, carnivals, circuses, animal acts, traveling educational exhibits, and petting zoos) are classified under North American Industry Classification System (NAICS) code 712130, ''Zoos and Botanical Gardens.''

Under the Small Business Administration's criteria, an entity in NAICS 712130 is considered small if it has annual receipts of not more than $7.0 million. While we do not know the number of regulated persons who travel that are small entities, it can be assumed that some or many are small businesses. We do not expect that these businesses, regardless of their size, would be significantly affected by the proposed requirements because the current regulations require a regulated person who travels to furnish APHIS with information concerning the location of his or her business and, thus, to submit an itinerary. Because most exhibitors and dealers who travel have been submitting itineraries in a timely manner in accordance with the proposed regulations, they would not be affected.

APHIS anticipates that the only economic effects associated with this proposed rule would be related to the costs incurred by licensees and registrants in connection with the preparation and submission of the itinerary itself. Itineraries may be submitted by mail, overnight mail, facsimile, e-mail, or any other method as long as they are received within the required timeframe. We believe that the actual transmittal costs associated with the proposed notification requirements would be minimal. There would be some personnel costs associated with the time spent producing and addressing a written itinerary, but we expect that the time needed to prepare the document (if one had not already been prepared for other business purposes) would also be minimal.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. The AWA does not provide administrative procedures which must be exhausted prior to a judicial challenge to the provisions of this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2006–0023. Please send a copy of your comments to: (1) Docket No. APHIS–2006–0023, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

To ensure that APHIS inspectors have access to the animals and facilities of any person subject to the Animal Welfare regulations who intends to exhibit any animal at any location other than the person's approved site(s), we are proposing to amend the regulations regarding access and inspection of records and property to specifically require such persons to submit itineraries to the Animal Care Regional Director. We would require that any person who intends to exhibit any animal at any location other than the person's approved site(s) submit the following information:

- The name of the person who intends to exhibit the animal and transport the animal for exhibition purposes, including any business name and current AWA license or registration number and, in the event that any animal is leased, borrowed, loaned, or under some similar arrangement, the name of the person who owns such animal;
- The name, identification number or identifying characteristics, species (common or scientific name), sex and age of each animal; and
- The names, dates, and locations (with addresses) where the animals will travel, be housed, and be exhibited, including all anticipated dates and locations (with addresses) for any stops and layovers.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Any person exhibiting any animal, or that allows any animal to

be exhibited, at any location other than their designated primary facility.

Estimated annual number of respondents: 300.

Estimated annual number of responses per respondent: 8.66.

Estimated annual number of responses: 2,600.

Estimated total annual burden on respondents: 650 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 9 CFR Part 2

Animal welfare, Pets, Reporting and recordkeeping requirements, Research.

Accordingly, we propose to amend 9 CFR part 2 as follows:

PART 2—REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

2. In § 2.126, the section heading is revised and a new paragraph (c) is added to read as follows:

§ 2.126 Access and inspection of records and property; submission of itineraries.

* * * * *

(c) Any person who is subject to the Animal Welfare regulations and who intends to exhibit any animal at any location other than the person's approved site(s) (including, but not limited to, circuses, traveling educational exhibits, animal acts, and petting zoos) shall submit a written itinerary to the Animal Care Regional Director. The itinerary shall be received by the Animal Care Regional Director no fewer than 2 days in advance of any travel and shall contain complete and accurate information concerning the whereabouts of any animal(s) intended for exhibition at any location other than the person(s) approved site(s).

(1) The itinerary shall include the following:

(i) The name(s) of the person(s) who intends to exhibit the animal(s) and transport the animal(s) for exhibition purposes, including any business name(s) and current AWA license or registration number(s) and, in the event that any animal is leased, borrowed, loaned, or under some similar arrangement, the name of the person who owns such animal;

(ii) The name, identification number or identifying characteristics, species (common or scientific name), sex and age of each animal; and

(iii) The names, dates, and locations (with addresses), where the animals will travel, be housed, and be exhibited, including all anticipated dates and locations (with addresses) for any stops and layovers.

(2) The itinerary shall be promptly revised, as necessary, to account for any changes.

Done in Washington, DC, this 25th day of September 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–23679 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 0907301210–91239–01]

RIN 0648–AX83

Gulf of the Farallones and Monterey Bay National Marine Sanctuaries Regulations on Introduced Species

AGENCY: Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of proposed rulemaking; request for public comments.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is proposing to revise its regulations on the introduction of introduced species into the Gulf of the Farallones and Monterey Bay national marine sanctuaries (GFNMS and MBNMS, respectively). This action is being taken in response to a letter received by the Governor of California on December 23, 2008. The Governor certified that the terms of designation to regulate introduced species in these sanctuaries were unacceptable in State waters of the sanctuaries. In response to the Governor's letter, NOAA is proposing to modify its regulations to except all State-permitted aquaculture activities in the two sanctuaries.

DATES: Comments must be received by November 16, 2009.

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

- *Electronic submission (preferred method): http://www.regulations.gov* (search for docket # NOAA–NOS–2009–0105).
- *Mail:* John Armor, Office of National Marine Sanctuaries, 1305 East-West Highway, Silver Spring, Maryland 20910.

Instructions: All comments received are a part of the public record and will be generally posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NOAA will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: John Armor, Office of National Marine Sanctuaries, 1305 East-West Highway, Silver Spring, MD 20910, or by phone at 301–713–3125.

SUPPLEMENTARY INFORMATION:

I. Background

A. GFNMS and MBNMS Background

NOAA established the GFNMS in 1981 to protect and preserve a unique and fragile ecological community, including the largest seabird colony in the contiguous United States and diverse and abundant marine mammals. The GFNMS lies off the coast of California, to the west and north of San Francisco, and is composed of 1,279 square statute miles (966 square nautical miles) of offshore waters and submerged lands thereunder. The sanctuary boundary extends out to and around the Farallon Islands and nearshore waters (up to the mean high water line) from Bodega Head to Rocky Point in Marin. For more information about the GFNMS, *see http://farallones.noaa.gov*.

NOAA established the MBNMS in 1992 for the purposes of protecting and managing the conservation, ecological,

recreational, research, educational, historical, and esthetic resources and qualities of the area. The MBNMS is located offshore of California's central coast, adjacent to and south of the GFNMS. It encompasses a shoreline length of approximately 276 statute miles (240 nmi) between Rocky Pt. in Marin County and Cambria in San Luis Obispo County. The sanctuary spans approximately 6,094 square statute miles (4,602 square nautical miles) of ocean and coastal waters, and the submerged lands thereunder, extending an average distance of 30 statute miles (26 nmi) from shore. The Davidson Seamount is also part of the sanctuary, though it does not share a contiguous boundary. Supporting some of the world's most diverse marine ecosystems, the MBNMS is home to numerous mammals, seabirds, fishes, invertebrates, sea turtles and plants in a remarkably productive coastal environment. For more information about the MBNMS, please *see http://montereybay.noaa.gov*.

B. Regulatory Background

Pursuant to section 304(e) of the National Marine Sanctuaries Act (16 U.S.C. 1434 *et seq.*) (NMSA), the Office of National Marine Sanctuaries (ONMS) conducted a joint review of the management plans for the Gulf of the Farallones, Monterey Bay and Cordell Bank national marine sanctuaries. This review resulted in revised management plans, regulations, and terms of designation for all three sanctuaries. On November 20, 2008, NOAA published the associated final rule and terms of designation (73 FR 70488) and released the revised management plans.

Pursuant to section 304(b) of the National Marine Sanctuaries Act (NMSA), changes to a sanctuary's terms of designation and the associated regulations do not become effective until after forty-five days of continuous session of Congress. After forty-five days, in this case on March 9, 2009, the regulations would become final and take effect, except that any term of designation the Governor certified as unacceptable would not take effect in the area of a sanctuary lying within the seaward boundary of the State (''State waters''). If exercised, the effect of a gubernatorial objection is that the term(s) of designation do not become effective in State waters. Any regulations that rely on the change in terms of designation also do not become effective in State waters.

In the November 20, 2008 final rule, NOAA changed the terms of designation for the GFNMS and MBNMS to clearly allow regulation of introduced species. Pursuant to section 304(b) of the NMSA, the Governor could accept or reject those changes to the terms of designation.

C. Certification by the Governor of California

On December 23, 2008, during the forty-five day review period under the NMSA, the Governor of the State of California certified by letter to the Secretary of Commerce that certain terms of designation regarding regulation of the introduction of introduced species in State waters were unacceptable. The following is the text of the December 23, 2008, letter from the Governor of California to the United States Secretary of Commerce.

December 23, 2008
Honorable Carlos M. Gutierrez
Secretary of Commerce
1401 Constitution Avenue Northwest
Washington, DC 20230.

Dear Mr. Secretary:

Since the designation of the Channel Islands National Marine Sanctuary in 1981, the National Oceanic and Atmospheric Administration's Office of National Marine Sanctuaries (ONMS) and the State of California have been working together to ensure the protection of our special and unique national marine sanctuaries. California very much appreciates the strong working relationship we have with our Federal partners, and I think we've done a lot of good work together to protect our coastal and ocean resources and to educate Californians about the importance of these resources.

In 2001, ONMS initiated a process to review and update the management plans and corresponding regulations of the three national marine sanctuaries off the California coast: Monterey Bay, Gulf of the Farallones and Cordell Bank. In October 2006, ONMS released the draft management plans and a draft environmental impact statement. In January 2007, the State of California submitted comments to ONMS. Since then, the State of California and ONMS have successfully resolved all concern regarding proposed regulations, with the exception of the following proposed regulations regarding introduced species:

For Gulf of the Farallones National Marine Sanctuary § 922.82(10):

Introducing or otherwise releasing from within or into the Sanctuary and introduced species except:

(A) Striped bass (*Morone saxatilis*) released during catch and release fishing activity; or

(B) Species cultivated by mariculture activities in Tomales Bay pursuant to a valid lease, permit, license or other authorization issued by the State of California and in effect on the effective date of the final regulation.

For Monterey Bay National Marine Sanctuary § 922.132(12):

Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except striped bass (*Morone saxatilis*) released during catch and release fishing activity.

We agree with ONMS's assertion that introduced species can threaten our ocean and coastal ecosystems if not properly managed in the context of an aquaculture program. However, we object to the proposed regulations for several reasons:

1. There is no authority in either State of Federal law for the proposition that all non-native species are necessarily detrimental to native wildlife and must therefore be prohibited.

2. The California State legislature has not granted any submerged lands to the Federal government that would enable a sanctuary to assert authority over aquaculture operations in State waters.

3. The release of harmful non-native species is already controlled under State law, and any proposed introduction of non-native aquaculture species is subject to multiple agency review and to the California Environmental Quality Act.

In our January 2007 comment letter, the State of California suggested the following changes to the proposed regulations (deletions noted in *italics* and additions in UPPERCASE font):

For Gulf of the Farallones National Marine Sanctuary § 922.82(10):

Introducing or otherwise releasing from within or into the Sanctuary and introduced species, except:

(A) Striped bass (MORONE SAXATILIS) released during catch and release fishing activity; or

(B) Species cultivated by mariculture activities *in Tomales Bay* pursuant to a valid lease, permit, license or other authorization issued by the State of California *and in effect on the effective date of the final regulation*.

For Monterey Bay National Marine Sanctuary § 922.132(12):

Introducing or otherwise releasing from within or into the Sanctuary and introduced species, except striped bass (MORONE SAXATILIS) released during catch and release fishing activity OR THROUGH MARICULTURE OR RESEARCH ACTIVITIES CONDUCTED PURSUANT TO A VALID LEASE, PERMIT, LICENSE OR OTHER AUTHORIZATION ISSUED BY THE STATE OF CALIFORNIA.

These changes will allow us to protect sanctuary resources from introduced species without conflicting with State authority to manage aquaculture in State waters.

Despite the concerns expressed by the State of California, ONMS included these proposed regulations in the final environmental impact statement dated September 15, 2008, and the notice in the **Federal Register** dated November 20, 2008.

If ONMS in unable or unwilling to make the requested changes, I hereby use the authority given to me by the National Marine Sanctuaries Act (16 U.S.C. 1434(b)(1)) to certify that certain terms in the designation documents of the Gulf of the Farallones and Monterey Bay National Marine Sanctuaries are unacceptable. As a result, the unacceptable term of designation document shall not take effect in the area of the sanctuary lying within the seaward boundary of the State of California.

For the Gulf of the Farallones National Marine Sanctuary, I certify that Article IV,

section 1(e) of the designation document is unacceptable. Article IV, section 1(e) reads, ''Introducing or otherwise releasing from within or into the Sanctuary an introduced species.''

For the Monterey Bay National Marine Sanctuary, I certify that Article IV, section 1(l) of the designation document is unacceptable. Article IV, section 1(l) reads, ''Introducing or otherwise releasing from within or into the Sanctuary an introduced species.''

ONMS and the State of California have been working together for almost 30 years to ensure the protection of the national marine sanctuaries off California's coast. In the spirit of this ongoing partnership, I urge ONMS to respect the State of California's sovereign right to manage its resources in State waters, and I ask that ONMS make the requested changes in the Gulf of the Farallones and Monterey Bay National Marine Sanctuaries proposed regulations and designation documents. I look forward to continuing to work with you on this important issue.

Sincerely,

Arnold Schwarzenegger

D. NOAA's Response to the Governor

In his letter, the Governor indicated that the State of California's concerns were clearly articulated in its comments on the proposed rule (71 FR 59338, October 6, 2006). However, NOAA believes the State's position on the introduced species regulation was not clear. During the comment period on the proposed rule, NOAA received comments from the California Department of Fish and Game (CDFG), the California Department of Boating and Waterways (CDBW), the California Coastal Commission (CCC), and California State Lands Commission. The CDFG and CDBW both opposed NOAA's prohibition on the introduction of introduced species but the two commissions were either silent or explicitly supportive of it. To add further complexity to the State's position, the CCC—exercising its authority under the Federal consistency provisions of the Coastal Zone Management Act—specifically, rejected the CDFGs requested change and stated that NOAA must maintain the prohibition on introduced species as it was written in the proposed rule or else the final regulations would not be consistent with the enforceable policies of the California Coastal Management Program, which NOAA complies with. Therefore, NOAA did not anticipate the State of California's position on the matter when NOAA received the Governor's objection letter after the final rule was issued.

NOAA notes that the proposed and final regulations were drafted with a significant level of input from State agencies and commissions. The current language was developed following numerous consultations with State personnel when NOAA first began the process of changing the terms of designation and regulations for the sanctuaries. For example, during consultations with the State of California, concern was expressed that striped bass would qualify as an introduced species and that an angler who catches and then releases a striped bass to comply with State imposed site restrictions would be in violation of the proposed regulation. Because prohibiting such activity was not the intent of the regulation, to address this concern, NOAA drafted the regulation to except striped bass, the only introduced species for which there is an active fishery.

After receiving the Governor's letter, NOAA worked with staff from the California Natural Resources Agency and the California Department of Fish and Game to find solutions to the Governor's concerns that would also meet NOAA's goals. As such, NOAA agreed to modify the regulations on introduced species to except State-permitted aquaculture in GFNMS. NOAA agreed to not enforce the invasive species provisions in the State waters of the GFNMS until NOAA could initiate a new rulemaking to consider the issue more closely and to consider public comment on the matter.

NOAA did not agree, however, to allow the research exception involving the introduction of introduced species in the MBNMS, as the Governor requested. In subsequent discussions with the State, NOAA was not provided with a reason why such an exemption would be needed. Neither the Governor nor the agencies with which NOAA worked at the State of California provided any description of how this exception would be used, what types of research activities would qualify, or what the effect of it would be on sanctuary resources.

NOAA noted to the State of California's Natural Resources Agency that if, in the future, there were a research proposal that involved the introduction of introduced species, the regulations would still allow NOAA to issue a permit, in coordination with the relevant State agencies, that would allow the research project to proceed. Therefore, NOAA explained to the State, the potential consequences to the sanctuary of excepting research from the introduced species regulation far outweighed the potential administrative consequences of issuing a regulation that would require researchers to obtain a permit from NOAA for the introduction of introduced species. The State rejected this option and, because no compromise was attained, the Governor's objection to the term of designation for the regulation of introduced species in the State waters of the MBNMS stands. As indicated in the notice of effective date (March 23, 2009; 74 FR 12088), the regulation of the introduction of introduced species from within or into the MBNMS is valid and in effect in the area of the sanctuary lying beyond the seaward boundary of the State only.

II. Summary of the Proposed Revisions to the Regulation of Introduction of Introduced Species in GFNMS

The regulations for the GFNMS currently prohibit introducing or otherwise releasing from within or into the sanctuary (1) an introduced species, except striped bass (*Morone saxatilis*) released during catch and release fishing activity; and (2) species cultivated by mariculture activities in Tomales Bay pursuant to a valid lease, permit, license or other authorization issued by the State of California and in effect on the effective date of the final regulation. As proposed, the revised regulations for the GFNMS would remove the geographic reference to Tomales Bay and would revise the exception so as to allow the State-permitted mariculture activities in the area of the sanctuary that is within the seaward boundary of the State.

The term ''introduced species'' is defined as: (1) Any species (including, but not limited to, any of its biological matter capable of propagation) that is non-native to the ecosystems of the Sanctuary; or (2) any organism into which altered genetic matter, or genetic matter from another species, has been transferred in order that the host organism acquires the genetic traits of the transferred genes.

NOAA issued this regulation due to the threats introduced species pose to endangered species and native species diversity. For example, a number of non-native species now found in the Gulf of the Farallones and Monterey Bay regions were introduced elsewhere on the west coast but have spread through vectors such as vessel hull-fouling, ballast water discharge, and accidental introductions. NOAA also stated that introduced species are a major economic and environmental threat to the living resources and habitats of a sanctuary as well as the commercial and recreational uses that depend on these resources. Once established, introduced species can be extremely difficult, if not impossible, to eradicate. Introduced species have become increasingly common in recent decades, and the rate

of invasions continues to accelerate at a rapid pace. Threatened and endangered species are particularly vulnerable to invasion.

As such, NOAA continues to believe it is important to regulate the introduction of introduced species in a manner that is consistent with the sanctuary's and NMSA's goals. NOAA believes that the compromise language provided by the Governor of California would meet the objectives. Therefore, NOAA proposes to amend § 922.82(a)(10) as requested by the Governor, to expand the geographic and temporal scope of the exception for introduced species through State-permitted aquaculture in State waters. If adopted, these changes would change the geographic restriction of mariculture activities in Tomales Bay to all of the State waters. The new regulations would also remove the temporal component of the current regulations, allowing the State of California to issue additional permits for these activities.

III. Summary of the Revisions to MBNMS Regulations

In issuing the November 20, 2008 final rule, NOAA revised the MBNMS terms of designation to modify the list of activities that may be regulated. As revised, the terms of designation clearly authorize the regulation of ''introducing or otherwise releasing from within or into the sanctuary an introduced species.'' This revision was intended to enable NOAA to more effectively and efficiently address new and emerging resource management issues, and was necessary in order to ensure protection, preservation, and management of the conservation, recreational, ecological, historical, cultural, educational, archeological, scientific, and esthetic resources and qualities of the MBNMS. However, this new term of designation does not apply to the State-waters part of the MBNMS due to the Governor's objection. NOAA indicated this in the notice of effective date (March 23, 2009; 74 FR 10488). As such, that specific term of designation should now read, ''introducing or otherwise releasing from within or into the Federal waters of the sanctuary an introduced species.'' NOAA is proposing to modify the regulation associated with this term of designation to reflect the Governor of California's certification of this term as unacceptable.

NOAA proposes to update the regulations, at subpart M, § 922. 132(a)(12), to conform with the Governor's objection so the scope of this portion of the JMPR's November 20, 2008 final rule will only apply to the area of the Sanctuary lying beyond the seaward boundary of the State of California.

IV. Miscellaneous Rulemaking Requirements

A. National Marine Sanctuaries Act

Section 301(b) of the National Marine Sanctuaries Act (16 U.S.C. 1434) provides authority for comprehensive and coordinated conservation and management of national marine sanctuaries in coordination with other resource management authorities. Section 304(a)(4) of the National Marine Sanctuaries Act requires the procedures specified in section 304 for designating a national marine sanctuary be followed for modifying any term of designation. This action does not propose to revise the terms of designation for either sanctuary.

B. National Environmental Policy Act

NOAA prepared a final environmental impact statement (FEIS) to evaluate regulating the introduction of introduced species off the California coast. NOAA identified a preferred action in that FEIS, but is now proposing to implement a different action based on the Governor's letter of December 23, 2008. NOAA has analyzed the impacts of this action in the FEIS for the joint management plan review for the three national marine sanctuaries on the central California coast (availability of which was announced in the **Federal Register** on September 26, 2008; 73 FR 55843). NOAA intends to issue a new record of decision (ROD) with regard to this action. Copies of the FEIS are available at *http://sanctuaries.noaa.gov/jointplan/feis/feis.html*, or by contacting NOAA at the address listed in the Address section of this proposed rule.

C. Executive Order 12866: Regulatory Impact

This proposed rule has been determined to be not significant within the meaning of Executive Order 12866.

D. Executive Order 13132: Federalism Assessment

NOAA has concluded that this regulatory action falls within the definition of ''policies that have federalism implications'' within the meaning of Executive Order 13132. The changes will not preempt State law, but will simply update sanctuary regulations to comply with the Governor's action. In keeping with the intent of the Executive Order, the NOAA consulted with a number of entities within the State which participated in development of the initial rule, including but not limited to, the California Department of Fish and Game, and the California Natural Resources Agency.

E. Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

Using the SBA's Small Business Size Standards, NOAA determined that the small business concerns operating within the both of the sanctuaries include: Commercial fishermen who vary in number seasonally and annually from approximately 300 to 500 boats; twelve mariculture leaseholders in Tomales Bay (in GFNMS); approximately 25 recreational charter-fishing businesses; and approximately 7 recreational charter businesses engaged in wildlife viewing. The small organizations, as defined under 5 U.S.C. 601(4), that would be impacted by this rule include approximately 3 small organizations operating within the GFNMS, which include non-governmental organizations (NGOs) and/or non-profit organizations (NPOs) dedicated to environmental education, research, restoration, and conservation concerning marine and maritime heritage resources. The small governmental jurisdictions, as defined under 5 U.S.C. 601(5), that would be impacted by this rule are the Bodega, Bolinas and Tomales Bay settlements that are directly adjacent to the GFNMS.

The prohibition on releasing or otherwise introducing from within or into the GFNMS and in the area of the MBNMS lying beyond the seaward boundary of the State an introduced species is not expected to significantly adversely impact small entities because this activity is not part of the business or operational practices associated with most of the small entities that would be impacted by this rule. Small entities whose operational practices may include catch and release of striped bass (*Roccus saxatilis*), (*i.e.,* consumptive recreational charter businesses), would not be affected because the prohibition would not apply to the catch and release of fish already present in the sanctuaries. In fact, the prohibition against introduced species may result in indirect benefits for certain small entities since their activities could potentially be negatively impacted by the spread of introduced species.

The mariculture leaseholders located adjacent to the GFNMS may, however, be potentially impacted by this

proposed rule. Under the current regulations, existing leaseholders are excepted from the introduced species prohibition if they have active lease agreements at the time of implementation of the regulation (the regulation took effect on March 9, 2009). Under the proposed rule for the GFNMS, this exemption will no longer contain a geographic restriction of Tomales Bay, and will no longer restrict new permits from being issued through the State (as opposed to through the ONMS). This prohibition would not put any current operations out of business, because they will not need to change anything about their current procedures to continue in their operations. A beneficial effect from this proposed action may result for existing and future lease holders, such as reduced administrative burden for issuance or renewal of a lease permit. Comments received on the economic impacts of this proposed rule will be summarized and responded to in the final rule.

F. Paperwork Reduction Act

This proposed rule does not contain information collections that are subject to the requirements of the Paperwork Reduction Act. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

V. Request for Comments

NOAA requests comments on this proposed rule for 45 days after publication of this notice.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Environmental protection, Fish, Harbors, Marine pollution, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Research, Water pollution control, Water resources, Wildlife.

Dated: September 24, 2009.

William Corso,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR part 922 is amended as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart H—Gulf of the Farallones National Marine Sanctuary

2. Section 922.82(a)(10) is amended to read as follows:

§ 922.82 Prohibited or otherwise regulated activities.

(a) * * *

(10) Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except:

(i) Striped bass (*Morone saxatilis*) released during catch and release fishing activity; or

(ii) Species cultivated by a mariculture activity within the area of the sanctuary lying within the seaward boundary of the State of California and authorized by a valid lease, permit, license or other authorization issued by the State.

* * * * *

Subpart M—Monterey Bay National Marine Sanctuary

3. Section 922.132(a)(12) is amended to read as follows:

§ 922.132 Prohibited or otherwise regulated activities.

(a) * * *

(12) Introducing or otherwise releasing from within or into the area of the Sanctuary lying beyond the seaward boundary of the State of California an introduced species, except striped bass (*Morone saxatilis*) released during catch and release fishing activity.

* * * * *

[FR Doc. E9–23576 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 4

[Docket No. FDA–2008–N–0424]

RIN 0910–AF82

Postmarketing Safety Reporting for Combination Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the combination product regulations to set forth postmarketing safety reporting requirements for combination products. Specifically, the rule will clarify the postmarketing safety reporting requirements that apply when regulated articles (drugs, devices, and biological products) are combined to create a combination product. The proposed rule is intended to promote and protect the public health by clarifying requirements for postmarketing safety reporting for combination products, and is part of FDA's ongoing effort to ensure the consistency and appropriateness of the regulatory requirements for combination products.

DATES: Submit written or electronic comments on the proposed rule by December 30, 2009. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by November 2, 2009, (see the ''Paperwork Reduction Act of 1995'' section of this document).

ADDRESSES: You may submit comments, identified by Docket No. FDA–2008–N–0424 and/or RIN number 0910–AF82, by any of the following methods, except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Regulatory Affairs, Office of Management and Budget (OMB) (see the ''Paperwork Reduction Act of 1995'' section of this document).

Electronic Submissions

Submit electronic comments in the following ways:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

To ensure more timely processing of comments, FDA is no longer accepting comments submitted to the agency by e-mail. FDA encourages you to continue to submit electronic comments by using the Federal eRulemaking Portal, as described previously, in the **ADDRESSES** portion of this document under *Electronic Submissions*.

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

additional information on submitting comments, see the ''Request for Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Leigh Hayes, Office of Combination Products (HFG–3), Food and Drug Administration, 15800 Crabbs Branch Way, suite 200, Rockville, MD 20855, 301–427–1934.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Description of the Proposed Rule
A. Background
B. General Principles
C. Specific Examples
D. Additional Considerations
E. Role of Lead Center
F. Recordkeeping Requirements
G. Separate Applications and/or Reporters
H. Applicability of Proposed Rule to User Facilities and Importers and Distributors as Defined in 21 CFR Part 803
I. Stakeholders' Comments on Postmarketing Safety Reporting Applicable to Combination Products
III. Legal Authority
IV. Environmental Impact
V. Paperwork Reduction Act Analysis
VI. Federalism
VII. Analysis of Impacts
A. Introduction
B. The Rationale Behind This Proposed Rule
C. Impact of Proposed Rule
VIII. Request for Comments
IX. Proposed Effective Date

I. Introduction

As set forth in part 3 (21 CFR part 3), a combination product is a product comprised of a combination of a drug and a device; a device and a biological; a biological and a drug; or a drug, a device, and a biological. A combination product includes the following: (1) A product comprised of two or more regulated components, i.e., drug/device, biologic/device, drug/biologic, or drug/device/biologic, that are physically, chemically, or otherwise combined or mixed and produced as a single entity; (2) Two or more separate products packaged together in a single package or as a unit and comprised of drug and device products, device and biological products, or biological and drug products; (3) A drug, device, or biological product packaged separately that, according to its investigational plan or proposed labeling, is intended for use only with an approved individually specified drug, device, or biological product where both are required to achieve the intended use, indication, or effect and where upon approval of the proposed product the labeling of the approved product would need to be changed; e.g., to reflect a change in intended use, dosage form, strength, route of administration, or significant change in dose; or (4) Any investigational drug, device, or biological product packaged separately that, according to its proposed labeling, is for use only with another individually specified investigational drug, device, or biological product where both are required to achieve the intended use, indication, or effect.[1] This rule does not address postmarketing reporting associated with approved products that are used in combination with investigational products.

In the past decade, significant advances have been made in the development of combination products. In recognition of these advances, the Medical Device User Fee and Modernization Act of 2002 (MDUFMA) modified section 503(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 353(g)) to require the establishment of an Office (Office of Combination Products (OCP)) within FDA's Office of the Commissioner. The responsibilities of OCP include ensuring the prompt assignment of combination products to agency components, the timely and effective premarket review of such products, and the consistent and appropriate postmarket regulation of like products subject to the same statutory requirements to the extent permitted by law (21 U.S.C. 353(g)(4)).

To date, the agency has not issued regulations on postmarketing safety reporting specifically for combination products. Instead, the agency has applied provisions from the applicable postmarketing safety reporting regulations for drugs, devices, and biological products. These requirements for drugs, devices, and biological products share many similarities and have a common underlying purpose, namely to protect the public health by ensuring a product's continued safety and effectiveness. However, each set of regulations has certain reporting standards and timeframes with unique requirements based upon the characteristics of the products for which the regulations were designed (i.e., for drugs, devices and biological products).

External stakeholders have expressed concern about the lack of concrete information regarding the postmarketing safety reporting regulatory requirements for combination products (see section II.I of this document for further discussion). Generally, reporters have followed the safety reporting regulations associated with the type of marketing application used to approve or clear their combination product. For example, if a new drug application (NDA) was used to approve a drug/device combination product, reporters generally submit postmarketing safety reports in accordance with part 314 (21 CFR part 314). However, if the device component of the combination product malfunctions, the reporter currently has no clear regulatory procedure to follow under part 314 when reporting this problem. This lack of regulatory clarity could lead to reporting that does not sufficiently reflect the combination nature of the product or the fact that an adverse experience may be related to a particular constituent part of a combination product. This lack of regulatory clarity could also lead to incomplete or inconsistent reporting and to FDA not receiving important safety information. This could compromise the agency's ability to make sound regulatory decisions about product safety and could jeopardize the public health.

To address these concerns, to ensure appropriate ongoing postmarketing surveillance of risks, to ensure the consistency of the agency's postmarketing regulation of combination products, to streamline requirements for reporters by avoiding duplicative reporting requirements, FDA proposes to create 21 CFR part 4, subpart B to clarify postmarketing safety reporting requirements for combination products.[2]

[1] Combinations of two investigational products as defined at § 3.2(e)(4) are outside the scope of this proposed rule. Those types of combination products are investigational only and have not yet been approved for marketing. This proposed rule applies to all combination products for which postmarketing safety reports are required.

[2] As described in the Department of Health and Human Services (HHS) Unified Agenda (72 FR 22490, April 30, 2007), FDA also plans to propose regulations on current good manufacturing practice for combination products. FDA proposes to codify those requirements in part 4, subpart A, and to codify the postmarketing safety reporting requirements for combination products in part 4, subpart B.

II. Description of the Proposed Rule

A. Background

In the development of this proposed rule, FDA considered the fact that each constituent part of a combination product is governed by one of three differing sets of reporting provisions. The agency reviewed each set of regulations governing postmarketing safety reporting for drugs (parts 310 (21 CFR part 310) and 314), biological products (parts 600 and 606 (21 CFR parts 600 and 606)), and devices (part 803 (21 CFR part 803)). This review determined that each set of regulations contains many substantially similar requirements as well as certain important differences.

In general, each set of regulations requires reports of death and serious adverse events; each provides for periodic and followup reports; and each provides a method to signal certain types of safety events that warrant expedited reporting. Because of these similarities, it is possible to consolidate the requirements so that the combination product is subject primarily to the reporting requirements associated with the type of marketing application under which the product is approved or cleared. However, there are certain significant differences in the three sets of regulations. These differences are designed to facilitate adverse experience reporting that adequately addresses the distinct characteristics and potential safety issues related to a particular type of product (i.e., drug, device, and biological product). The public health benefit of these unique provisions would be lost if the combination product were subject solely to the reporting requirements associated with the type of marketing application. FDA has identified five such provisions, unique to drugs, biologics, or devices, that need to be preserved to appropriately reflect the combination nature of the product and to ensure consistent and appropriate postmarketing safety reporting for combination products:

1. 5-Day Report

The Medical Device Reporting (MDR) regulation has a provision found in § 803.53(a), which requires reporting no later than five work days after the day the reporter becomes aware that an MDR reportable event associated with the device necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. This section also allows FDA to make written requests for the submission of all subsequent events of the same nature that involve substantially similar devices for the time period specified in the written request. Reporters must also maintain a record of any report they submit under this provision. This provision is unique to devices; a similar provision is not found in the drug or biological product reporting regulations.

2. 30-Day Device Malfunction Report

The MDR regulation also includes § 803.20(b)(3)(ii), which requires reporting no later than 30 calendar days after the day the reporter becomes aware of information that reasonably suggests the device has malfunctioned and that this device or a similar device that the reporter markets would be likely to cause or contribute to a death or serious injury if the malfunction were to recur.[3] Reporters must also maintain a record of any report they submit under this provision. Like the 5-day MDR report, this situation is unique to devices, and the drug and biological product reporting regulations do not have comparable provisions.

3. 15-Day ''Alert Report'' for Drugs and Biological Products

A reporter must submit to FDA a report of an adverse experience associated with the use of a drug or biological product that is both serious and unexpected, whether foreign or domestic, as soon as possible but in no case later than 15 days of initial receipt of the information as set forth in §§ 314.80(c)(1) and (e), and 600.80(c)(1) and (e). Serious events are reportable within 30 days under § 803.20(b)(3)(i) for devices, regardless of whether or not they are expected. However, there is no requirement in the MDR regulation for expedited (15-day) reporting of an event that is both serious and unexpected.

4. 3-Day Field Alert Report

Another unique provision is § 314.81(b)(1), which requires applicants to file ''field alert reports'' when there is information concerning certain types of problems with a drug in distribution, such as any bacteriological contamination, or any significant chemical, physical, or other change or deterioration in a distributed drug product, or any failure of one or more distributed batches of the drug to meet the specification established for it in its marketing application, or any incident that causes the drug product or its labeling to be mistaken for, or applied to, another article. Reporters must submit this information to the FDA district office that is responsible for the facility involved within 3 working days of its receipt. They must provide the information by telephone or other rapid communication means, with prompt written followup. Reporters must also maintain a record of any report they submit under this provision. These types of situations are specific to drug products, and neither set of regulations found in parts 600 (biological products) or 803 (devices) has a similar provision requiring expedited submission of these types of reports.

5. Expedited Blood Fatality Report

Section 606.170 requires expedited reporting of a complication of blood collection or transfusion confirmed to be fatal, by telephone, facsimile, express mail or electronically transmitted mail as soon as possible, and a written report within 7 days after the fatality. Reporters must also maintain a record of any report they submit under this provision. This situation is specific to blood products. Although parts 310, 314, 600 and 803 require expedited reporting of deaths, they do not provide for the immediate notification of blood-related fatalities.

B. General Principles

Given the broad similarities in the regulations, the agency believes that the simplest and most straightforward way to ensure that combination products are regulated consistently is by continuing to require reporters to comply with the requirements for postmarketing safety reporting associated with the application used to approve or clear their combination product (proposed § 4.103(a)), as long as the five unique specified provisions particular to each different set of regulations are, in fact, complied with by the reporter (proposed § 4.103(b)). This supplementation reflects the combination nature of the product, and recognizes and preserves each constituent part's unique characteristics. Specifically, these unique reporting requirements, along with any associated followup reports, are as follows: (1) submission of a ''5-day report'' related to the device constituent part of a combination product as described in § 803.53(a); (2) submission of a 30-day ''malfunction report'' related to the device constituent part of a combination product as described in section 227 of FDAAA and § 803.20(b)(3)(ii); (3) submission of a

[3] Section 227 of the Food and Drug Administration Amendments Act of 2007 (FDAAA) amended section 519(a)(1) of the FD&C Act (21 U.S.C. 360i) to require 30-day malfunction reports under part 803 for only certain devices, such as class III devices and class II devices that are permanently implantable, life supporting, or life sustaining. Other devices, such as class I devices, are subject to summary reporting on a quarterly basis. See the proposed definition of malfunction report in proposed §§ 4.101 and 4.103(b)(2).

''postmarketing 15-day 'Alert report'''' associated with the use of a drug or biological product constituent part of a combination product, as described in §§ 314.80(c)(1) and (e), and 600.80(c)(1) and (e); (4) submission of a 3-day ''field alert report'' as described in § 314.81(b)(1); and (5) submission of an expedited ''blood fatality report'' as described in § 606.170.

Given the unique nature of combination products, more than one applicant may be involved in the development of a combination product, or more than one marketing application may be submitted. For most combination products, however, a single marketing application is submitted for the combination product's approval, clearance or licensure. In these cases, the marketing application covers all constituent parts of the combination product (e.g., both the drug and device constituent parts of a drug-device combination product). The applicable reporting requirements for this type of circumstance are described later in this section (section II.B of this document). In some cases, however, separate marketing applications are submitted for the various constituent parts of a combination product. This can occur when one applicant submits separate marketing applications for the various constituent parts of a combination product (e.g., an NDA for the drug constituent part and a premarket approval application (PMA) for the device constituent part), or when a combination product is developed by more than one applicant, each of which holds a marketing application for its respective constituent part of the combination product. For this type of circumstance, the applicable reporting requirements are described in section II.G of this document.

Under the proposed rule, combination products marketed under a single application would be subject to the following reporting scheme:

1. General Requirements (Proposed § 4.103(a))

A reporter would use the requirements for postmarketing safety reporting associated with the approved or cleared application under which the combination product is marketed. In general, for combination products approved or cleared under the device provisions of the FD&C Act, a reporter would utilize medical device reporting under part 803; for combination products approved under the drug provisions of the FD&C Act, a reporter would use §§ 314.80 and 314.81; and for combination products licensed under the Public Health Service Act (PHS Act), a reporter would use §§ 600.80 and 606.170. If you are the only reporter for a combination product (i.e., another reporter is not responsible for reporting for one of the constituent parts of the combination product), you would consider the combination product as a whole (i.e., all of its constituent parts) and the application under which it is approved or cleared when determining whether an event is required to be reported.

2. Additional Requirements (Proposed § 4.103(b))

When applicable, depending on the type of combination product and the nature of the reportable event, a reporter would submit additional types of reports and any associated followup reports, to appropriately reflect the combination nature of the product. These five types of reports, described above, would only be necessary if you would not otherwise (already) be required to provide them under the reporting framework associated with the application under which your product is approved, or if they would be required, but at a later timeframe.

3. Multiple Reporters (Proposed § 4.104)

If you are not the only reporter for a combination product (e.g., you hold an application for one constituent part of the combination product, while another reporter holds an application for its other constituent part), you are subject to applicable requirements for postmarketing safety reporting for your constituent part of the combination product. In addition, to ensure the other reporter is aware of and can investigate and followup on events you may learn about, you must submit the information you receive about events to FDA or the other reporter within 5 calendar days of your receipt of the information. In turn, you must investigate and report information you receive about reportable events provided to you by FDA or another reporter for your combination product.

4. Submission and FDA Review of Reports (Proposed § 4.105)

With the exception of ''field alert reports'' that are submitted to the appropriate FDA district office, all reports, including the reports associated with the regulatory requirements applicable to your product or constituent part, and the additional types of reports (described previously) reflecting the combination nature of the product, would be submitted using the submission methods identified in the appropriate underlying regulations. The lead FDA center charged with review and regulation of the combination product will review the reports and may consult with other Centers as needed.

5. Recordkeeping Requirements (Proposed § 4.106)

Records would be kept in accordance with the existing underlying regulatory requirements applicable to each type of report.

C. Specific Examples

1. Drug/Device (Approved Under Section 505 of the FD&C Act)

The proposed rule would preserve the unique postmarketing safety reporting requirements for drugs, devices, and biological products regardless of the type of marketing application for the combination product. For example, for a drug/device combination product regulated under the drug provisions of the FD&C Act and approved under an NDA, a reporter would follow the NDA reporting provisions set forth in §§ 314.80, 314.81, 314.98, or 314.540, as is the case for all products regulated under part 314. Although the language of part 314 refers specifically to the drug product, under the proposed rule, if you are the only reporter for the combination product, you would consider the combination product as a whole (i.e., all of its constituent parts including its device constituent parts) and the application under which it was approved or cleared when determining the reportability of an event under § 314.80(c)(1) (15-day alerts report). For example, an event that is both serious and unexpected, whether associated with the drug or device constituent part of the combination product, would be reported within 15 calendar days of initial receipt of such information by the reporter.

A reporter for a drug/device combination product, approved under an NDA, would also be required to submit a reportable device malfunction or a 5-day report when necessary for an event related to the device constituent part of their combination product, and to include such reports in the periodic reports submitted under § 314.80(c)(1). For example, a 30-day device malfunction report would be necessary when a reporter becomes aware of information that reasonably suggests that the device constituent part of the combination product malfunctioned and if the malfunction were to recur, it would be likely to cause or contribute to a death or serious injury. In that case, a reporter would submit, as appropriate, a malfunction report as described in section 227 of FDAAA, as well as any required followup reports. Similarly, a

reporter would submit a 5-day report, as defined in § 803.3 and described in § 803.53(a), if there is a reportable event regarding a device constituent part of a combination product that necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. In either case, since the drug/device combination was approved under an NDA, the report would be submitted to the address specified in part 314. Any report submitted to FDA would also be described in the periodic reports required by § 314.80(c)(2).

2. Biological Product/Device (Approved Under Section 351 of the PHS Act)

The specified device reporting requirements would be similarly applied, as described in section II.C.1 of this document, if a biological product/device combination product is approved under a biologics license application (BLA). A reporter would follow the biologics reporting provisions set forth in §§ 600.80 and 606.170 (for products with blood or blood component constituent parts) as would be the case for any product licensed under section 351 of the PHS Act. In general, reporting under § 600.80 would also cover the device constituent part, not including 5-day MDR reports and 30-day MDR malfunction reports. As stated in the previous example, if you become aware of information that reasonably suggests that the device constituent part of the combination product malfunctioned and that if the malfunction were to recur it would be likely to cause or contribute to a death or serious injury, you would submit a 30-day malfunction report as described in section 227 of FDAAA, and any required followup reports. Likewise, you would submit a 5-day report for a reportable event regarding a device constituent part of a combination product that necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. Since the biological product/device combination was approved under a BLA, the reports would be submitted as described in § 600.80 and to the address specified in § 600.2. A reporter would also describe any 5-day and malfunction reports submitted to FDA in the periodic reports required by § 600.80(c)(2).

3. Drug or Biological Product/Device (Approved or Cleared Under the FD&C Act's Device Authorities)

The proposed rule would also preserve the unique reporting requirements relevant to drugs and biological products that may be constituent parts of a combination product, if the combination product is regulated under the device provisions of the FD&C Act. For example, if a drug/device combination product is approved under a PMA or cleared under a premarket notification (510(k)), you would comply with the applicable postmarketing safety reporting requirements set forth in part 803, as you would for other products regulated under the device provisions of the FD&C Act. Although the language of part 803 refers specifically to devices, under the proposed rule, if you are the only reporter for the combination product, you would, in general, submit postmarket safety reports for the combination product, including its drug or biological constituent parts, under part 803. You would also comply with the 15-day alert report requirements, under §§ 314.81(c)(1) or 600.80(c)(1), for the drug or biological product constituent parts, if such requirements applied. In addition, you would comply with a 3-day field alert report, for the drug constituent part, if § 314.81(b)(1) applied. For example, if a death or serious injury occurred, whether associated with the drug or device constituent part of the combination product, you would report it in accordance with part 803. However, if a serious, unexpected adverse experience occurred that is associated with the use of the drug constituent part of the combination product, you would investigate and submit a ''postmarketing 15-day 'Alert' report,'' and any required followup reports, as described in § 314.80(c)(1).[4] A 30-day MDR report for this event would not be required. Likewise, if you receive a report that there is bacteriological contamination of the drug constituent part of your distributed combination product, or another type of event described in § 314.81(b)(1) related to the drug constituent part of your distributed combination product, you would submit a field alert report to the appropriate FDA district office within 3 working days of your receipt of the information.

Similarly, the proposed rule would also preserve the unique reporting requirements relevant to blood-related fatalities. If a device/biological product combination product containing blood or a blood component was approved under a PMA, a reporter would follow the reporting requirements described in part 803. However, a reporter would instead submit a ''postmarketing 15-day 'Alert' report'' as described in § 600.80(c)(1) for a serious, unexpected adverse experience associated with the use of the biological product constituent part of the combination product. A 30-day MDR report for this event would not be required. Similarly, a reporter would submit a report, as described in § 606.170, for a blood-related fatality. Since the device/biological product combination was approved under a PMA, the reports would be submitted to the address specified in part 803.

4. Drug/Biological Product (Approved Under Section 505 of the FD&C Act or Section 351 of the PHS Act)

Drug and biological product reporting requirements are very similar, with two exceptions being § 606.170, the provision which concerns expedited reporting of blood-related fatalities and § 314.81(b)(1) the provision which concerns reporting of certain types of problems with a drug in distribution, such as bacteriological contamination, a significant change in or deterioration of the drug, failure of the drug product to meet application specifications, or an incident that causes the drug product or its labeling to be mistaken for, or applied to, another article. A reporter with a drug/biological combination product approved under a BLA would be required to follow the postmarketing safety reporting procedures set forth in parts 600 and 606 (for a combination product with a blood or blood component constituent part). Compliance with these provisions would satisfy the reporting requirements for an adverse experience that is associated with the use of either the drug or biological product constituent parts of the combination product, unless you receive information of the type described in § 314.81(b)(1) concerning the drug constituent part of the product, in which case you would submit a ''field alert report.'' Similarly, a reporter with a drug/biological combination product approved under an NDA would follow the postmarketing safety reporting provisions described in part 314. Compliance with these provisions would satisfy the reporting requirements for an adverse experience associated with the use of either the drug or the biological product constituent part, unless the biological product constituent part contained blood or a blood component. In that case, if you have a drug/biological combination product that contained blood or a blood component approved under a NDA, you would comply with part 314, and, if applicable, submit an expedited blood fatality report as described in § 606.170. Reporting the

[4] Even though, in this example, the combination product is approved under the device authorities, you would submit a 15-day alert report, if required, for the drug constituent part, regardless of whether the drug constituent part ''caused or contributed to'' a reportable event.

event within the timeframe set forth in § 606.170 would also fulfill your requirement to report a serious, unexpected event within 15 days under § 314.80(c)(1).

D. Additional Considerations

FDA does not expect or desire that reporters submit duplicate reports, and this proposal is intended to ensure that duplicative reporting does not occur. Under this proposal, take, for example, a reporter who submits a 15-day alert report for a serious, unexpected adverse experience associated with the use of a drug constituent part of a drug/device combination product approved under a PMA and subject to part 803 as discussed previously (the reporter would follow the reporting requirements, standards and timeframes specified in part 803). In this case, submission of the 15-day alert report and any associated followup reports would fulfill the requirement for submission of a 30-day report under part 803 for a serious event, regardless of whether or not it was expected. In other words, reporting the serious, unexpected event that is associated with the drug constituent part of your combination product within 15 days would also fulfill your requirement to report a serious event, regardless of expectedness, within 30 days under the MDR regulation. Similarly, if the combination product is comprised of a biological product component containing blood and a drug component, submission of a ''blood fatality report'' and any associated followup reports, as soon as possible and with a written report within 7 days, would satisfy the requirement to report a death or serious injury within 15 days under part 314.

We note that this proposed rule applies to mandatory safety reports submitted to the agency, i.e., those reports currently submitted on Form 3500A or the CIOMS I or Vaccine Adverse Event Reporting System (VAERS) form, or their electronic equivalents, periodic safety reports, as well as ''field alert reports'' related to the drug constituent part of a combination product. This proposed rule does not change any annual or periodic reporting timeframes. Furthermore, the regulations proposed here do not supersede other reporting requirements found in 21 CFR parts 314, 600, 606, 803, or 806. Finally, FDA's authority to require additional postmarketing safety reporting for a particular product under other regulatory provisions, e.g., conditions of approval or postmarketing commitments, is unaffected by this rule.

E. Role of Lead Center

For a combination product approved or cleared under one marketing application, the ''lead'' Center, i.e., the Center with primary responsibility for the review and regulation of the combination product, will have lead responsibility for review of all postmarketing safety reports, regardless of whether a particular constituent part is associated with the event. After the lead Center receives the postmarketing safety report, it will consult as needed with the other Center(s).

For example, for a drug/device combination product approved under an NDA by the Center for Drug Evaluation and Research (CDER), all reports required by part 314 under proposed § 4.103(a), as well as under the two unique specified provisions for devices (5-day or 30-day device malfunction reports) under proposed § 4.103(b)(1) and (b)(2), would be submitted to the address required for all other postmarketing safety reports the reporter submits (in this case, those required by part 314). CDER would have the lead on their review, and CDER would consult the Center for Devices and Radiological Health (CDRH) as needed.

F. Recordkeeping Requirements

In considering the recordkeeping requirements that should apply for postmarketing safety reporting for combination products, the agency chose to use the time periods set forth in the regulations for drugs, devices, and biological products because both stakeholders and the agency are familiar with those requirements. As a result, under proposed § 4.106(a), records pertaining to reportable events under parts 310, 314 and 600 would be kept for 10 years, and records for reportable events under part 803 would be kept for 2 years or the expected life of the combination product, whichever is longer. Under proposed § 4.106(b), the recordkeeping requirements for the five additional provisions specified in proposed § 4.103(b) would each be the same as those currently required by the underlying regulations from which these requirements were derived.

G. Separate Applications and/or Reporters

For some combination products, separate marketing applications are submitted for the individual constituent parts of a combination product. In some cases, one reporter holds all the applications used to approve or clear the combination product; in other cases, the reporter holds only one application that governs one constituent part of the combination product, while a different reporter holds the application for the other constituent part.

Under proposed § 4.103(a), if you are the only reporter for a combination product, you would consider each of the reporting requirements specified in proposed § 4.103(a) and comply with each that is applicable to your combination product or constituent part. For example, if you hold a single marketing application covering the entire combination product, under proposed § 4.103(a), you would be subject primarily to the set of reporting requirements associated with that type of marketing application (e.g., part 803 if your product is approved under a PMA). However, if you hold two marketing applications for your combination product (e.g., an NDA for the drug constituent part and a PMA for the device constituent part), under proposed § 4.103(a), you would be subject to the reporting requirements under part 803 for your device constituent part, and to the reporting requirements under part 314 for your drug constituent part. In the special circumstance of holding two marketing applications for your combination product, and you can reasonably determine the constituent part that caused the adverse event, you only consider that particular constituent part when determining your reporting requirements. For example, if you hold multiple marketing applications for a combination product and you reasonably conclude that the adverse event was related to the drug constituent part, you would only follow the reporting requirements under part 314. Similarly, if the adverse event was related to the device constituent part, you would only follow the reporting requirements under part 803; if the adverse event was related to the biological product constituent part, you would only follow the reporting requirements under parts 600 and 606. If it is unclear which constituent part led to the adverse event, you would satisfy reporting requirements for each constituent part of the combination product.

If you do not hold all of the applications used to approve or clear the constituent parts of your combination product, you would comply with the requirements for postmarketing safety reporting associated with the application used to approve or clear your constituent part of the combination product. Additionally, under proposed § 4.104(a), you would submit the information you receive about an adverse event to FDA or the reporter for the other constituent part of

the combination product within 5 calendar days of your receipt of the information. Under proposed § 4.104(b), if the other reporter receives such information from you, that reporter would then investigate and report the event in accordance with the statutory provisions and regulatory requirements for postmarketing safety reporting for their constituent part of the combination product. For example, if you hold the application for a drug constituent part of a drug/device combination product approved under an NDA, and you receive information regarding an event, you would comply with part 314, i.e., the reporting provisions associated with your application, in determining reportability of the event. You would also send the information about the event to FDA or the reporter for the device constituent part of the combination product within 5 calendar days of receiving the information. If you choose to notify the device reporter within 5 calendar days, the device reporter would investigate and report the event in accordance with part 803, i.e., the reporting provisions associated with that reporter's application. In some cases, the regulations will not require the other reporter to submit the report; in other circumstances, depending on the nature of the reportable event, the regulations will require the other reporter to submit a report. FDA recognizes that in these relatively rare circumstances, the agency may receive duplicate reports regarding one incident. However, FDA believes these requirements are necessary in order to promote and protect the public health by ensuring consistent and appropriate ongoing postmarketing surveillance of risks, and ensure both manufacturers are aware of and appropriately investigate and follow up on events involving their constituent part(s) of a combination product.

H. Applicability of Proposed Rule to User Facilities and Importers and Distributors as Defined in Part 803

The proposed rule does not apply to user facilities required to report to FDA under part 803. Section 803.30 requires user facilities to report deaths to FDA and serious injuries to the device manufacturer within 10 days. Since user facility reporting already includes early, expedited reporting of deaths and serious injuries, it encompasses the types of additional reports described in proposed § 4.103(b) related to drug and biological product constituent parts, i.e., serious and unexpected adverse experiences and blood-related fatalities. Therefore, no further supplementation is necessary in order for user facility reporting to reflect the combination nature of a product.

The proposed rule also does not apply to distributors as defined in part 803, i.e., those who further the marketing but do not repackage or otherwise change the container, wrapper, or labeling. Under § 803.18(d), device distributors are required to maintain records of incidents but not to report to FDA.

Importers of combination products subject to part 803 would be subject to the proposed rule. Under part 803, importers are required to report deaths and serious injuries to FDA, and device malfunctions to the manufacturer.[5] Importers of combination products regulated under the device provisions of the FD&C Act would continue to be subject to part 803. Such importers would submit to FDA reports described in proposed § 4.103(b) to provide for earlier, expedited reporting of serious, unexpected adverse experiences associated with the drug or biological product constituent parts of a combination product they are importing. Importers would also submit expedited reporting of fatalities related to a blood constituent part of the imported combination product.

I. Stakeholders' Comments on Postmarketing Safety Reporting Applicable to Combination Products

FDA held a public hearing on November 25, 2002, and a public workshop on July 8, 2003, to discuss various issues pertaining to combination products, including postmarketing safety reporting for combination products. Stakeholders provided a number of thoughtful written comments, regarding postmarketing safety reporting, to a docket, which FDA opened to further facilitate the discussion of combination product issues. The agency has carefully reviewed all the comments we received, and we have considered them in the development of this proposed rule. Two common themes that emerged from the comments were: (1) The need for consistency in reporting requirements and (2) avoidance of duplicative reporting. We believe that the provisions set forth in this proposal provide a framework that adequately addresses these concerns.

Some stakeholders have suggested that FDA consider developing an entirely new postmarketing safety reporting scheme for combination products. Such a scheme might, for example, harmonize the varying definitions, reporting standards, timeframes, and other differences between the postmarketing safety reporting regulations for drugs, devices, and biological products. However, as described previously, given the broad similarities in the regulations, the agency determined that the simplest and most straightforward approach is to continue to require reporters to comply with the requirements for postmarketing safety reporting associated with the application used to approve or clear the combination product, as long as there is compliance, as appropriate, with the five unique provisions. This approach recognizes and preserves each constituent part's unique characteristics, while allowing reporters and FDA to continue to use mechanisms for reporting that are currently in practice.

Finally, some stakeholders have recommended that the agency develop a comprehensive information technology (IT) system for postmarketing safety reporting of combination products. The agency acknowledges the need to make IT accommodations to have its postmarketing safety reporting procedures work efficiently. The agency is developing an internal electronic infrastructure for combination product safety reports. We anticipate that we will be able to implement this infrastructure prior to the effective date of any final rule based on this proposed rule. In parallel with that project, we are currently enhancing mechanisms for FDA to receive combination product postmarketing safety reports electronically and for intercenter consultation of these reports upon their receipt. Additionally, we recognize that it may be necessary to make minor changes to the Form FDA 3500A, the VAERS form, the periodic safety report, the Form FDA 3331, and Form FDA 3486, or their electronic equivalents and/or instructions to accommodate the postmarketing safety information required by this rule. We invite comment on what changes might be necessary and will provide further instructions for practical implementation in conjunction with any final rule that may issue after this proposed rule.

FDA believes these proposed postmarketing safety reporting requirements will ensure the consistency and appropriateness of postmarketing safety reporting for combination products. The rule provides that, regardless of the type of marketing application used to approve or clear the product or the Center with primary responsibility for its review, each combination product will be

[5] Under section 227 of FDAAA, if an importer is required, under part 803, to submit a report concerning a device malfunction to the manufacturer, the importer must submit the report to the manufacturer in accordance with part 803.

subject to similar postmarketing safety reporting requirements. The rule recognizes and incorporates the similarities of the reporting requirements in the different sets of regulations, while also ensuring appropriate reporting by recognizing and preserving the unique provisions which embody necessary safety signals, given the combination nature of the product. These safety reporting requirements will help ensure the submission of necessary and appropriate information to expedite FDA's safety review and evaluation, and thereby will enhance the agency's ability to promote and protect the public health. The proposed rule when finalized will affect postmarketing safety reports submitted on or after the effective date of any final rule issued as a result of this proposed rule.

III. Legal Authority

The agency derives its authority to issue the regulations in proposed 21 CFR part 4 from 21 U.S.C. 321, 331, 351, 352, 353, 355, 360, 360b–360f, 360h–360j, 360l, 360hh–360ss, 360aaa–360bbb, 371(a), 372–374, 379e, 381, 383, and 394, Federal Food, Drug, and Cosmetic Act, and 42 U.S.C. 216, 262, 263a, 264, and 271, Public Health Service Act. Of these, certain authorities are particularly significant. For a drug approved under an NDA or an abbreviated new drug application, section 505(k) requires the applicant to submit reports, concerning clinical experience, to FDA and to establish and maintain related records. Section 505(k) provides the agency with authority to specify, by regulation, which data or information must be submitted in such reports. FDA used this statutory authority, among others, in issuing the agency's regulation concerning postmarketing reporting of adverse drug experiences. This regulation is set forth in § 314.80.

For a device, section 519 of the FD&C Act (21 U.S.C. 360i) requires manufacturers and importers to establish and maintain records, make reports, and provide information, as FDA may reasonably require to assure that such device is not adulterated or misbranded and to otherwise assure its safety and effectiveness. FDA utilized this statutory authority, in addition to other authorities, in issuing the MDR regulation, found in part 803.

For a biological product, section 351 of the PHS Act (42 U.S.C. 262) requires FDA to approve a BLA on the basis of a demonstration that the product is safe, pure, and potent (section 351(a)(2)(C) of the PHS Act). Section 351(a)(2)(A) of the PHS Act requires FDA to establish, by regulation, requirements for the approval, suspension, and revocation of BLAs. Section 351(b) also prohibits falsely labeling a biological product. FDA used section 351 as statutory authority, along with other sources of statutory authority, in issuing the postmarketing reporting of adverse experiences regulation for biological products. This regulation is found in § 600.80. In proposing § 600.80, FDA indicated that information made available to the agency through the adverse experience reports contemplated under § 600.80 could establish that a biological product is not safe or properly labeled and that the license should be revoked (55 FR 11611 at 11613, March 29, 1990).

There is considerable overlap in the postmarket safety reporting requirements for drug, devices, and biological products. The regulatory schemes for adverse event reporting for drugs and biological products are identical in most respects. The MDR regulation has many similarities to the drug and biological product postmarket safety reporting regulations. Overall, the regulatory framework governing postmarket safety reporting for each type of product is intended to achieve the same general goals.

Nevertheless, these three sets of regulations differ somewhat because each is tailored to the characteristics of the types of products for which it was designed. For instance, each set of regulations contains certain specific requirements, pertaining to particular products or types of adverse events, which are not found in the other sets of regulations. These are as follows: MDR 5-day Reports, MDR 30-day malfunction reports, Drugs/Biologics 15-day alert reports, Drugs 3-day field alert reports, and Expedited Blood Fatality Reports. As set forth in this proposal, it is crucial that these requirements be met if they apply.

The legal framework underlying this proposed rule is twofold. The first is that drugs, devices, and biological products do not lose their discreet regulatory identities when they become constituent parts of a combination product. In general, the postmarket safety reporting requirements specific to each constituent part of a combination product also apply to the combination product itself. Therefore, all combination products are subject to at least two sets of postmarketing safety reporting requirements. For example, in the case of a device and biological product combination product, the MDR regulation in part 803 and the biological product postmarket reporting of adverse experiences regulation in § 600.80 would apply to the combination product. However, this proposed rule is intended to clarify that a reporter must only comply with the postmarketing safety requirements associated with the application used to approve or clear the combination product. In the example above of a device-biologic combination product, if the combination product has an approved BLA, the reporter would use § 600.80 to report postmarketing adverse experiences for the combination product. In addition, as explained in this proposal, the reporter must comply with whichever of five specific requirements apply. In the case of a device-biologic combination product with an approved BLA, the reporter would also have to file MDR 5-day Reports and MDR 30-day malfunction reports if the criteria for such reports were met. Under this legal framework, if you demonstrate compliance with the applicable requirements of the set of regulations (e.g., biological product postmarket safety reporting) associated with the approved application (e.g., BLA), and comply with any applicable specified unique provisions (e.g., MDR 30-day malfunction reporting), you will be considered to have satisfied all applicable requirements from the other set of reporting regulations (e.g., MDR regulation).

The legal authority for this approach is based on the following. Although combination products retain the regulatory identities of their constituent parts, the FD&C Act also recognizes combination products as a category of products that are distinct from products that are solely drugs, devices, or biological products. For example, section 503(g)(4)(A) of the FD&C Act, requires the Office of Combination Products (OCP) to ''designate'' a product as a combination product as well as to ensure ''consistent and appropriate postmarket regulation of like products subject to the same statutory requirements.'' Further, section 563 of the FD&C Act, governs the ''classification'' of products as ''drug, biological product, device, or a *combination product* subject to section 503(g)'' (emphasis added). In this respect, the FD&C Act identifies a combination product as a distinct type of product that could be subject to specialized regulatory controls. In addition, for the efficient enforcement of the FD&C Act under section 701, FDA has the authority to develop regulations to ensure sufficient and appropriate ongoing assessment of the risks associated with combination products.

The second legal framework for the proposed rule is founded on the postmarket safety reporting regulatory

scheme associated with the application, under which the product is approved, plus any applicable requirements of the five unique reporting provisions listed in this proposal. Although similar in effect to the first framework described previously, this approach is based on the legal authority FDA used to issue each of its three existing regulations for postmarket safety reporting for drugs, devices, and biological products. In the context of this proposal, such authority would include, but not be limited to, sections 505(k) and 519 of the FD&C Act, and section 351 of the PHS Act. Under this authority FDA is now issuing additional requirements based on the five unique reporting provisions. This means that in the case, for example, of a device-biologic combination product, approved under a BLA, section 351 of the PHS Act (in addition to other applicable authorities), would provide the authority for FDA to require postmarket safety reporting under § 600.80. Furthermore, section 351 would provide the authority for the agency to require additional reporting for devices (MDR 5-Day Reports and MDR 30-Day Malfunction Reports if the criteria for such reports are met).

This legal theory applies to all combination products subject to this proposal. It is particularly relevant, however, for those combination products involving a drug constituent part and approved under a BLA or approved or cleared under the device authorities. This is because section 505(k) of the FD&C Act requires the submission of reports ''in the case of any drug for which an approval of an application filed under subsection (b) or (j) [of section 505] is in effect * * *''.

IV. Environmental Impact

FDA has determined under 21 CFR 25.30(a), 25.30(h), 25.30(j), and 25.31(a) through (c) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Paperwork Reduction Act Analysis

This proposed rule contains information collections that are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of these provisions is given below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on the following topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Postmarketing Safety Reporting for Combination Products

Description: This proposed rule clarifies postmarketing safety reporting requirements for combination products. In the development of this proposed rule, the agency considered the fact that each constituent part of a combination product is governed by one of three differing sets of reporting provisions for drugs, devices, and biological products. The agency reviewed each set of regulations governing postmarketing safety reporting for drugs (parts 310 and 314), biological products (parts 600 and 606), and devices (part 803). The review determined that each set of regulations contains many substantially similar requirements. Given the broad similarities in the regulations, the agency determined that the simplest and most straightforward way to ensure that combination products are regulated consistently is by continuing to require reporters to comply with the regulatory requirements for postmarketing safety reporting associated with the application used to approve or clear the combination product, as long as the five unique provisions particular to each different set are also applied. This supplementation reflects the combination nature of the product, and recognizes, preserves, and distinguishes each constituent part's unique characteristics. Specifically, these unique reporting requirements, along with any associated followup reports, are: (1) submission of a ''5-day report'' related to the device constituent part of a combination product as described in § 803.53(a); (2) submission of a 30-day ''malfunction report'' related to the device constituent part of a combination product as described in section 27 of FDAAA and § 803.20(b)(3)(ii); (3) submission of a ''postmarketing 15-day 'Alert report'" for a serious, unexpected adverse experience associated with the use of a drug or biological product constituent part of a combination product, as described in §§ 310.305(c), 314.80(c)(1) and (e), and 600.80(c)(1) and (e); (4) submission of a 3-day ''field alert report'' related to the drug constituent part of a combination product as described in § 314.81(b)(1); and (5) submission of an expedited ''blood fatality report'' concerning a fatality related to the blood or blood component constituent part of a combination product as described in § 606.170.

We note that the postmarketing safety reporting information collections for drugs, biological products, and devices found in §§ 314.80, 314.81, and 600.80, 600.81, 606.170, 803.20, and 803.53 have already been approved and are in effect. The pertinent postmarketing safety reporting information collection provisions for § 314.80(c) and (e), as well as for § 314.81(b) are approved under OMB Control No. 0910–0001, which expires May 31, 2011, OMB Control No. 0910–0230, which expires July 31, 2012, and OMB Control No. 0910–0291, which expires December 31, 2011. The information collection provisions for §§ 600.80 and 600.81 are approved under OMB Control No. 0910–0308, which expires on September 30, 2011. Those for § 606.170 are approved under OMB Control No. 0910–0116, which expires February 29, 2012. Finally, the information collection provisions for §§ 803.20 and 803.53 are approved under OMB Control No. 0910–0437, which expires on July 31, 2012. As a result, the information collection described here refers only to the reporting and recordkeeping requirements for the five unique reporting requirements that are being applied because the product is a combination product. FDA does not expect or desire that reporters submit duplicate reports, and this proposal is intended to ensure that duplicative reporting does not occur.

These proposed requirements are necessary to: (1) Ensure consistent postmarketing safety reporting, (2) ensure that the agency receives necessary information to promote and protect the public health, (3) avoid duplicative reporting, (4) ensure appropriate ongoing assessment of risks, and (5) ensure consistent and appropriate postmarketing regulation of combination products.

Description of Respondents: Any person required to submit or record a reportable event under §§ 310.305, 314, 600, 606, or 803, except for user facilities and device distributors as defined in part 803.

Proposed § 4.103(b)(1) requires reporters for combination products comprised of a device constituent part to report no later than 5 work days after the day the reporter becomes aware that an MDR reportable event associated with the device constituent part of the combination product necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. This section also allows FDA to make written requests for the submission of all subsequent events of the same nature that involve substantially similar devices or device constituent parts of a combination product for the time period specified in the written request. This section only applies to reporters who would not otherwise submit a ''5-day report'' under the requirements associated with the application used to approve/clear the combination product with the device constituent part. Reporters must also maintain a record of any report they submit under this provision.

Proposed § 4.103(b)(2) requires reporters for combination products comprised of a device constituent part to report no later than 30 calendar days after the day the reporter becomes aware of information that reasonably suggests the device constituent part of the combination product has malfunctioned and that this device constituent part or a similar device constituent part that the reporter markets would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. This section only applies to reporters who would not otherwise submit a 30-day ''malfunction report'' under the requirements associated with the application used to approve/clear the combination product with the device constituent part. Reporters must also maintain a record of any report they submit under this provision.

Proposed § 4.103(b)(3) requires reporters for combination products comprised of a drug or a biological product constituent part to report each adverse experience associated with the use of the drug or biological product constituent part of the combination product that is both serious and unexpected, whether foreign and domestic, as soon as possible but in no case later than 15 calendar days of initial receipt of the information by the sponsor. This section only applies to reporters who would not otherwise submit a ''postmarketing 15-day 'Alert report''' under the requirements associated with the application used to approve/clear the combination product with the drug or biological product constituent part(s). Reporters must also maintain a record of any report they submit under this provision.

Proposed § 4.103(b)(4) requires reporters for combination products comprised of a drug constituent part to report information concerning any bacteriological contamination, or any significant chemical, physical, or other change or deterioration in the drug constituent part of a distributed contribution product, or any failure of one or more distributed batches of the drug constituent part of a combination product to meet the specification established for it in its marketing application. Reporters must submit this information to the FDA district office that is responsible for the facility involved within 3 working days of its receipt. They must provide the information by telephone or other rapid communication means, with prompt written followup. This section only applies to reporters who would not otherwise submit a 3-day ''field alert report'' under the requirements associated with the application used to approve/clear the combination product with the drug product constituent part. Reporters must also maintain a record of any report they submit under this provision.

Proposed § 4.103(b)(5) requires reporters for combination products comprised of a biological product constituent part containing blood or a blood component, if a complication of blood collection or transfusion is confirmed to be fatal as described in § 606.170(b), to report by telephone, facsimile, express mail or electronically transmitted mail as soon as possible, and a written report within 7 days after the fatality. This section only applies to reporters who would not otherwise report such an event within this timeframe under the statutory provisions and regulatory requirements associated with the application used to approve/clear the combination product with the biological product constituent part containing blood or a blood component. Reporters must also maintain a record of any report they submit under this provision.

Information Collection Burden Estimate

FDA estimates the burden for this information collection as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
4.103(b)(1)	5	1	5	1	5
4.103(b)(2)	20	15	300	1	300
4.103(b)(3)	20	15	300	1	300
4.103(b)(4)	5	1	5	1	5
4.103(b)(5)	5	1	5	1	5
Totals	55		615		615

TABLE 2.—ESTIMATED ANNUAL POSTMARKETING SAFETY RECORDKEEPING BURDEN FOR COMBINATION PRODUCTS[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Record	Total Hours
4.103(b)(1)	5	1	5	.5	2.5
4.103(b)(2)	20	15	300	.5	150

TABLE 2.—ESTIMATED ANNUAL POSTMARKETING SAFETY RECORDKEEPING BURDEN FOR COMBINATION PRODUCTS[1]—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency of Recordkeeping	Total Annual Records	Hours per Record	Total Hours
4.103(b)(3)	20	15	300	.5	150
4.103(b)(4)	5	1	5	.5	2.5
4.103(b)(5)	5	1	5	.5	2.5
Totals	55		615		307.5

Burden

Based on FDA's experience regarding receipt of postmarketing safety reports for combination products, the agency estimates that there will be 55 reporters (who will keep corresponding records) submitting a total of 615 reports under proposed 4.103(b) annually (and maintaining the records of those reports). In other words, the agency estimates that there will be 55 reporters who will avail themselves of these new streamlined reporting requirements and benefit from the associated burden reductions. For example, manufacturers of drug-device combination products marketed under an NDA will now be able to submit postmarket safety reports following the requirements for drug products and no longer have to submit additional postmarket safety reports following the requirements for devices so long as they comply with the reporting and recordkeeping requirements of sections 4.103(b)(1) and 4.103(b)(2).

Further, FDA estimates, based on its experience with information collection regarding postmarketing safety reporting provisions for drugs, biological products, and devices, that each report will take approximately 1 hour to prepare and submit, and half an hour to fulfill the corresponding recordkeeping requirements.

FDA believes that there are no significant operating and maintenance costs associated with this collection of information because, in order to legally market their products, reporters are required to develop and maintain systems for reporting and maintaining records of postmarketing safety events. Therefore, appropriate mechanisms for postmarketing safety reporting should already be in place, and reporters will accrue no significant additional costs to fulfill the requirements set forth here.

We welcome comments on our estimates of the number of respondents who will avail themselves of the new streamlined reporting requirements and our burden estimates. Based on these comments, we will revise our estimates accordingly of the burden reductions associated with the reporting and recordkeeping requirements of §§ 314.80, 314.81, and 600.80, 600.81, 606.170, 803.20, and 803.53.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review.

The information collection provisions of the proposed rule have been submitted to OMB for review. Interested persons are requested to fax comments regarding information collection by November 2, 2009, to the Office of Information and Regulatory Affairs, OMB. To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Desk Officer, FAX: 202–395–6974.

VI. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive Order requires agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under Federal statutes.'' The sole statutory provision giving preemptive effect to the proposed rule is section 751 of the act (21 U.S.C. 379r), which would apply only with respect to OTC drug components of combinations.[6]

VII. Analysis of Impacts

A. Introduction

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). In accordance with Executive Order 12866, FDA has carefully analyzed the economic effects of this proposal and has determined that the final rule, if issued, will not be a significant regulatory action as defined by the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule clarifies existing requirements and will have no recurring impact on the majority of small firms, the agency proposes to certify that the final rule will not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $133 million, using the most current (2008)

[6] The proposed rule seeks to clarify which adverse event reporting requirements apply when drugs, devices, and biological products are used to create combination products. The agency notes that there are no express preemption provisions of the act applicable to prescription drugs or biological products. Section 521 of the act (51 U.S.C. 360k) contains an express preemption provision that applies to devices; nonetheless, the Supreme Court concluded in *Medtronic, Inc.* v. *Lohr*, 581 U.S. 470, 500–01 (1996), that requirements not applicable to a particular device do not preempt State law under section 521. Device adverse event reporting requirements, like the good manufacturing practice requirements at issue in the Medtronic case, are general requirements that do not preempt under section 521.

Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this proposed rule to result in any 1-year expenditure that would meet or exceed this amount.

B. The Rationale Behind This Proposed Rule

The purpose of the proposed rule is to codify the postmarketing safety reporting requirements for combination products to ensure their consistent and appropriate regulation. The current regulations and reporting standards for drugs, devices, and biological products are similar but each has certain unique requirements. A separate rule specific to combination products will clarify how to apply these provisions to combination products and avoid applying duplicative or unnecessary requirements. The proposed rule will benefit public health by helping to ensure that the necessary reports are submitted and directed to the appropriate center and that records are maintained for the appropriate length of time.

C. Impact of Proposed Rule

The proposed rule will affect all of the approximately 300 manufacturers of combination products. Industry should benefit from reduced uncertainty regarding how to apply the separate regulations to combination products and from more consistent enforcement across the agency. This is especially true for developing standard operating procedures (SOPs) for new combination products. All firms would incur one-time costs to assess their current compliance level to the proposed requirements. In addition, some firms may need to alter or add SOPs and recordkeeping practices. Estimating the one-time costs is problematic because the costs would vary depending on the size of the firm, their current business practice, and the number and nature of their products. Currently we cannot identify how many combination products there are or the extent of the changes that would be needed. Some firms could spend as little as 30 minutes while other firms with a variety of combination product types, may have to alter or add a number of SOPs. This could take 10 to 20 hours per SOP.

The reporting requirements under proposed § 4.103(b) will also generate some annually recurring costs. Because all of the firms have reporting systems in place and the reports are submitted on the same form as the other types of postmarket safety reports (with the exception of field alert reports (proposed § 4.103(b)(4)), we estimate that the incremental time to comply with this requirement is about 1.5 hours and that we would receive about 615 reports from 55 firms annually. Assuming an hourly wage plus benefit rate of $42,[7] the annually recurring cost for these requirements would be $38,745 (1.5 hours x $42/hr x 615 reports). These costs could be at least partly offset because some of the proposed reports would be submitted in lieu of an existing reporting requirement.

About 80 to 85 percent of the firms affected by this proposed rule are considered small, based on the Small Business Administration's definition of a small entity (500 employees for medical device and biological product firms and 750 employees for drug firms). Most of these small entities are medical device firms and produce combination products where the primary modes of action are attributable to medical devices. The impact on individual firms will depend on the nature of the changes to SOPs needed, the number and type of combination products produced, and the number of reports filed annually. Most products will not have any postmarket safety reports in a given year and thus there would be no annually recurring costs for them. The largest potential cost would be a one-time cost to modify existing SOPs. The cost to make such modifications is generally lower for small firms than for large firms.

VIII. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

IX. Proposed Effective Date

The agency is proposing that any final rule that may issue based upon this proposed rule become effective 180 days after its date of publication in the **Federal Register**.

[7] Wage is based on the 2007 Bureau of Labor Statistic's survey, National Industry Specific Occupational Employment and Wage Estimate, for standard occupational code 13–1041, compliance officer in pharmaceutical and medicine manufacturing (NAICS 325400). The mean wage of $30.08 was increased by 40 percent to account for fringe benefits for a loaded wage of $42 per hour. *http://www.bls.gov/oes/current/naics4_325400.htm#b23-0000.*

List of Subjects in 21 CFR Part 4

Combination products, Biological products, Devices, Drugs, and Human cell, tissue, and cellular and tissue-based products, Regulation of combination products.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 4 be further amended as proposed to be added at 73 FR 48430, September 23, 2009 as follows:

PART 4—REGULATION OF COMBINATION PRODUCTS

1. Add subpart B to part 4 to read as follows:

Subpart B—Postmarketing Safety Reporting for Combination Products

General Provisions

Sec.
4.100 What is the scope of this subpart?
4.101 What are the definitions applicable to this subpart?
4.102 Who reports to FDA?
4.103 What are the reporting requirements?
4.104 How do I report if another reporter is responsible for a constituent part of my combination product?
4.105 How, where, and when do I submit postmarketing safety reports for combination products?
4.106 What are the postmarketing safety reporting recordkeeping requirements?

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360, 360b–360f, 360h–360j, 360l, 360hh–360ss, 360aaa–360bbb, 371(a), 372–374, 379e, 381, 383, 394; 42 U.S.C. 216, 262, 263a, 264, 271.

§ 4.100 What is the scope of this subpart?

(a) This subpart establishes requirements for postmarketing safety reporting for combination products.

(b) This subpart applies to the configurations of combination products described in § 3.2(e)(1), (e)(2), and (e)(3) of this chapter. This subpart does not apply to investigational combination products as defined in § 3.2(e)(4) of this chapter.

(c) This subpart applies to all reporters required to report under parts 314, 600, 606, and 803 of this chapter, except for user facilities and device distributors as defined in part 803 of this chapter.

(d) This subpart supplements and does not supersede other provisions of this chapter, including the provisions in parts 314, 600, 606, 803, and 806 of this chapter.

§ 4.101 What are the definitions applicable to this subpart?

Act means the Federal Food, Drug, and Cosmetic Act.

Adverse experience, as described in §§ 310.305(b), 314.80(a), and 600.80(a) of this chapter and as modified for purposes of this subpart, means any adverse event associated with the use of a drug or biological product constituent part of a combination product in humans, whether or not considered drug or biological product related, including the following: An adverse event occurring in the course of the use of a drug or biological product in professional practice, an adverse event occurring from drug or biological product overdose whether accidental or intentional, an adverse event occurring from drug or biological product abuse, an adverse event occurring from drug or biological product withdrawal, and any failure of expected pharmacological action.

ANDA means abbreviated new drug application as defined at § 314.3(b) of this chapter.

Application, for purposes of this subpart, means a new drug application, an abbreviated new drug application, a device premarket approval application, a device premarket notification submission, a humanitarian device exemption application, and/or a biologics license application, including all amendments and supplements to them.

Biological product has the meaning set forth in § 3.2(d) of this chapter.

BLA means biologics license application as described in section 351 of the Public Health Service Act (42 U.S.C. 262) and § 601.2 of this chapter.

Blood as defined in § 606.3(a) of this chapter means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

Blood component as defined in § 606.3(c) of this chapter means a blood component or part of a single-donor's blood separated by physical or mechanical means.

Blood fatality report means the report described in § 606.170 of this chapter of a complication of blood collection or transfusion confirmed to be fatal, by telephone, facsimile, express mail, or electronically transmitted mail as soon as possible, and a written report within 7 days after the fatality.

Combination product has the meaning set forth in § 3.2(e) of this chapter.

Constituent part is a drug, device, or biological product that is part of a combination product as defined in § 3.1(e) of this chapter.

Device has the meaning set forth in section 201(h) of the act (21 U.S.C. 321(h)).

Drug has the meaning set forth in § 3.2(g) of this chapter.

FDA means the Food and Drug Administration.

Field alert report, as described in § 314.81(b)(1) of this chapter and as modified for purposes of this subpart, means a report submitted on Form FDA 3331 within 3 working days to the appropriate FDA district office when there is information concerning any incident that causes the drug constituent part of a distributed combination product or its labeling to be mistaken for, or applied to, another article; or that contains information concerning any bacteriological contamination, or any significant chemical, physical, or other change or deterioration in the drug constituent part of a distributed combination product, or any failure of one or more distributed batches of a drug constituent part of a combination product to meet the specification established for it in the application.

5-day report, as described in §§ 803.3 and 803.53 of this chapter and as modified for purposes of this subpart, means a medical device report (MDR) that must be submitted by a reporter to FDA under § 803.53(a) of this chapter no later than 5 work days after the day the reporter becomes aware that a MDR reportable event necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. FDA can also make a written request for a 5-day report for all subsequent events of the same nature that involve substantially similar devices or device constituent parts of a combination product for the time period specified in the written request.

Followup report as described in §§ 314.80(c)(1)(ii), 600.80(c)(1)(ii), and 803.56 of this chapter and as modified for purposes of this subpart, is a report of supplemental, additional or followup information related to a reportable event.

HDE means humanitarian device exemption as discussed in § 814.100 of this chapter.

Malfunction, as described in § 803.3 of this chapter and as modified for purposes of this subpart, means the failure of a device constituent part of a combination product to meet its performance specifications or otherwise perform as intended. Performance specifications include all claims made in the labeling for the combination product. The intended performance of a device constituent part refers to the intended use or indication for which the combination product is labeled or marketed.

Malfunction report, as required under section 227 of FDAAA, as described in § 803.20(b)(3)(ii) of this chapter, and as modified for purposes of this subpart, is a report submitted no later than 30 calendar days after the day that the reporter becomes aware of information that reasonably suggests that one of the marketed device constituent parts of a combination product has malfunctioned and that the device constituent part or a similar device or device constituent part of a combination product marketed by the reporter would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. A reporter must submit a 30-day malfunction report for malfunctions of the following devices: A Class III device; a Class II device that is permanently implantable, life supporting, or life sustaining; or a type of device that FDA, by notice in the **Federal Register** or letter, indicates should be subject to part 803 of this chapter to protect the public health. For Class I and certain Class II devices a reporter must submit reportable malfunctions on a quarterly basis using a summary format.

MDR means a medical device report as defined in § 803.3 of this chapter.

MDR reportable event, as described in § 803.3 of this chapter and as modified for purposes of this subpart, means an event about which the reporter has received or become aware of information that reasonably suggests that one of their marketed combination products:

(1) May have caused or contributed to a death or serious injury; or

(2) Has malfunctioned and that the device constituent part or a similar device or device constituent part of a combination product marketed by the reporter would be likely to cause or contribute to a death or serious injury if the malfunction were to recur.

NDA means new drug application as defined in § 314.3(b) of this chapter.

PMA means a device premarket approval application as defined in § 814.3 of this chapter.

Postmarketing 15-day ''alert report,'' as described in §§ 314.80(c)(1) and 600.80(c)(1) of this chapter and as modified for the purposes of this subpart, is a report the reporter must make to FDA for each adverse experience as defined in this subpart that is both serious and unexpected, whether foreign or domestic, as soon as possible but in no case later than 15 calendar days of initial receipt of the information by the reporter.

Premarket notification submission means a submission as described in § 807.87 of this chapter.

Reportable event, for purposes of this subpart, is an event that is reportable under this subpart or parts 314, 600, 606, or 803 of this chapter.

Reporter, for purposes of this subpart, is any person or entity responsible for evaluating and determining whether an event meets the criteria for postmarketing safety reporting or who is required to submit or record a reportable event under this subpart or parts 314, 600, 606, or 803 of this chapter. This term is used interchangeably with the term ''you.'' This term does not include user facilities or device distributors as defined in part 803 of this chapter.

Serious adverse experience, as described in §§ 314.80(a) and 600.80(a) of this chapter and as modified for purposes of this subpart, is any adverse experience occurring at any dose associated with the use of a drug or biological product constituent part of a combination product that results in any of the following outcomes: Death, a life-threatening adverse experience, inpatient hospitalization or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life-threatening, or require hospitalization may be considered a serious adverse experience when, based upon appropriate medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. Examples of such medical events include allergic bronchospasm requiring intensive treatment in an emergency room or at home, blood dyscrasias or convulsions that do not result in inpatient hospitalization, or the development of drug dependency or drug abuse.

Serious injury means the injuries that are defined in § 803.3 of this chapter. This means an injury or illness that:

(1) Is life-threatening,

(2) Results in permanent impairment of a body function or permanent damage to a body structure, or

(3) Necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.

Unexpected adverse experience, as described in §§ 314.80(a) and 600.80(a) of this chapter and as modified for the purposes of this subpart, means any adverse experience as defined in this subpart that is not listed in the current labeling for the combination product. This includes events that may be symptomatically and pathophysiologically related to an event listed in the labeling, but differ from the event because of greater severity or specificity.

We means FDA.

§ 4.102 Who reports to FDA?

Any person or entity required to submit to FDA postmarketing safety reports for a combination product under parts 314, 600, 606, or 803 of this chapter must report under this subpart. This subpart uses the term ''reporters'' to refer to persons or entities responsible for evaluating and determining whether an event meets the criteria for postmarketing safety reporting or who are required to submit or record a reportable event. Additionally, the term ''you'' as used in this subpart refers to reporters. This subpart does not apply to user facilities or device distributors subject to medical device reporting as defined in part 803 of this chapter.

§ 4.103 What are the reporting requirements?

(a) *General requirements*. You must consider each of the following reporting requirements and comply with each that is applicable to your combination product or your constituent part(s), if another reporter is responsible for the other constituent part(s) of the combination product. If you are the only reporter for the combination product, you must consider the combination product as a whole (i.e., all of its constituent parts), when determining whether an event is required to be reported.

(1) If your combination product or your device constituent part is approved under a PMA or HDE, or is cleared under a premarket notification, you must comply with the requirements for postmarketing safety reporting described in part 803 of this chapter with respect to that combination product or device constituent part.

(2) If your combination product or your drug constituent part is approved under an NDA or an ANDA, you must comply with the requirements for postmarketing safety reporting described in part 314 of this chapter with respect to that combination product or drug constituent part.

(3) If your combination product or your biological product constituent part is approved under a BLA, you must comply with the requirements for postmarketing safety reporting described in parts 600 and 606 of this chapter with respect to that combination product or biological product constituent part.

(4) If your combination product or your device constituent part is not subject to a marketing application under the device provisions of the act because it was legally marketed prior to May 28, 1976, or is exempt from premarket notification, you must comply with the requirements for postmarketing safety reporting described in part 803 of this chapter with respect to that combination product or device constituent part.

(b) *Additional requirements*. If you are the only reporter for the combination product, depending on the type of combination product and the nature of the reportable event, you must submit, as applicable, the following additional reports and any associated followup reports. You must submit these additional reports only if the reports are not otherwise required to be reported by you under paragraph (a) of this section, or would be required, but at a later timeframe than specified as follows:

(1)(i) If your combination product contains a device constituent part, you must submit a ''5-day report'' no later than 5 work days after the day that you become aware that:

(A) An MDR reportable event associated with the use of the device constituent part of your combination product necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. You may become aware of the need for remedial action from any information, including any trend analysis; or

(B) We have made a written request for the submission of a 5-day report. If you receive such a written request from us, you must submit, without further requests, a 5-day report for all subsequent events of the same nature that involve substantially similar devices or device constituent parts of a combination product for the time period specified in the written request. We may extend the time period stated in the original written request if we determine it is in the interest of the public health.

(ii) You must also submit any required followup reports to a ''5-day report'' required by § 803.56 of this chapter.

(2) If your combination product contains a device constituent part, you must submit a ''malfunction report'' no later than 30 calendar days after the day that you become aware of information that reasonably suggests the device constituent part, described in this paragraph, of your combination product has malfunctioned and that this device constituent part or a similar device or device constituent part that you market would be likely to cause or contribute to a death or serious injury if the malfunction were to recur. You must submit a 30-day malfunction report for reportable malfunctions of the following devices: A Class III device; a Class II device that is permanently implantable, life supporting, or life sustaining; or a type of device that FDA, by notice in the **Federal Register** or letter, indicates

should be subject to part 803 of this chapter to protect the public health. For Class I and certain Class II devices you must submit reportable malfunctions on a quarterly basis using a summary format. You must also submit any required followup reports to a ''malfunction report'' required by § 803.56 of this chapter.

(3) If your combination product contains a drug or a biological product constituent part, you must submit a postmarketing 15-day ''alert report'', for each adverse experience associated with the use of a drug or biological product constituent part of the combination product, whether or not considered drug or biological product related, that is both serious and unexpected, whether foreign or domestic, as soon as possible but in no case later than 15 calendar days of initial receipt of the information by the reporter, as required by § 314.80(c)(1)(i) or § 600(c)(1)(i) of this chapter. You must also promptly investigate and submit any required followup reports to a postmarketing 15-day ''alert report'' as required by § 314.80(c)(1)(ii) or § 600(c)(1)(ii) of this chapter.

(4) If your combination product contains a drug constituent part, you must submit a field alert report within 3 working days of your receipt to the FDA district office that is responsible for the facility involved, by telephone or other rapid communication means and prompt written followup, information concerning:

(i) Any incident that causes the drug constituent part of a distributed combination product or its labeling to be mistaken for, or applied to, another article; or

(ii) Any bacteriological contamination or any significant chemical, physical, or other change or deterioration in the drug constituent part of a distributed combination product, or any failure of one or more distributed batches of a drug constituent part of a combination product to meet the specification established for it in the application.

(5) If your combination product contains a biological product constituent part containing blood or a blood component, and a complication of blood collection or transfusion is confirmed to be fatal as described in § 606.170(b) of this chapter, you must submit a blood fatality report by telephone, facsimile, express mail, or e-mail as soon as possible, and a written report within 7 days after the fatality.

(c) *Periodic reports.* (1) If your combination product is approved under an NDA, ANDA, or BLA, you must also include information in reports submitted in accordance with paragraphs (b)(1), (b)(2), and (b)(5) of this section in the periodic reports you submit under §§ 314.80(c)(2)(ii)(a) and 600.80(c)(2)(ii)(a) of this chapter. Information on these additional reports should be treated as 15-day alert reports, i.e., included in narrative summary and analysis of the information in the report and an analysis of the 15-day alert reports submitted during the reporting interval (all 15-day alert reports being appropriately referenced by the applicant's patient identification number, adverse reaction term(s), and date of submission to FDA). The history of actions taken since the last report because of adverse drug experiences (for example, labeling changes or studies initiated) should include information on the combination products as a whole (i.e., all of its constituent parts).

(2) If your combination product is approved under a PMA, you must also include information in reports submitted in accordance with paragraphs (b)(3), (b)(4), and (b)(5) of this section in the periodic reports you submit under §814.82(a)(7) of this chapter.

§ 4.104 How do I report if another reporter is responsible for a constituent part of my combination product?

(a) If another person holds an application used to approve or clear a constituent part of your combination product, or legally markets a constituent part of your combination product without an approved or cleared marketing application, in addition to the requirements of § 4.103(a), you must submit the information you received about the event to FDA or the other person within 5 calendar days of your receipt of the information.

(b) If you receive information from the other person that holds an application used to approve or clear a constituent part of your combination product, or legally markets a constituent part of your combination product without an approved or cleared marketing application, you must investigate and, if required, report the event in accordance with § 4.103(a) and (b).

§ 4.105 How, where, and when do I submit postmarketing safety reports for combination products?

(a) You must submit the field alert reports described in § 4.103(b)(4) to the FDA district office that is responsible for the facility involved within 3 working days of receipt of the information.

(b) You must submit all other postmarketing safety reports required under this subpart (i.e., required under § 4.103(a), (b)(1), (b)(2), (b)(3), (b)(5), and (c)) using the submission methods and timeframes identified in the regulations applicable under § 4.103(a), (b), and (c) for your combination product or your constituent part.

§ 4.106 What are the postmarketing safety reporting recordkeeping requirements?

(a) You must maintain records of postmarketing safety reports required by § 4.103(a) in accordance with the recordkeeping requirements of the underlying regulation(s) identified in § 4.103(a) that are applicable to your combination product or your constituent part.

(b) You must maintain records of reportable events required by § 4.103(b) and (c) for the time period specified as follows:

(1) 5-day and malfunction reports described in § 4.103(b)(1) and (b)(2): for 2 years or the expected life of the combination product, whichever is longer;

(2) Postmarketing 15-day 'alert reports' field alert reports, and blood fatality reports described in § 4.103(b)(3), (b)(4), and (b)(5), and periodic reports as described in § 4.103(c): for 10 years.

Dated: September 24, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23519 Filed 9–30–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–139068–08]

RIN 1545–BI31

Modification to Consolidated Return Regulation Permitting an Election To Treat a Liquidation of a Target, Followed by a Recontribution to a New Target, as a Cross-Chain Reorganization; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains corrections to a notice of proposed rulemaking by cross-reference to temporary regulations (REG–139068–08) that were published in the **Federal Register** on Friday, September 4, 2009 (74 FR 45789) modifying the election under which a consolidated group can avoid immediately taking into account

an intercompany item after the liquidation of a target corporation. This modification was made necessary in light of the regulations under section 368 that were issued in October 2007 addressing transfers of assets or stock following a reorganization.

FOR FURTHER INFORMATION CONTACT: Mary W. Lyons, (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

A notice of proposed rulemaking by cross-reference to temporary regulations that is the subject of this document is under section 1502 of the Internal Revenue Code.

Need for Correction

As published, a notice of proposed rulemaking by cross-reference to temporary regulations (REG–139068–08) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of a notice of proposed rulemaking by cross-reference to temporary regulations (REG–139068–08), which was the subject of FR Doc. E9–21323, is corrected as follows:

§ 1.1502–13 [Corrected]

1. On page 45791, column 1, paragraph (f)(5)(ii)(B)(*1*), lines 2 and 3, the language ''amendments to § 1.1502–13(B)(*1*) is the same as the text of § 1.1502–13T(B)(*1*)'' is corrected to read ''amendments to § 1.1502–13(f)(5)(ii)(B)(*1*) is the same as the text of § 1.1502–13T(f)(5)(ii)(B)(*1*)''.

2. On page 45791, column 1, paragraph (f)(5)(ii)(B)(*2*), lines 2 and 3, the language ''amendments to § 1.1502–13(B)(*2*) is the same as the text of § 1.1502–13T(B)(*2*)'' is corrected to read ''amendments to § 1.1502–13(f)(5)(ii)(B)(*2*) is the same as the text of § 1.1502–13T(f)(5)(ii)(B)(*2*)''.

3. On page 45791, column 1, paragraph (f)(5)(ii)(F), lines 2 and 3, the language ''amendments to § 1.1502–13(F) is the same as the text of § 1.1502–13T(F)'' is corrected to read ''amendments to § 1.1502–13(f)(5)(ii)(F) is the same as the text of § 1.1502–13T(f)(5)(ii)(F)''.

LaNita Van Dyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E9–23645 Filed 9–30–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0909011267–91269–01]

RIN 0648–AY19

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to implement a regulatory amendment to modify the fishing vessel permit regulations to include specific terms and conditions for Federal fishing vessel permits obtained through the purchase of fishing vessels using Federal grant awards. The terms and conditions would authorize the NMFS Administrator, Northeast Region (Regional Administrator), to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, or the rights thereto, if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding, are violated by the grant recipient.

DATES: Written comments must be received no later than 5 p.m., eastern standard time, on November 2, 2009.

ADDRESSES: You may submit comments, identified by RIN 0648–AY19, by any of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal e-Rulemaking portal *http://www.regulations.gov*.
- Fax: (978) 281–9135, Attn: Michael Pentony.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Vessel Permit Regulatory Amendment.''

Instructions: All comments received are part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted via Microsoft Word, Microsoft Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Regulatory Impact Review (RIR) are available upon request from Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Michael Pentony, Senior Fishery Policy Analyst, phone (978) 281–9283.

SUPPLEMENTARY INFORMATION:

Background

This proposed rule would implement changes to the Northeast (NE) fisheries regulations at 50 CFR part 648 to authorize the Regional Administrator to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, held by a person, corporation, non-profit organization, or government entity if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding, are violated by the grant recipient. The intent of this proposed action is to establish a new regulatory mechanism through which NOAA would be able to enforce the terms and conditions of any Federal grant award used to obtain Federal fishing vessel permits in the NE Region.

As several fisheries in the NE Region begin to transition to catch-share management strategies, various fishing organizations, conservations groups, and states are exploring alternatives to the traditional vessel-permit ownership model. Traditionally, an individual or corporation invests in a fishing vessel and obtains the appropriate vessel permits necessary to participate in the target fishery. An individual or corporation may own multiple vessels, but each of these vessels is generally associated with a unique vessel permit (or, a unique set of permits to operate in different fisheries may be associated with each vessel). An alternative model known as ''permit banking'' is developing in the Northeast, whereby an organization obtains a suite of permits in a particular fishery, with the option to lease out the fishing rights associated with those permits.

Permit banks hold promise for addressing two important issues related to the development and implementation of effective catch-share management programs: First, permit banks can be

used to ease the transition to catch-share management by expanding the pool of catch shares available for use; and, second, permit banks could demonstrate that small fishing operations and small communities can be successful participants in catch-share management programs. Depending on the structure of the permit bank, and the criteria used for participation, permit banks could be very effective at protecting the fishing interests of small communities and small fishing operations by mitigating some of the consolidation of fishing rights that often follows implementation of catch-share programs.

Examples of new permit banks in the Northeast Region include those being developed by the Cape Cod Fisheries Trust, the Northeast Seafood Coalition, and The Nature Conservancy in partnership with the Penobscot East Resource Center. These groups are using donations and other funds to purchase fishing vessels with NE multispecies fishing permits. The permits would be held by the permit bank organization, which would then make the fishing rights associated with the permits available to its members or other qualified applicants. The fishing rights associated with the permits initially would include days-at-sea, to be leased out at generally below-market value. With the development of sector management in the NE multispecies fishery, the fishing rights may include annual catch entitlements (ACEs) associated with the permits (i.e., the shares of the overall quotas allocated to each permit based on fishing history). The ACEs may be used in establishing a new fishing sector, or to bolster the total catch shares available to an existing sector.

Interest in developing permit banking programs is expanding in the NE and, because of NOAA's policy position promoting catch-share management, the NMFS NE Regional Office has proposed a pilot program designed to guide the development and expansion of permit banks in order to facilitate the implementation of effective catch-share programs. In the spending plan for a recent Congressional authorization for New England fisheries assistance, NOAA proposed to award a $1 million grant to develop this pilot permit banking program in the State of Maine. Since then, we have been working in partnership with Maine's Division of Marine Resources on a program that would allow the state to use the grant award to purchase fishing vessels with associated permits. The fishing rights associated with those permits would then serve as the basis for a permit bank to be operated by the state to facilitate the transition to catch-share management by leasing additional fishing opportunities to qualified vessels in small ports. The State of Maine is very interested in developing such a partnership and establishing a permit bank. If the pilot program proves successful, NOAA may consider expanding the program throughout other parts of the NE Region.

Absent a regulatory change such as the proposed action, NOAA would not be able to retain sufficient control and oversight of the resulting permit banking program to ensure its success. Under current grant management rules and fishing vessel permit regulations, once a grant award is made to an organization, and the award is used to obtain fishing vessel permits, NOAA would lose all control over the implementation and operation of the resulting permit bank. Even if the grant includes special award conditions specifying the criteria to be used in operation of the permit bank, NOAA would have no effective mechanism to enforce those criteria once an organization obtains the permits. In order to protect NOAA's and the public's interests in the successful development, implementation, and operation of such a program, a regulatory change is required to provide NOAA with an appropriate enforcement mechanism.

The proposed action would amend the NMFS NE Region regulations regarding fishing vessel permits to include specific terms and conditions that would apply to Federal fishing vessel permits obtained through the purchase of fishing vessels using Federal grant awards. The terms and conditions would authorize the Regional Administrator to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, held by a person, corporation, non-profit organization, or government entity if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding, are violated by the grant recipient.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Fishery Management Plans (FMPs) of the NE Region, other provisions of the Magnuson-Stevens Act, and other applicable law, and is necessary to discharge the general responsibility to carry out said FMPs, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The intent of this proposed action is to establish a new regulatory mechanism through which NOAA would be able to enforce the terms and conditions of any Federal grant award used to obtain Federal fishing vessel permits. This action would have no effect on any Federal fishing vessel permit currently held by a person, corporation, non-profit organization, or government entity, and would only affect such permits obtained in the future if the person, corporation, non-profit organization, or government entity obtains a Federal fishing vessel permit using funds awarded to that entity through a Federal grant award. Further, the proposed action would have no effect on any entity unless that entity violates the terms and conditions of the Federal grant award used to obtain such a permit, or an associated memorandum of understanding. If the terms and conditions of a Federal grant award, or associated memorandum of understanding, are violated, this action would authorize the Regional Administrator to take appropriate action to enforce the terms and conditions of the grant award or memorandum of understanding. These administrative changes are intended to ensure NOAA has available appropriate enforcement mechanisms when awarding Federal grants that may be used to obtain Federal fishing vessel permits. As such, the rule will not have significant direct or indirect economic impacts on small entities.

As a result, an initial flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 28, 2009.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.4, paragraph (n) is added to read as follows:

§ 648.4 Vessel permits.

* * * * *

(n) *Federal grant awards*. The Regional Administrator may suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, issued pursuant to this section, including the rights thereto, held by a person, corporation, non-profit organization, or government entity if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding, are violated by the grant recipient.

[FR Doc. E9–23704 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 74, No. 189

Thursday, October 1, 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

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App 2, the United States Department of Agriculture (USDA) announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet October 28–30, 2009. The public may file written comments before or up to two weeks after the meeting with the contact person.

ADDRESSES: The meeting will take place at The Madison Hotel, 1177 15th Street NW., Washington, DC 20005. Written comments from the public may be sent to the Contact Person identified in this notice at: The National Agricultural Research, Extension, Education, and Economics Advisory Board Office, Room 3858 South Building, United States Department of Agriculture, STOP 0321, 1400 Independence Avenue, SW., Washington, DC 20250–0321.

FOR FURTHER INFORMATION CONTACT: Karen Hunter, Executive Director or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720–3684; fax: (202)720–6199; or e-mail: *Karen.hunter@ars.usda.gov* or *Shirley.morgan@ars.usda.gov.* Persons requiring sign language interpretation or other reasonable accommodations should contact either individual in advance.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, with opportunity for public comment each day. On Wednesday, October 28, 2009, an orientation session for new members and interested incumbent members will be held from 9:30 a.m.–12 p.m. (noon). The full Advisory Board will convene at 12 p.m. (noon) with introductory remarks by the Chair of the Advisory Board. There will be brief introductions of new Board members, incumbents, and guests followed by general Board business. Comments will be heard from a variety of distinguished leaders and experts, as well as officials and/or leaders from the four agencies in the USDA Research, Education, and Economics mission area. Speakers will provide information for the Board to consider while developing recommendations regarding enhancement of USDA research, extension, education, and economic programs for the protection of US food, fiber, fuel and agricultural systems. The Honorable Secretary of Agriculture Tom Vilsack has been invited to provide brief remarks and welcome the new Board members. On Thursday, October 29, 2009, the Board will reconvene at 8 a.m. Dr. Rajiv Shah, Under Secretary of the Research, Education, and Economics mission area has been invited to speak during the meeting. Presentations and discussions throughout the day will focus on two subject areas: (1) Cooperative Extension and (2) Nutrition and Health in Youth. The meeting will adjourn by 6 p.m. On Friday, October 30, 2009, the Board will reconvene at 8 a.m. to discuss initial recommendations resulting from the meeting and future planning for the Board. Opportunity for public comment will be offered each day of the meeting. The Board Meeting will adjourn by 12 p.m. (noon) on Friday, October 30, 2009.

Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Friday, November 13, 2009). All statements will become a part of the official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Extension, Education, and Economics Advisory Board Office.

Done at Washington, DC this 21st day of September 2009.

Maura O'Neill,

Chief of Staff, Senior Advisor for Energy and Climate.

[FR Doc. E9–23649 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Forest Industries and Residential Fuelwood and Post Data Collection Systems

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the renewal of a currently approved information collection, Forest Industries and Residential Fuelwood and Post Data Collection Systems. This will combine the Forest Industries Data Collection System (OMB Number: 0596–0010) and the Residential Fuelwood and Post Assessment in Selected States (OMB Number: 0596–0009, expired).

DATES: Comments must be received in writing on or before November 30, 2009 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to: USDA, Forest Service, Attn: Ronald Piva, Northern Research Station, Forest Inventory and Analysis, 1992 Folwell Ave., St. Paul, MN 55108.

Comments also may be submitted via facsimile to 651–649–5140 or by e-mail to: *rpiva@fs.fed.us.*

The public may inspect comments received at the Northern Research Station, 1992 Folwell Ave., Room 513, St. Paul, MN during normal business hours. Visitors are encouraged to call ahead to 651–649–5150 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Ronald Piva, Northern Research Station, at 651–649–5150. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay

Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Forest Industries and Residential Fuelwood and Post Data Collection Systems.

OMB Number: 0596–0010.

Expiration Date of Approval: December 31, 2009.

Type of Request: Renewal.

Abstract: The Forest and Range Renewable Resources Planning Act of 1974 and the Forest and Rangeland Renewable Resources Research Act of 1978 require the Forest Service to evaluate trends in the use of logs and wood chips, to forecast anticipated levels of logs and wood chips, and to analyze changes in the harvest of these resources from National Forest System lands. To collect this information, Forest Service personnel use three questionnaires, which respondents return in self-addressed, postage pre-paid envelopes.

Pulpwood Received Questionnaire: Forest Service personnel use this questionnaire to collect and evaluate information from pulp and composite panel mills in order to monitor the volume, types, species, sources, and prices of timber products harvested throughout the Nation. The data collected will be used to provide essential information about the current use of the Nation's timber resources for pulpwood industrial products and is not available from other sources.

Logs and Other Roundwood Received Questionnaire: This questionnaire is used by Forest Service personnel to collect and evaluate information from primary wood-using mills, including small, part-time mills, as well as large corporate entities. Primary wood-using mills are facilities that use harvested wood in log or chip form, such as sawlogs, veneer logs, pulpwood, and pulp chips, to manufacture a secondary product, such as lumber or paper. Forest Service personnel evaluate the information collected and use it to monitor the volume types, species, sources, and prices of timber products harvested throughout the Nation.

Residential Fuelwood and Post Questionnaire: Forest Service personnel use this questionnaire to collect and evaluate information from residential households and logging contractors in order to monitor the volume, types, species, sources of fuelwood and posts harvested for residential use, as well as the types of burning facilities in the State. The collected information will enable land managers to determine what timber to sell for use as fuelwood or fence posts, how well the local forested land will meet the demand for these timber products, and how to project future demands on these renewable natural resources.

	Pulpwood received questionnaire	Logs and other roundwood received questionnaire	Residential fuelwood and post questionnaire
Estimate of annual burden hours	30 minutes (0.5)	50 minutes (0.84)	10 minutes (0.17).
Type of respondents	Primary users of industrial pulpwood.	Primary users of industrial roundwood products.	Residential households and logging contractors.
Estimated annual number of respondents.	188	1628	1500.
Estimated annual number of responses per respondent.	1	1	1.
Estimated total annual burden hours on respondents.	94 hours	1368 hours	255 hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: September 24, 2009.

William J. Lange,

Acting Deputy Chief, Research & Development.

[FR Doc. E9–23638 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Request for Proposals for Hazardous Fuels Woody Biomass Utilization Grant—Forest Restoration Activities on All Priority Forestlands

AGENCY: Forest Service, USDA.

ACTION: Request for proposals.

SUMMARY: The Forest Service, U.S. Department of Agriculture, State and Private Forestry, Technology Marketing Unit, located at the Forest Products Laboratory, requests proposals for projects that increase the use of woody biomass that is removed during hazardous fuels treatment projects on both public and private forestlands. The Hazardous Fuels Woody Biomass Utilization (WBU) Grant Program is intended to improve the effectiveness of forest restoration activities by creating and expanding markets for small-diameter material, low-value trees, and woody biomass removed during hazardous fuel reduction and forest health activities. These funds are intended to assist communities, entrepreneurs, and others turn low-value woody biomass materials from forest restoration activities into marketable forest products and/or energy products.

DATES: *Pre-application Postmark Deadline:* November 20, 2009. *Full Application Postmark Deadline:* April 2, 2010.

ADDRESSES: All pre-applications and full applications must be sent to the following address: U.S. Forest Service, ATTN: Patricia Brumm, Grant Officer, Forest Products Laboratory, One Gifford

Pinchot Drive, Madison, WI 53726–2398. Detailed information regarding what to include in the pre-application and full application, definitions of terms, eligibility, priority forestlands, and Federal restrictions are available at *http://www.fpl.fs.fed.us/tmu* (under Hazardous Fuels Woody Biomass Grants), and at *http://www.grants.gov.* Paper copies of the information are also available by contacting the U.S. Forest Service, S&PF Technology Marketing Unit, One Gifford Pinchot Dr., Madison, Wisconsin 53726–2398, 608–231–9504.

FOR FURTHER INFORMATION CONTACT: For questions regarding the grant application or administrative regulations, contact Patricia Brumm, Grants and Agreements Specialist, 608-231–9298, *pbrumm@fs.fed.us;* for program and technical questions, contact Susan LeVan-Green, Program Manager, 608–231–9504, *slevan@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: To address the goals of Public Law 110–234, Food, Conservation, and Energy Act of 2008, Rural Revitalization Technologies (7 U.S.C. 6601), and the anticipated Department of the Interior, Environment, and Related Agencies Appropriation Act of 2010, the Forest Service is requesting proposals to address the nationwide challenge of dealing with low-value woody biomass material removed during hazardous fuels reduction and forest health activities. The Hazardous Fuels WBU has a pre-application requirement. Upon notification, selected pre-applicants will be asked to complete the requirements for a full application. Goals of the grant program are to:

- Reduce forest management costs by increasing the value of biomass and other forest products generated from hazardous fuels reduction and forest health activities.
- Create incentives and/or reduce business risk for increased use of woody biomass from priority forestlands identified either by the Forest Service or through local Community Wildfire Protection Plans (or equivalent documents) as forestlands and other areas at high risk from wildfires and in need of hazardous fuels reduction work.
- Implement projects that target and help remove economic and market barriers to using small-diameter trees and woody biomass.
- Produce renewable energy from woody biomass, including the use of new technologies.
- Build infrastructure to use woody biomass around lands associated with hazardous fuels treatment where no or limited infrastructure exists.

Grant Requirements

1. Eligibility Information

a. *Eligible Applicants.* Eligible applicants are State, local, tribal governments, school districts, communities, non-profit organizations, businesses, companies, corporations, or special purpose districts (*e.g.,* public utilities districts, fire districts, conservation districts, or ports). Only one application per business or organization will be accepted. If applicants have received a Woody Biomass Utilization Grant after July 1, 2008, they are not eligible. Construction projects involving a permanent building or infrastructure item, such as roads, are not allowed with these Federal funds; however, construction funds can be part of the non-Federal cost share. Proposals must not include the use of this grant funding to prepare bids for Forest Service contracts or agreements.

b. *Cost Sharing (Matching Requirement).* Applicants shall demonstrate at least a 20% match of the total project cost. This match must be from non-Federal sources, which can include cash or in-kind contributions.

c. *DUNS Number.* All applicants shall include a Dun and Bradstreet (D&B), Data Universal Numbering System (DUNS) number in their full application. For this requirement, the applicant is the entity that meets the eligibility criteria and has the legal authority to apply and receive a WBU grant. For assistance in obtaining a DUNS number at no cost, call the DUNS number request line (1–866–705–5711) or register on-line at *http://fedgov.dnb.com/webform.*

d. *Central Contractor Registration (CCR).* The applicant acknowledges the requirement that prospective awardees shall be registered in the Central Contractor Registration database prior to award, during performance, and through final payment of any grant resulting from this solicitation. Further information can be found at *http://www.ccr.gov.* For assistance, contact the CCR Assistance Center (1–866–606–8220).

2. Award Information

At least $4 million is anticipated for granting under the 2010 WBU program. Individual grants will be not less than $50,000 or more than $350,000. Grant funding will be divided into two parts. Half of the funds will be allocated for projects on USDA Forest Service National Forest (NF) priority forestlands. The remaining funds will be allocated for projects on non-priority NF lands and other eligible lands. NF priority forestlands are defined by historical high fire suppression costs and high fire probability coupled with high housing density. A map and list of NF priority forestlands can be found at *http://www.fpl.fs.fed.us/tmu* under Hazardous Fuels Woody Biomass Grants.

The Federal Government's obligation under this program is contingent upon the availability of 2010 appropriated funds. No legal liability on the part of the Government for any payment may arise until funds are made available to the grant officer for this program. The maximum time for a grant award is three years from the date of award. Written annual financial performance reports and semi-annual project performance reports must be required, as well as annual reporting of green tons removed and utilized. The grant funds are taxable income and a Form 1099 Miscellaneous Income, will be sent by the Forest Service to the Internal Revenue Service (IRS). Awardees are expected to follow all Occupational Safety and Health Administration (OSHA) requirements regarding safe working practices and all applicable State and Federal regulations pertinent to the proposed project.

3. Application Review Process

a. The first step requires the applicant to submit a pre-application. Pre-applications are evaluated on criteria discussed in Section 4. All pre-applications must be screened to ensure compliance with the administrative requirements as set forth in this Request for Proposals (RFP).

b. *Pre-applications not following the directions for submission must be disqualified without appeal.* Directions can be found at *http://www.fpl.fs.fed.us/tmu* under Hazardous Fuels Woody Biomass Grants.

c. A review panel from Federal and State agencies judges the pre-applications. Panel reviewers independently evaluate the pre-applications according to the criteria and point system.

d. In the second step, successful pre-applicants are invited to revise their application and complete the requirements for a full application. Unsuccessful pre-applications are removed from further consideration. In either case, a letter of notification is provided to each applicant. More

detailed financial information for the eligible applicant is required in the full application. The full application is evaluated for technical merit and financial viability of the proposed project. The reviewers discuss rank, and make recommendations to the Forest Service national leadership officials, who make the final decision on the selected projects.

e. *Full applications not following directions for submission must be disqualified without appeal.* Directions can be found at *http://www.fpl.fs.fed.us/tmu* under Hazardous Fuels Woody Biomass Grants.

4. Evaluation Criteria and Point System

Full points will be given if there are no technical or budget problems, the assembled team is highly qualified and competent, and there is significant impact on increasing the amount of green tons removed and utilized from hazardous fuels reduction projects on forestlands. If there are minor deficiencies, which could limit success, midway points are given. If there are major deficiencies, which could render the project unsuccessful, minimum points are given.

a. Impact on Forests for Hazardous Fuels Reduction: Total Points 25

• Project work is located on NF priority forestlands (see link for Forest Service priority map and list *http://www.fpl.fs.fed.us/tmu*). A letter of support from either the Forest Supervisor or District Ranger shall be included. Proposals missing this letter are disqualified. 6 points maximum.

• Project work is conducted within non-priority NF lands and other eligible lands identified as at risk communities and having a local Community Wildfire Protection Plan (or equivalent documents). For non-priority NF lands and other eligible lands, a letter of support from either the Forest Supervisor/District Ranger for NF lands or the State Forester where the project work takes place must be included. Proposals missing this letter are disqualified. 6 points maximum.

• Project work increases the quantity of material removed and utilized, measured in green tons. 7 points maximum.

• Capacity to utilize woody biomass removed during hazardous fuels reduction and/or forest health activities is retained, expanded, or created where capacity is limited or non-existent. 6 points maximum.

b. Public Benefit for All Forestlands: Total Points 20

• Improves efficiency or develops cleaner technology to harvest, process, or use woody biomass for energy, products, or biofuel. 4 points maximum.

• Reduces per acre cost for hazardous fuels reduction. 8 points maximum.

• Local jobs and business vitality are clearly retained, created, or expanded. 8 points maximum.

c. Technical Approach and Work Plan: Total Points 20

• Approach is technically feasible, and description is complete. Start and end dates are identified. Timeline is clear. Key tasks are identified, timely, reasonable, and linked to the budget summary. 7 points maximum.

• Potential for expanding, replicating, or sustaining the project beyond the grant period is documented. 7 points maximum.

• Plans and methods to evaluate and monitor grant activities are documented. Resources to conduct evaluation and monitoring plans are identified. 6 points maximum.

d. Budget Summary: Total Points 15

• Budget summary (SF 424A) and budget summary justification clearly support and link to tasks and timeline for the project. 10 points maximum.

• Non-federal match and leverage of other resources are documented. 5 points maximum.

e. Qualifications and Experience of Applicant: Total Points 20

• Technical expertise and experience of the principals is sufficiently documented to demonstrate the ability to successfully implement the proposed project. 10 points maximum.

• Management team is qualified to implement project and meet evaluation, monitoring, accounting, and reporting requirements of this grant program. 10 points maximum.

Additional criteria for full application:

f. Detailed Financial Information: Total Points 25

• Table 1—Expanded project budget and justification of budget line item assumptions are clearly presented. 10 points maximum.

• Project financial feasibility including supply costs, product pricing, processing costs, and a detailed financial analysis is thoroughly documented. 5 points maximum.

• Documentation of organization's finances provides clear understanding of entity's financial status (see *http://www.fpl.fs.fed.us.tmu* under Hazardous Fuels Woody Biomass Grants for detailed description of requirements). 10 points maximum.

5. Pre-Application Information

a. Pre-Application Submission. Pre-applications must be postmarked by November 20, 2009 and received no later than 5 p.m. Central Standard Time on November 27, 2009, no exceptions. One paper copy and an electronic version must be submitted to Patricia Brumm, Grant Officer, at the address listed in the **ADDRESSES** section. The electronic version submitted to Patricia Brumm should be on a USB flash drive or compact disc (CD). No emails will be accepted. Applications may be submitted electronically through *http://www.grants.gov.*

b. Pre-Application Format. Each submittal must be in PDF format, with a minimum font size of 11 letters per inch. Top, bottom, and side margins must be no less than three-quarters of an inch. All pages must be clearly numbered. Paper copy shall be single sided on 8.5- by 11-inch plain white paper only (no colored paper, over-sized paper, or special covers). Do not staple.

c. Pre-Application Content. Forms for the Project Summary Table, SF 424, 424A, and Budget Table 1 can be found at *http://www.fpl.fs.fed.us/tmu* under Woody Biomass Grants.

i. *Order.* Assemble information in the following order:

• Project Summary Table (one page limit);

• Application for Federal Assistance SF 424 and Budget Summary SF 424A;

• Project Narrative (five page limit);

• Budget Summary Justification in support of SF 424A (two page limit);

• Appendices.

Qualification and description of principals and management team.

2. Letters of Support

ii. *Project Narrative.* The project narrative must provide a clear description of the work to be performed and its impact on Federal and non-Federal forestlands. The NF priority forestland (see link for Forest Service priority map and list *http://www.fpl.fs.fed.us/tmu*) must be identified by name. For all priority and non-priority NF forests, a letter of support must be submitted from the District Ranger or Forest Supervisor. For other eligible lands, the applicant shall identify the Community Wildfire Protection Plans (or equivalent document) that identify the hazardous fuels reduction activities and shall submit a letter of support from the State Forester where the project takes place. The project narrative is limited to five

pages, and excludes Project Summary Table, SF 424 and SF 424A, budget summary justification, and letters of support.

The project narrative should address the following:

• Describe geographical location where project takes place. Indicate if project is in an area identified as a NF priority forestland (see link for Forest Service priority map and list *http://www.fpl.fs.fed.us/tmu*) or under a local Community Wildfire Protection Plan (or equivalent document).

• Describe condition of the forest or non-priority NF lands and other eligible lands. Provide the Fire Regime Condition Class (*http://www.frcc.gov*), and the consequences of not doing hazardous fuels treatments, and/or forest health treatments.

• Report current handling and disposal practices for material removed because of hazardous fuels reduction activities.

• Describe how the woody biomass will be used if a grant is awarded. Include a discussion of potential markets.

• Anticipate outcomes and measures of success for this project.

• Document the reduced per acre cost for hazardous fuels reductions and/or forest health restoration on both Federal and other eligible lands.

• Discuss how the project will increase the green tons removed and utilized.

• Indicate intangible benefits. Examples of tangible and intangible benefits are listed on the Technology Marketing Unit's Web site at *http://www.fpl.fs.fed.us/tmu* (Hazardous Fuels Woody Biomass Grants, under Directions—General Information) or at *http://www.grants.gov.*

• Explain how the project will improve efficiencies for harvesting or processing woody biomass, particularly what cleaner technologies will be used.

• Show how the project will retain, create or expand local jobs and provide opportunities for using woody biomass in geographical locations where currently there is no or limited infrastructure.

• Provide a project work plan, including start and end dates, key tasks, previous project feasibility studies (as appropriate), and timelines.

• Identify individuals responsible for implementing and ensuring project success.

• List long-term benefits of project and the length of time the benefits and impacts are anticipated.

• Describe expansion capability, such as potential to expand the application to additional forest treatment areas or to create higher valued uses.

iii. *Further Pre-application Information.* A full description for each project narrative bullet can be obtained from the Technology Marketing Unit's Web site at *http://www.fpl.fs.fed.us/tmu* (under Grant Application Directions, Hazardous Fuels Woody Biomass Grants) or at *www.grants.gov,* or by calling the telephone number in the **FOR FURTHER INFORMATION CONTACT** section, or by writing to the address in the **ADDRESSES** section of this notice.

6. Full Application Information

USDA Forest Service will request full applications only from those applicants selected in the pre-application process.

a. Full Application Submission. Full applications must be postmarked by April 2, 2010 and received no later than 5 p.m. Central Standard Time on April 9, 2010. No exceptions. One paper copy and an electronic version must be submitted to Patricia Brumm, Grant Officer, at the address listed in the **ADDRESSES** section of this RFP. The electronic version submitted to Patricia Brumm should be on a USB flash drive or compact disc (CD). No emails will be accepted. Applications may be submitted electronically through *http://www.grants.gov.*

b. *Full Application Format.* The full application follows the same format requirements as for the pre-application.

c. *Full Application Content.* Forms for the Project Summary Table, SF 424, SF 424A, AD 1047, 1048, 1049, certificate regarding lobbying activities, and SF 424B can be found at *http://www.fpl.fs.fed.us/tmu* under Hazardous Fuels Woody Biomass Grants, as well as a detailed description of the required financial information.

i. *Order.* Assemble information in the following order:

• Project Summary Table (one page limit);

• Application for Federal Assistance SF 424 and Budget Information SF 424A;

• Project Narrative (ten page limit);

• Budget Summary Justification in support of SF 424A (two page limit);

• Detailed Financial Information;

• Appendices.

1. Qualification and description of principals and management team.

2. Letters of support.

3. Other Federal funds.

4. Equipment descriptions and quotes.

5. Required certificates: AD 1047, 1048, 1049, certificate regarding lobbying activities, and SF 424B.

ii. *Project Narrative.* The project narrative must provide a clear description of the work to be performed with revisions providing more detail than presented in the pre-application. The impact of the proposed project on both Federal and other eligible lands must be described. The NF priority forestland (see link for Forest Service priority map and list *http://www.fpl.fs.fed.us/tmu*), must be identified by name. For all NF forests, a letter of support must be submitted from the Forest Supervisor or District Ranger. Letters of support must be updated for the full application. For other eligible lands, the applicant shall identify the Community Wildfire Protection Plans (or equivalent documentation) that identifies the hazardous fuels reduction activities needed. A letter of support must be included from the State Forester where the project takes place. For these letters, the applicant can submit a letter of support that was submitted with the pre-application. The project narrative is limited to 19 pages, and excludes the Project Summary Table, budget summary justification, qualifications and letters of support, as well as any required certification forms.

The project narrative must address the same issues as listed under the pre-application in this RFP but must include the following additions:

• Describe environmental documentation and permits, if applicable, and positive and negative environmental consequences to the forestland with and without project.

• Discuss any reduction in green house gases and water pollution, improvements in wildlife habitats, and adoption of new cleaner technologies.

• Explain evaluation and monitoring plans and how these would be implemented to evaluate degree of success.

• Provide accountability procedures to ensure all requirements of this grant are achieved.

• List the socio-economic impacts of this grant if awarded, such as jobs retained, expanded or created.

• Identify current capacity in the geographical location of the project and how this grant will contribute to retaining, expanding or creating infrastructure to use woody biomass.

iii. *Detailed Financial Information.* Detailed financial information is requested to assess the financial capacity of the applicant. All financial information remains confidential and is not accessible under the Freedom of Information Act (5 U.S.C. 552, (b)(4)). If the applicant has questions about how confidential information is handled, they should contact either Susan LeVan-Green at *slevan@fs.fed.us* or Patricia Brumm at *pbrumm@fs.fed.us.* The

financial information should provide a general overview of current, historical and projected (pro forma) financial performance. Prepare the required financial information documentation in accordance with Generally Accepted Accounting Practices (GAAP). Strong applications have benefited from the use of a certified accountant to develop this information. Applicants should refer to *http://www.fpl.fs.fed.us/tmu* under Hazardous Fuels Woody Biomass Grants for the financial information required for the full application.

7. Appendices

The following information must be included in the appendix of the pre-application and the full application:

• *Qualifications and Description of Management Team:* Qualifications of the project manager and key personnel should be included. Discuss management team's knowledge and experience as it applies to project. Document how the management team is qualified to implement project and meet evaluation, monitoring, accounting, and reporting requirements. Explain in detail how the management team will ensure the success of the project.

• *Letter of Support and Biomass Availability Is Required:* This letter must describe forest management plans on Forest Service NF and how the proposed project will help meet forest management objectives. For other eligible lands, this letter must describe Community Wildfire Protection Plans (or equivalent documentation) and how the proposed project will help meet those objectives. The number of acres at risk, timeframes, available volumes, and opportunities for applicant to access these volumes are suggested issues to address in these support letters. These letters must be submitted with both the pre-application and full application. For Forest Service, NF lands, the letter must be signed by either a Forest Supervisor or District Ranger from the project location. For other eligible lands, the State Forester shall sign the support letter.

• *Letters of Support From Partners, Individuals, or Organizations:* Letters of support must be included in an appendix and are intended to display the degree of collaboration occurring between the different entities engaged in the project. These letters must include commitments of cash or in-kind services from all partners as listed in the SF 424 and SF 424A. Each letter of support is limited to one page in length.

• *The following information is only required in the full application:*

• *Federal Funds:* List all other Federal funds received for this project within the last three years. List agency, program name, and dollar amount.

• *Equipment Quotes:* If requesting equipment, applicant shall include two quotes for each piece of equipment requested. If awarded a WBU grant, final receipts for all equipment purchased must be submitted to the Grant Officer.

• *Administrative Forms:* AD 1047, 1048, 1049, SF 424B and certificate regarding lobbying activities are standard forms that need to be included and are required before a grant can be awarded. These forms can be accessed at *http://www.fpl.fs.fed.us/tmu* under Hazardous Fuels Woody Biomass Grants, Forms.

Dated: September 24, 2009.

John Phipps,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. E9–23644 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–TM–09–0057; TM–09–05]

Notice of Agricultural Management Assistance Organic Certification Cost-Share Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of funds availability. Inviting applications for the Agricultural Management Assistance Organic Certification Cost-Share Program.

SUMMARY: This notice invites the following eligible States: Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming, to submit an Application for Federal Assistance (Standard Form 424), and to enter into a Cooperative Agreement with the Agricultural Marketing Service (AMS) for the Allocation of Organic Certification Cost-Share Funds. The AMS has allocated $1.5 million for this organic certification cost-share program in Fiscal Year 2009. Funds are available under this program to 16 designated States to provide cost-share assistance to organic crop and livestock producers certified under the National Organic Program (NOP). Eligible States interested in obtaining cost-share funds for their organic producers will have to submit an Application for Federal Assistance, and enter into a cooperative agreement with AMS for allocation of funds.

DATES: Completed applications for federal assistance along with signed cooperative agreements must be received by close of business, October 23, 2009.

ADDRESSES: Applications for Federal assistance and cooperative agreements shall be submitted to: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, Room 4004–South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0264; Telephone: (202) 720–3252. Additional information can be found under ''Organic Cost Share Program'' on the National Organic Program's homepage at *http://www.ams.usda.gov/nop.*

FOR FURTHER INFORMATION CONTACT: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TM/NOP, Room 4004–South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0268; Telephone: (202) 720–3252.

SUPPLEMENTARY INFORMATION: This Organic Certification Cost-Share Program is part of the Agricultural Management Assistance (AMA) Program authorized under the Federal Crop Insurance Act (FCIA), as amended, (7 U.S.C. 1524). Under the applicable FCIA provisions, the Department is authorized to provide cost-share assistance to organic producers in the States of Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming. The AMS has allocated $1.5 million for this organic certification cost-share program in Fiscal Year 2009. This organic certification cost-share program provides financial assistance to organic producers certified to the NOP authorized under the Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 *et seq.*). This program is in addition to and separate from the National Organic Certification Cost-Share Program which is also administered by AMS and is open to all States and U.S. Territories.

To participate in the program, eligible States, through their State Department of Agriculture, must complete an Application for Federal Assistance (Standard Form 424) and enter into a written cooperative agreement with AMS. State Department of Agriculture refers to agencies, commissions, or departments of State government responsible for implementing regulation, policy or programs on agriculture within their State. The program will provide cost-share

assistance, through participating States, to organic crop and livestock producers receiving certification or continuation of certification by a USDA accredited certifying agent commencing October 1, 2009, through September 30, 2010. The Department has determined that payments will be limited to 75 percent of an individual producer's certification costs up to a maximum of $750.00.

To receive cost-share assistance, organic producers must submit an application to the representative Agency of the State in which their farm/operation is located. This application must include: (1) Proof of NOP certification issued or continued within the cost-share qualifying period, October 1, 2009, through September 30, 2010, and; (2) an itemized invoice demonstrating costs incurred for NOP certification. Costs incurred for non-certification activities, such as, membership associations or farm/operation inputs are not eligible for assistance through this program. Assistance provided to eligible producers under this cost-share program is included under the Agricultural Management Assistance (AMA) Program. Total amount of cost-share payments provided to any eligible producer under all AMA programs cannot exceed $50,000.

How To Submit Applications: To receive fund allocations to provide cost-share assistance, a State Department of Agriculture must complete an Application for Federal Assistance (Standard Form 424), and enter into a written cooperative agreement with AMS. State Agencies submitting hard copy applications should submit a signed copy of Standard Form 424 and a signed copy of the cooperative agreement to AMS at the address listed above. The Standard Form 424 and the cooperative agreement must have the original signature of the official who has authority to apply for Federal assistance. Hard copy applications should be sent only via express mail or courier service and must be received at the above address by October 23, 2009.

AMS encourages interested States to submit the Application for Federal Assistance, (Standard Form 424) electronically via Grants.gov, the Federal grants Web site, *http://www.grants.gov*. Applications submitted electronically via Grants.gov must be filed by October 23, 2009. A hardcopy of Standard Form 424 bearing an original signature is not required when applying through *http://www.grants.gov*. However, the cooperative agreement must have the original signature of the official who has authority to apply for Federal assistance. The signed cooperative agreement must be sent by express mail or courier service and received at the above address by October 23, 2009. States considering submitting electronic application forms should become familiar with the Grants.Gov website and begin the application process well in advance of the application deadline. For information on how to apply electronically, please consult *http://www.grants.gov/GetRegistered*.

The AMA Organic Certification Cost-Share Program is listed in the ''Catalog of Federal Domestic Assistance'' under number 10.163 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all Federally assisted programs. Additional information on the AMA Organic Certification Cost-Share Program can be found under ''Organic Cost Share Program'' on the NOP's homepage at *http://www.ams.usda.gov/nop*.

Authority: 7 U.S.C. 1524.

Dated: September 25, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–23647 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–TM–09–0056; TM–09–06]

Notice of 2009 National Organic Certification Cost-Share Program

AGENCY: Agricultural Marketing Services, USDA.

ACTION: Notice of funds availability. Inviting applications for the National Organic Certification Cost-Share Program.

SUMMARY: This notice invites all States of the United States of America, its territories, the District of Columbia, and the Commonwealth of Puerto Rico, (collectively hereinafter called States) to submit an Application for Federal Assistance (Standard Form 424), and to enter into a cooperative agreement with the Agricultural Marketing Service (AMS) for the allocation of National Organic Certification Cost-Share Funds. The AMS has allocated $22.0 million for this organic certification cost-share program commencing in Fiscal Year 2008, and these funds will be annually allocated to States through cooperative agreements until exhausted. Funds are available under this program to States interested in providing cost-share assistance to organic producers and handlers certified under the National Organic Program (NOP). States interested in obtaining cost-share funds must submit an Application for Federal Assistance and enter into a cooperative agreement with AMS for allocation of funds.

DATES: Completed applications for Federal assistance along with signed cooperative agreements must be received by October 23, 2009.

ADDRESSES: Applications for federal assistance and cooperative agreements shall be submitted to: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TMP/NOP, Room 4004–South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0268; Telephone: (202) 720–3252. Additional information can be found under ''Organic Cost Share Program'' on the National Organic Program's homepage at *http://www.ams.usda.gov/nop.*

FOR FURTHER INFORMATION CONTACT: Robert Pooler, Agricultural Marketing Specialist, National Organic Program, USDA/AMS/TM/NOP, Room 4004–South, Ag Stop 0268, 1400 Independence Avenue, SW., Washington, DC 20250–0268; Telephone: (202) 720–3252.

SUPPLEMENTARY INFORMATION: This National Organic Certification Cost-Share Program is authorized under 7 U.S.C. 6523, as amended by section 10301 of the Food, Conservation and Energy Act of 2008 (Act). The Act authorizes the Department to provide certification cost-share assistance to producers and handlers of organic agricultural products in all States. The AMS has allocated $22 million for this program to be annually allocated through cooperative agreements to interested States. The Program provides financial assistance to organic producers and handlers certified to the NOP. The NOP is authorized under the Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 *et seq.*).

To participate in the program, interested States, through their State Department of Agriculture, must complete an Application for Federal Assistance (Standard Form 424) and enter into a written cooperative agreement with AMS. State Department of Agriculture refers to agencies, commissions, or departments of State government responsible for implementing regulation, policy or programs on agriculture within their State. The program will provide cost-share assistance, through participating States, to organic producers and handlers receiving certification or

continuation of certification by a USDA accredited certifying agent commencing October 1, 2009, through September 30, 2010. Under the Act, cost-share assistance payments are limited to 75 percent of an individual producer's or handler's certification costs up to a maximum of $750.00 per year.

To receive cost-share assistance, organic producers and handlers must submit an application to the representative Agency of the State in which their farm/operation is located. This application must include: (1) Proof of NOP certification issued or continued within the cost-share qualifying period, October 1, 2009, through September 30, 2010, and; (2) an itemized invoice demonstrating costs incurred for NOP certification. Costs incurred for non-certification activities, such as, membership associations or farm/operation inputs are not eligible for assistance through this program.

However, for producers in the states of Connecticut, Delaware, Hawaii, Maine, Maryland, Massachusetts, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming cost-share funding is available to these states, through their State Department of Agriculture, under the Agricultural Management Assistance (AMA) Organic Certification Cost-Share Program authorized under Section 1524 of the Federal Crop Insurance Act, as amended, (7 U.S.C. 1501–1524). As provided in a notice of Funds Availability published in the Federal Register completed applications for the AMA federal assistance program, along with signed cooperative agreements must be received by close of business, October 23, 2009. Information on the AMA program can be found under ''Organic Cost Share Program'' on the NOP's homepage at *http://www.ams.usda.gov/nop.*

How To Submit Applications: To receive fund allocations to provide cost-share assistance, a State Department of Agriculture must complete an Application for Federal Assistance (Standard Form 424), and enter into a written cooperative agreement with AMS. State Agencies submitting hard copy applications should submit a signed copy of Standard Form 424 and a signed copy of the cooperative agreement the application package to AMS at the address listed above. The Standard Form 424 and the cooperative agreement must have the original signature of the official who has authority to apply for Federal assistance. Hard copy applications should be sent only via express mail or courier service and must be received at the above address by October 23, 2009.

AMS encourages interested States to submit the Application for Federal Assistance, (Standard Form 424) electronically via Grants.gov, the Federal grants web site, *http://www.grants.gov.* Applications submitted electronically via Grants.gov must be filed by October 23, 2009. A hardcopy of Standard Form 424 bearing an original signature is not required when applying through *http://www.grants.gov.* However, the cooperative agreement must have the original signature of the official who has authority to apply for Federal assistance. The signed cooperative agreement must be sent by express mail or courier service and received at the above address by October 23, 2009. States considering submitting electronic application forms should become familiar with the Grants.gov Web site and begin the application process well in advance of the application deadline. For information on how to apply electronically, please consult *http://www.grants.gov/GetRegistered.*

The National Organic Certification Cost-share Program is listed in the ''Catalog of Federal Domestic Assistance'' under number 10.163 and subject agencies must adhere to Title VI of the Civil Rights Act of 1964, which bars discrimination in all federally assisted programs. Additional information on the National Organic Certification Cost-share Program can be found under ''Organic Cost Share Program'' on the NOP's homepage at *http://www.ams.usda.gov/nop.*

Authority: 7 U.S.C. 6523.

Dated: September 25, 2009.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. E9–23651 Filed 9–30–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Alpine County Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Alpine County Resource Advisory Committee (RAC) will hold its fourth meeting.

DATES: The meeting will be held on October 28, 2009, and will begin at 6 p.m.

The meeting will be held in Alpine County at the Alpine Early Learning Center, 100 Foothill Road, Markleeville, CA 96120.

FOR FURTHER INFORMATION CONTACT: Marnie Bonesteel, RAC Coordinator, USDA, Humboldt-Toiyabe National Forest, Carson Ranger District, 1536 S. Carson Street, Carson City, NV 89701 (775) 884–8140; e-mail *mbonesteel@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include:

(1) Welcome new members. (2) Vote on committee bylaws and elect a chairperson. (3) Review projects and vote on Title II projects. (4) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: September 24, 2009.

Genny E. Wilson,

Designated Federal Officer.

[FR Doc. E9–23596 Filed 9–30–09; 8:45 am]

BILLING CODE M

DEPARTMENT OF COMMERCE

[Docket No.: 0909181308–91313–01]

Privacy Act Altered System of Records

AGENCY: Department of Commerce, National Institute of Standards and Technology (NIST).

ACTION: Notice; COMMERCE/NIST–7, NIST Emergency Locator System.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records notice entitled COMMERCE/NIST–7, NIST Emergency Locator System.

DATES: The system of records becomes effective on October 1, 2009.

ADDRESSES: For a copy of the system of records please mail requests to Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

FOR FURTHER INFORMATION CONTACT: Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

SUPPLEMENTARY INFORMATION: On June 1, 2007, the National Institute of Standards and Technology published and requested comments on a proposed Privacy Act System of Records notice entitled COMMERCE/NIST–7, NIST Emergency Locator System. No comments were received in response to the request for comments. By this

notice, the National Institute of Standards and Technology is adopting the proposed system as final without changes effective October 1, 2009.

Dated: September 25, 2009.

Brenda Dolan,

Freedom of Information/Privacy Act Officer, U.S. Department of Commerce.

[FR Doc. E9–23668 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

[Docket No.: 0909211316–91317–01]

Privacy Act Altered System of Records

AGENCY: Department of Commerce, National Institute of Standards and Technology (NIST).

ACTION: Notice; COMMERCE/NIST–4, Employees, External Radiation Exposure Records.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records notice entitled COMMERCE/NIST–4, Employees, External Radiation Exposure Records.

DATES: The system of records becomes effective on October 1, 2009.

ADDRESSES: For a copy of the system of records please mail requests to Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

FOR FURTHER INFORMATION CONTACT: Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

SUPPLEMENTARY INFORMATION: On June 1, 2007, the National Institute of Standards and Technology published and requested comments on a proposed Privacy Act System of Records notice entitled COMMERCE/NIST–4, Employees, External Radiation Exposure Records. No comments were received in response to the request for comments. By this notice, the National Institute of Standards and Technology is adopting the proposed system as final without changes effective October 1, 2009.

Dated: September 25, 2009.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E9–23672 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

[Docket No.: 0909181292–91312–01]

Privacy Act of 1974: System of Records

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Final notice to delete a Privacy Act system of records: Commerce/NOAA–17; Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off the Coast of Alaska.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) publishes this notice to announce the deletion of a Privacy Act System of Records entitled ''Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off the Coast of Alaska.'' This system of records was superseded by Commerce/NOAA–19 (73 FR 20914); Permits and Registrations for United States Federally Regulated Fisheries, which became effective on June 11, 2008 (73 FR 33065).

DATES: The system of records will be deleted on October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Sarah Brabson, NOAA Paperwork Reduction Act Clearance Officer, 1315 East West Highway, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: On February 23, 2009 (74 FR 8052), NOAA published a notice in the **Federal Register** requesting comments on the deletion of a Privacy Act System of Records entitled COMMERCE/NOAA–17; Permits and Registrations for Fisheries of the Exclusive Economic Zone (EEZ) off the Coast of Alaska. NOAA no longer collects or maintains this system of records as a separate entity. No comments were received in response to the request for comments. By this notice, NOAA is deleting this system of records on October 1, 2009.

Dated: September 25, 2009.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E9–23673 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

[Docket No.: 0909181309–91314–01]

Privacy Act Altered System of Records

AGENCY: Department of Commerce, National Institute of Standards and Technology (NIST).

ACTION: Notice; COMMERCE/NIST–6, Participants in Experiments, Studies, and Surveys.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records notice entitled COMMERCE/NIST–6, Participants in Experiments, Studies, and Surveys.

DATES: The system of records becomes effective on October 1, 2009.

ADDRESSES: For a copy of the system of records please mail requests to Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

FOR FURTHER INFORMATION CONTACT: Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

SUPPLEMENTARY INFORMATION: On June 1, 2007, the National Institute of Standards and Technology published and requested comments on a proposed Privacy Act System of Records notice entitled COMMERCE/NIST–6, Participants in Experiments, Studies, and Surveys. No comments were received in response to the request for comments. By this notice, the National Institute of Standards and Technology is adopting the proposed system as final without changes effective October 1, 2009.

Dated: September 25, 2009.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E9–23671 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

[Docket No.: 0909181310–91315–01]

Privacy Act Altered System of Records

AGENCY: Department of Commerce, National Institute of Standards and Technology (NIST).

ACTION: Notice; COMMERCE/NIST–5, Nuclear Reactor Operator Licensees File.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records notice entitled COMMERCE/NIST–5, Nuclear Reactor Operator Licensees File.

DATES: The system of records becomes effective on October 1, 2009.

ADDRESSES: For a copy of the system of records please mail requests to

Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

FOR FURTHER INFORMATION CONTACT: Catherine S. Fletcher, National Institute of Standards and Technology, 100 Bureau Drive—Stop 1710, Gaithersburg, MD 20899–1710.

SUPPLEMENTARY INFORMATION: On June 1, 2007, the National Institute of Standards and Technology published and requested comments on a proposed Privacy Act System of Records notice entitled COMMERCE/NIST–5, Nuclear Reactor Operator Licensees File. No comments were received in response to the request for comments. By this notice, the National Institute of Standards and Technology is adopting the proposed system as final without changes effective October 1, 2009.

Dated: September 25, 2009.

Brenda Dolan,

U.S. Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E9–23670 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Correction: Proposed Information Collection; Comment Request; NIST Construction Grant Program Application Requirements

AGENCY: National Institute of Standards and Technology (NIST).

ACTION: Correction.

SUMMARY: On Tuesday, September 8, 2009, a notice was published in the **Federal Register** (74 FR 4603) on proposed information collection under the NIST Construction Grant Program.

The second paragraph under **SUPPLEMENTARY INFORMATION**, I. Abstract, is corrected to read, ''This request is for the information collection requirements associated with applying for grant funding. The information is used to determine eligibility and to perform the requisite technical and construction reviews of the proposals to determine if an award should be granted.''

All other information in the notice is correct and remains unchanged.

Dated: September 25, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–23583 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

ACTION: Notice of upcoming Sunset Reviews.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for November 2009

The following Sunset Reviews are scheduled for initiation in November 2009 and will appear in that month's Notice of Initiation of Five-Year Sunset Reviews.

	Department contact
Antidumping Duty Proceedings	
Carbazole Violet Pigment 23 from India (A–533–838)	Dana Mermelstein, (202) 482–1391.
Carbazole Violet Pigment 23 from the PRC (A–570–892)	Dana Mermelstein, (202) 482–1391.
Hand Trucks from the PRC (A–570–891)	Jennifer Moats, (202) 482–5047.
Natural Bristle Paint Brushes & Brush Heads from the PRC (A–570–851) (3rd Review)	Jennifer Moats, (202) 482–5047.
Countervailing Duty Proceedings	
Carbazole Violet Pigment 23 from India (C–533–839)	Dana Mermelstein, (202) 482–1391.
Suspended Investigations	
No Sunset Review of suspended investigations are scheduled for initiation in November 2009.	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must

provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 21, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–23702 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

For Further Information Contact: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, of the Department of Commerce (''the Department'') regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review (''POR''). We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 20 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within 10 calendar days of publication of the initiation **Federal Register** notice.

Opportunity To Request a Review: Not later than the last day of October 2009,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceedings	
AUSTRALIA: Electrolytic Manganese Dioxide, A–602–806	3/26/08–9/30/09
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, A–351–832	10/1/08–9/30/09
INDONESIA: Carbon and Certain Alloy Steel Wire Rod, A–560–815	10/1/08–9/30/09
ITALY: Pressure Sensitive Plastic Tape, A–475–059	10/1/08–9/30/09
MEXICO: Carbon and Certain Alloy Steel Wire Rod, A–201–830	10/1/08–9/30/09
MOLDOVA: Carbon and Certain Alloy Steel Wire Rod, A–841–805	10/1/08–9/30/09
REPUBLIC OF KOREA: Polyvinyl Alcohol, A–580–850	10/1/08–9/30/09
THE PEOPLE'S REPUBLIC OF CHINA: Barium Carbonate, A–570–880	10/1/08–9/30/09
THE PEOPLE'S REPUBLIC OF CHINA: Barium Chloride, A–570–007	10/1/08–9/30/09
THE PEOPLE'S REPUBLIC OF CHINA: Electrolytic Manganese Dioxide, A–570–919	3/26/08–9/30/09
THE PEOPLE'S REPUBLIC OF CHINA: Helical Spring Lock Washers, A–570–822	10/1/08–9/30/09
THE PEOPLE'S REPUBLIC OF CHINA: Polyvinyl Alcohol, A–570–879	10/1/08–9/30/09
THE PEOPLE'S REPUBLIC OF CHINA: Steel Wire Garment Hangers, A–570–918	3/25/08–9/30/09
TRINIDAD AND TOBAGO: Carbon and Certain Alloy Steel Wire Rod, A–274–804	10/1/08–9/30/09
UKRAINE: Carbon and Certain Alloy Steel Wire Rod, A–823–812	10/1/08–9/30/09
Countervailing Duty Proceedings	
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, C–351–833	1/1/08—12/31/08
IRAN: Roasted In-Shell Pistachios, C–507–601	1/1/08—12/31/08
Suspension Agreements	
RUSSIA: Uranium, A–821–802	10/1/08—9/30/09

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis,

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of October 2009. If the Department does not receive, by the last day of October 2009, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 25, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–23696 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 0909281323–91323–01]

Exception to Final Guidelines for the Coastal and Estuarine Land Conservation Program

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice; exception to final guidelines.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service publishes this notice of exception to the Final Guidelines for the Coastal and Estuarine Land Conservation Program (CELCP). For those grants issued in fiscal year 2006 that are due to expire on September 30, 2009, NOAA may extend the financial assistance award period for up to 6 additional months, providing for a potential maximum award duration of three years and six months.

DATES: The provisions in this notice are implemented as of September 30, 2009.

FOR FURTHER INFORMATION CONTACT: For further information, contact: Elaine Vaudreuil, 301–713–3155 ext. 103, *Elaine.Vaudreuil@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Coastal and Estuarine Land Conservation Program was established pursuant to Public Law 107–77 for the purpose of protecting important coastal and estuarine areas that have significant conservation, recreation, ecological, historical, or aesthetic values, or that are threatened by conversion from their natural or recreational state to other uses. In accordance with Public Law 107–77, CELCP published in the **Federal Register** on June 17, 2003 (68 FR 35860) program guidelines delineating the criteria for grant awards. The Final Guidelines for CELCP outline a planning process for states to identify the conservation needs and priorities within each state; provide the information necessary for eligible coastal states to develop land conservation plans and nominate projects to a national competitive selection process; and delineate the criteria for grant awards.

In FY 2006, the conference report accompanying the Science, State, Justice, Commerce, and Related Agencies Appropriations Act of 2006 (Pub. L. 109–108) directed funds for specific land conservation projects under the CELCP. Consistent with the criteria for grants awards in the Final Guidelines, the standard financial assistance award period for these awards is 18 months, which can be extended an additional 18 months if circumstances warrant, but may not exceed 3 years.

Several FY 2006 awards, whose award period is set to expire on September 30, 2009, have experienced unforeseen circumstances late in the process that precluded their completion within the 3-year timeframe provided in the CELCP Guidelines. In order to ensure that projects can be completed and funds expended for their intended purpose, NOAA is extending the maximum potential award duration for those FY 2006 grants in an open status on September 29, 2009, from three years to three years and six months, ending no later than March 31, 2010.

Award recipients who wish to avail themselves of the extension to the award period should contact their Program Officer by September 30, 2009 to inform them of their intent to seek an extension.

This extension applies to only FY 2006 CELCP awards in an open status on September 29, 2009. This notice does not modify any provision in the Final Guidelines for the Coastal and Estuarine Land Conservation Program published on June 17, 2003.

Classification

Executive Order 12866

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

Executive Order 13132 (Federalism)

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

Administrative Procedure Act/ Regulatory Flexibility Act

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

September 29, 2009.

John H. Dunnigan,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. E9–23819 Filed 9–30–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates from Spain: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (Department) published the preliminary results of administrative review of the antidumping duty order on chlorinated isocyanurates (chlorinated isos) from Spain on May 27, 2009. *See Chlorinated Isocyanurates from Spain: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review*, 74 FR 25215 (May 27, 2009) (*Preliminary Results*). The period of review (POR) is June 1, 2007 through May 31, 2008. We invited interested parties to comment on our *Preliminary Results*. Based on our analysis of the comments received, we have made changes to our calculations. The final dumping margin for this review is listed in the ''Final Results of Review'' section below.

EFFECTIVE DATE: October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–2371.

SUPPLEMENTARY INFORMATION: On June 24, 2005, the Department published in the **Federal Register** an antidumping duty order on chlorinated isos from Spain. *See Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order*, 70 FR 36562 (June 24, 2005) (*Chlorinated Isos Order*). On July 30, 2008, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of chlorinated isos from Spain for the period June 1, 2007 through May 31, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 44220 (July 30, 2008).

The Department published the preliminary results of this review on May 27, 2009. *See Preliminary Results*. We invited parties to comment on our preliminary results of review. The respondent, Aragonesas Industrias y Energía S.A. (Aragonesas) submitted a case brief on July 6, 2009, and the petitioners, Clearon Corporation and Occidental Chemical Corporation (collectively, the petitioners), submitted a rebuttal brief on July 14, 2009. On July 23, 2009, the Department held a public hearing concerning the issues addressed by the respondent and petitioners in their briefs.

Scope of Antidumping Duty Order

The products covered by this order are chlorinated isocyanurates. Chlorinated isocyanurates are derivatives of cyanuric acid, described as chlorinated s–triazine triones. There are three primary chemical compositions of chlorinated isocyanurates: (1) trichloroisocyanuric acid (Cl3(NCO)3); (2) sodium dichloroisocyanurate (dihydrate) (NaCl2(NCO)3 2H2O); and (3) sodium dichloroisocyanurate (anhydrous) (NaCl2(NCO)3). Chlorinated isocyanurates are available in powder, granular, and tableted forms. The order covers all chlorinated isocyanurates.

Chlorinated isocyanurates are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, and 2933.69.6050 of the Harmonized Tariff Schedule of the United States (HTSUS). The tariff classification 2933.69.6015 covers sodium dichloroisocyanurates (anhydrous and dihydrate forms) and trichloroisocyanuric acid. The tariff classifications 2933.69.6021 and 2933.69.6050 represent basket categories that include chlorinated isoscyanurates and other compounds including an unfused triazine ring. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by the parties in this review are addressed in the memorandum from John M. Andersen, Acting Deputy Assistant Secretary for *Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, Antidumping Duty Administrative Review of Chlorinated Isocyanurates from Spain: Issues and Decision Memorandum for the Final Results* (*Issues and Decision Memorandum*), dated concurrently with, and hereby adopted by, this notice. A list of the issues which parties raised and to which we responded in the *Issues and Decision Memorandum* is attached to this notice as an appendix. The *Issues and Decision Memorandum* is a public document which is on file in the Central Records Unit in room 1114 in the main Department building, and is accessible on the Web at *http://www.ia.ita.doc.gov/frn*. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculation for Aragonesas. For a discussion of these changes, *see Memorandum to the File, from Myrna Lobo, Case Analyst, Antidumping Duty Review of Chlorinated Isocyanurates from Spain: Calculation Memorandum for the Final Results* (September 24, 2009) at the section titled ''Changes from the Preliminary Results'' and *Memorandum to Neal M. Halper, Director, Office of Accounting from Robert B. Greger, Senior Accountant, Cost of Production and Constructed Value Calculation Adjustments for the Final Results – Aragonesas Industrias y Energia S.A.* (September 24, 2009).

Final Results of Review

We determine that the following percentage margin exists for the period June 1, 2007 through May 31, 2008:

Manufacturer/Exporter	Weighted–Average Margin (percentage)
Aragonesas Industrias y Energía S.A.	28.04

Assessment

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

We have calculated importer–specific per unit duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.*, less than 0.50 percent). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate established in the less–than-fair–value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, consistent with section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the reviewed company, Aragonesas, will be the rate shown above; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original LTFV investigation, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be the ''All Others'' rate established in the original LTFV investigation, which is 24.83 percent. *See Chlorinated Isos Order*. These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final 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 to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (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 return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: September 24, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix

Issues in Decision Memorandum:

Comment 1: Whether the Department Should Eliminate from the G&A Ratio the Accrued Expenses Relating to the Asset Impairments and Restructuring Charges

Comment 2: Whether the Department was Correct to Revise Aragonesas' G&A Expense Allocation Relating to G&A Services Provided by its Parent Company

Comment 3: Whether the Department, in Calculating the G&A and the R&D Amounts to be Included in Aragonesas' Costs, Should First Eliminate from TOTCOM that Portion of TOTCOM that Relates to the Major Input Rule Adjustment for Chlorine

*Comment 4:*Whether the Department Should Set U.S. Warranty Expenses to Zero

*Comment 5:*Whether There Are Clerical Errors in the Department's Program or Calculations

*Comment 6:*Whether the Department Should Refrain from Zeroing for the Final Results

[FR Doc. E9–23705 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–405]

Barbed Wire and Barbless Fencing Wire From Argentina: Final Results of Sunset Review and Revocation of Order

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

SUMMARY: On August 3, 2009, the Department of Commerce (Department) initiated the sunset review of the antidumping duty order on barbed wire and barbless fencing wire from Argentina. Because the domestic interested parties did not participate in this sunset review, the Department is revoking this antidumping duty order.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1131.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 1985, the Department issued an antidumping duty order on barbed wire and barbless fencing wire from Argentina. *See Antidumping Duty Order: Barbed Wire and Barbless Fencing Wire From Argentina,* 50 FR 46808 (Nov. 13, 1985). On September 20, 2004, the Department published its most recent continuation of the order. *See Continuation of Antidumping Duty Order: Barbed Wire and Barbless Fencing Wire From Argentina,* 69 FR 56190 (Sep. 20, 2004). On August 3, 2009, the Department initiated a sunset review of this order. *See Initiation of Five-Year (''Sunset'') Review,* 74 FR 38401 (Aug. 3, 2009).

We did not receive a notice of intent to participate from domestic interested parties in this sunset review by the

deadline date. As a result, in accordance with 19 CFR 351.218(d)(1)(iii)(A), the Department determined that no domestic interested party intends to participate in the sunset review, and on August 21, 2009, we notified the International Trade Commission, in writing, that we intended to issue a final determination revoking this antidumping duty order. *See* 19 CFR 351.218(d)(1)(iii)(B)(2).

Scope of the Order

The merchandise covered by this order is barbed wire and barbless fencing wire from Argentina, which is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item number 7313.00.00. The HTSUS number is provided for convenience and customs purposes. The written product description remains dispositive.

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(d)(1)(iii)(B)(3), if no domestic interested party files a notice of intent to participate, the Department shall, within 90 days after the initiation of the review, issue a final determination revoking the order. Because the domestic interested parties did not file a notice of intent to participate in this sunset review, the Department finds that no domestic interested party is participating in this sunset review. Therefore, consistent with 19 CFR 351.222(i)(1)(i) and section 751(c)(3)(A) of the Act, we are revoking this antidumping duty order. The effective date of revocation is September 20, 2009, the fifth anniversary of the date of publication in the **Federal Register** of the most recent notice of continuation of this antidumping duty order.

Effective Date of Revocation

Pursuant to section 751(c)(3)(A) of the Act and 19 CFR 351.222(i)(2)(i), the Department will issue instructions to U.S. Customs and Border Protection, 15 days after publication of the notice, to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after September 20, 2009. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This five-year (sunset) review and notice are in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: September 24, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–23695 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 45–2008]

Foreign-Trade Zone 72—Indianapolis, IN; Termination of Review of Application for Subzone GETRAG Transmission Manufacturing LLC (Automotive Transmissions), Tipton, IN

Notice is hereby given of termination of review of an application submitted by the Indianapolis Airport Authority, grantee of FTZ 72, requesting special-purpose subzone status for the automotive transmission manufacturing plant of GETRAG Transmission Manufacturing LLC, located in Tipton, Indiana. The application was filed on August 8, 2008 (73 FR 48194, 8–18–08).

The termination is a result of changed circumstances, and the case has been closed without prejudice.

Dated: September 24, 2009.

Pierre V. Duy,

Acting Executive Secretary.

[FR Doc. E9–23697 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year review (''Sunset Review'') of the antidumping duty order listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same order.

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

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping duty order:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–337–804	731–TA–776	Chile	Certain Preserved Mushrooms (2nd Review).	Brandon Farlander (202) 482–0182.
A–533–813	731–TA–777	India	Certain Preserved Mushrooms (2nd Review).	Brandon Farlander (202) 482–0182.
A–560–802	731–TA–778	Indonesia	Certain Preserved Mushrooms (2nd Review).	Brandon Farlander (202) 482–0182.

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–851	731–TA–779	PRC	Certain Preserved Mushrooms (2nd Review).	Brandon Farlander (202) 482–0182.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address: *http://ia.ita.doc.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103 (c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that all parties wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

September 22, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–23691 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–DS–P

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR96

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Louisiana/Mississippi Habitat Protection Advisory Panel (AP).

DATES: The meeting will convene at 9 a.m. on Thursday, October 29, 2009 and conclude no later than 4 p.m.

ADDRESSES: This meeting will be held at the Four Points by Sheraton, 6401 Veterans Memorial Highway, Metairie, LA 70003.

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

FOR FURTHER INFORMATION CONTACT: Jeff Rester, Habitat Support Specialist, Gulf States Marine Fisheries Commission; telephone: (228) 875–5912.

SUPPLEMENTARY INFORMATION: At this meeting, the AP will discuss the Mississippi Coastal Improvements Program, deepwater coral in the Gulf of Mexico, projects associated with Individual Environmental Report 11 (Inner Harbor Navigation Canal Navigable Floodgates in Orleans and St. Bernard Parishes, LA), potential estuarine and marine impacts from the expansion of the Strategic Petroleum Reserve in Richton, MS, open water disposal of dredge material in Mississippi Sound, and Louisiana Coastal Protection and Restoration Plan projects in Planning Unit 1.

The Louisiana/Mississippi group is part of a three unit Habitat Protection AP of the Gulf of Mexico Fishery Management Council. The principal role of the advisory panels is to assist the Council in attempting to maintain optimum conditions within the habitat and ecosystems supporting the marine resources of the Gulf of Mexico. Advisory panels serve as a first alert system to call to the Council's attention proposed projects being developed and other activities which may adversely impact the Gulf marine fisheries and their supporting ecosystems. The panels may also provide advice to the Council on its policies and procedures for addressing environmental affairs.

Although other issues not on the agenda may come before the panel for discussion, in accordance with the Magnuson-Stevens Fishery

Conservation and Management Act, those issues may not be the subject of formal panel action during this meeting. Panel action will be restricted to those issues specifically identified in the agenda listed as available by this notice.

A copy of the agenda can be obtained by calling (813) 348–1630.

Special Accommodations

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

Dated: September 28, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–23746 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR95

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held October 19 - 22, 2009. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Holiday Inn, 1102 S. Shoreline Blvd., Corpus Christi, TX 78401.

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

FOR FURTHER INFORMATION CONTACT: Dr. Stephen Bortone, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Council

Wednesday, October 21, 2009

10:30 a.m. - The Council meeting will begin with a review of the agenda and minutes and approve the Committee Appointments.

11 a.m. - 12 noon - The Council will receive a presentation on Catch Shares Task Force.

1:30 p.m. - 5:30 p.m. - They will receive public testimony on exempted fishing permits (EFPs), if any; Modifications to Reef Fish Amendment 29; and the Council will hold an open public comment period regarding any fishery issue of concern. People wishing to speak before the Council should complete a public comment card prior to the comment period.

Thursday, October 22, 2009

8:30 a.m. - 12:45 p.m. - The Council will review and discuss reports from the committee meetings as follows: Reef Fish Management; Administrative Policy; Data Collection; Spiny Lobster/ Stone Crab Management; Sustainable Fisheries/Ecosystem; Coastal Migratory Pelagics (Mackerel) Management; Shrimp Management; AP Selection Committee and SEDAR Selection Committee.

12:45 p.m. - 1 p.m. - Other Business items will follow. The Council will conclude its meeting at approximately 1 p.m.

Committees

Monday, October 19, 2009

9 a.m. - 10 a.m. - CLOSED SESSION (Full Council) - The Administrative Policy Committee will discuss Administrative Matters.

10 a.m. - 10:30 a.m. - CLOSED SESSION (Full Council) - The SEDAR Selection Committee will approve the SEDAR 19 (Black Grouper) Review Workshop Participants; select the SEDAR 22 (Yellowedge Grouper and Tilefish) Data Workshop Participants and the SEDAR Procedural Workshop IV - Characterizing Uncertainty Participants.

10:30 a.m. - 11 a.m. - CLOSED SESSION (Full Council) - The AP Selection Committee will appoint the Chair and Vice Chair for the Ad Hoc LAPP AP; Appoint Ad Hoc Data Collection AP; and Receive the report on status of fishery violations.

12:30 p.m. - 1 p.m. - The Data Collection Committee will review a report of the Logbook Workshop.

1 p.m. - 2 p.m. - The Shrimp Management Committee will review the ''Status and Health of the Shrimp Stocks for 2008''; review the ''Stock Assessment Report 2008 - Gulf of Mexico Shrimp Fishery''; review of ''A Biological Review of the Tortugas Pink Shrimp Fishery Through December 2008; and a Preliminary Report of Shrimp Effort in 2009.

2 p.m. - 3 p.m. - The Spiny Lobster/ Stone Crab Committee will discuss the Scoping Hearing Summaries for Spiny Lobster Amendment 10 and Suggestions for Spiny Lobster Amendment 10 Options.

3 p.m. - 5:30 p.m. - The Sustainable Fisheries/Ecosystem Committee will discuss the Report from the ABC Control Workgroup; the Scoping Hearing Summaries from the Generic ACL/AM Amendment; and the 5-year Research Plan.

Tuesday, October 20, 2009

8:30 a.m. - 4 p.m. - The Reef Fish Management Committee will meet to discuss the Gag/Red Grouper Amendment Scoping Document (Reef Fish Amendment 32) and select Scoping Hearing Locations; receive a presentation on the New ESA Biological Opinion Analyzing the Gulf Reef Fish Fishery and its Effects on Listed Species; Alternative Options for Red Snapper Recreational Season; Modifications to the regulations in Amendment 29; Terms of Reference for Greater Amberjack, Yellowedge Grouper and Tilefish Assessments; Hook Limit Analyses for Amendment 31; Develop LAPP Charge; and Discussion on the Sector Separation.

4 p.m. - 5:30 p.m. - The Administrative Policy Committee will discuss modifications to SOPPs and Handbook Development.

-Recess-

Immediately Following Committee Recess - There will be an informal open public question and answer session.

Wednesday, October 21, 2009

8:30 a.m. - 10:30 a.m. - The Coastal Migratory Pelagics (CMP) (Mackerel) Management Committee will discuss the CMP Scoping Meeting Summaries and options for the CMP Amendment 18 Amendment 20 Options.

Although other non-emergency issues not on the agendas may come before the Council and Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions of the Council and Committees will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency. The established times for addressing items on the agenda may be adjusted as necessary to accommodate the timely completion of discussion relevant to the agenda items. In order to

further allow for such adjustments and completion of all items on the agenda, the meeting may be extended from, or completed prior to the date/time established in this notice.

Special Accommodations

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

Dated: September 28, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–23745 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval and Availability for the Revised Management Plan for the North Carolina National Estuarine Research Reserve.

SUMMARY: The Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has approved the North Carolina National Estuarine Research Reserve Management Plan Revision.

Four sites in coastal North Carolina comprise the North Carolina National Estuarine Research Reserve: Currituck Banks, Rachel Carson, Masonboro Island and Zeke's Island. Currituck Banks, Rachel Carson and Zeke's Island were designated in 1985, and Masonboro Island was designated in 1991, as the North Carolina National Estuarine Research Reserve pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The reserve has been operating in partnership with the North Carolina Department of Environment and Natural Resources under a management plan approved in 1998. Pursuant to 15 CFR 921.33(c), a state must revise their management plan every five years. The submission of this plan fulfills this requirement and sets a course for successful implementation of the goals and objectives of the reserve. An increase in the vertical placement of the program on the state organizational chart, a new administrative facility, and updated programmatic objectives are notable revisions to the 1998 approved management plan.

The revised management plan outlines the administrative structure; the education, stewardship, and research goals of the reserve; and the plans for future land acquisition and facility development to support reserve operations. This management plan describes how the strengths of the reserve will focus on several areas relevant to coastal North Carolina, including coastal population increase, altered land use, storm water runoff and eutrophication, invasive species, tropical and coastal storm impacts and sea level rise.

Since 1998, the reserve has added a coastal training program that delivers science-based information to key decision makers in North Carolina; has completed a site profile that characterizes the reserve; and has expanded the monitoring, stewardship and education programs. A new administrative building (2007) has been built to support the growth of reserve programs.

FOR FURTHER INFORMATION CONTACT: Amy Clark at (301) 563–1137 or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910. For copies of the North Carolina Management Plan revision, visit: *http://www.nccoastalreserve.net/*.

Dated: September 28, 2009.

David Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E9–23822 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

ACTION: Notice of Approval and Availability for the Revised Management Plan for the Hudson River National Estuarine Research Reserve.

SUMMARY: The Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has approved the Hudson River National Estuarine Research Reserve Management Plan Revision.

Four sites along the Hudson River comprise the Hudson River National Estuarine Research Reserve: Piermont Marsh, Iona Island, Tivoli Bays, and Stockport Flats. The Hudson River National Estuarine Research Reserve was designated in 1982 pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The reserve has been operating in partnership with the New York State Department of Environmental Conservation under a management plan approved in 1993. Pursuant to 15 CFR 921.33(c), a State must revise their management plan every five years. The submission of this plan fulfills this requirement and sets a course for successful implementation of the goals and objectives of the reserve. New facilities and updated programmatic objectives are notable revisions to the 1993 approved management plan.

The revised management plan outlines the administrative structure; the education, stewardship, and research goals of the reserve; and the plans for future land acquisition and facility development to support reserve operations. This management plan describes how the strengths of the reserve will focus on several areas relevant to the Hudson River, including sea level rise and other effects of climate change, development pressure, and invasive species.

Since 1993, the reserve has added an estuary training program that delivers science-based information to key decision makers in New York; has completed a site profile that characterizes the reserve; and has expanded the monitoring, stewardship and education programs. A new headquarters building, the Norrie Point Environmental Center (2007), has been built to support the growth of reserve programs.

FOR FURTHER INFORMATION CONTACT: Amy Clark at (301) 563–1137 or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver

Spring, MD 20910. For copies of the Hudson River Management Plan revision, visit: *http://hrnerr.org*.

Dated: September 28, 2009.

David Kennedy,

Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E9–23825 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

Census Bureau

[Docket No.: 0909181279–91281–01]

Privacy Act of 1974; System of Records

AGENCY: U.S. Census Bureau, Department of Commerce.

ACTION: Notice of New Privacy Act System of Records; COMMERCE/CENSUS–12, Foreign Trade Statistics.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records notice entitled, COMMERCE/CENSUS–12, Foreign Trade Statistics.

DATES: The system of records becomes effective on October 1, 2009.

ADDRESSES: For a copy of the system of records please mail requests to: Chief Privacy Officer, Privacy Office, Room HQ–8H168, U.S. Census Bureau, Washington, DC 20233–3700.

SUPPLEMENTARY INFORMATION: On June 23, 2009, the Department of Commerce published and requested comments on a proposed Privacy Act System of Records notice entitled COMMERCE/CENSUS–12, Foreign Trade Statistics. Commerce received one comment in response to this notice. The commenter recommended that the Census Bureau develop an alternative approach for filers to eliminate the public display of a filer's Social Security Number (SSN) and Employer Identification Number (EIN), as well as discontinue collecting SSN for identification purposes during the Automated Export System (AES) registration process.

In response to this comment, Commerce noted that previously pursuant to an interim agreement between the U.S. Census Bureau and the Commenter, individuals who were required to file information about exports, but who could not do so electronically through the AES, filed the required information via mail and included an AES Downtime Citation on these filings. The AES Downtime Citation could include a customer's SSN, and thus the SSN might become visible to the public. The commenter has worked the past year and a half to develop an automated collection system that allows exporters to electronically submit the required information. This system eliminates the need for the interim solution and the possible public display of SSN when the AES is down. As part of a collaborative effort with the U.S. Census Bureau, the commenter agreed it would collect the Internal Transaction Number (ITN) for those shipments that require the proof of filing citation. The ITN is the AES-generated confirmation number the filer receives when information is accurately filed in the system. It would be assumed where no ITN is submitted, an AES filing is not required and no information would be collected. In addition, the U.S. Census Bureau has informed the commenter of its publication, on August 5, 2009 in the **Federal Register**, of an Interim Final Rule amending 15, CFR part 30, Foreign Trade Regulations, to eliminate the collection of SSNs for identification purposes in the AES. The rule carries out the purposes of the Privacy Act of 1974, 5 U.S.C. 552a, to ensure that the U.S. Principal Party in Interest's (USPPI) or U.S. authorized agent's personal information, such as its SSN, is protected. Under changes outlined in the rule, all USPPI and U.S. authorized agents who currently report an SSN when filing in the AES must instead provide an EIN or Data Universal Numbering System (DUNS) number, which is supplied by Dun & Bradstreet. By this notice, the Department is adopting the proposed system as final without changes effective October 1, 2009.

Dated: September 25, 2009.

Brenda Dolan,

Department of Commerce, Freedom of Information/Privacy Act Officer.

[FR Doc. E9–23674 Filed 9–30–09; 8:45 am]

BILLING CODE 3510–07–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Deletions

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

ACTION: Proposed deletions from Procurement List.

SUMMARY: The Committee is proposing to delete the products and services previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: 11/02/2009.

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:

Patricia Briscoe, 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.

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 and 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 products and services proposed for deletion from the Procurement List.

End of Certification

The following products and services are proposed for deletion from the Procurement List:

Products

NSN: 7510–01–219–5753, Ribbon, Lift-Off Dry.
NPA: Charleston Vocational Rehabilitation Center, Charleston Heights, SC.
Contracting Activity: GSA/FSS OFC SUP CTR—Paper Products, New York, NY.
NSN: 7920–00–292–2368, Broom, Upright.
NPA: Blind and Vision Rehabilitation Services of Pittsburgh, Pittsburgh, PA.
Contracting Activity: GSA/FAS Southwest Supply Center (QSDAC), Fort Worth, TX.

Services

Service Types/Locations:
Catering Service: Military Entrance Processing Station, Jackson, MS.
NPA: Goodwill Industries of Mississippi, Inc., Ridgeland, MS.
Contracting Activity: Dept of the Army, XR W6BB ACA KNOX, Ft Knox, KY.
Custodial: Griffin Street Auto Park, 404 S. Griffin Street, Dallas, TX.

NPA: The Arc of Caddo-Bossier, Shreveport, LA.

Contracting Activity: GSA/Public Buildings Service, Building Services Team, Fort Worth, TX.

Federal Register Publication of A–B–C Lists Changes of AbilityOne products: The Committee will no longer publish a quarterly report of changes for AbilityOne products between the A–B–C list.

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. E9–23731 Filed 9–30–09; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of Federal Advisory Committee; Quadrennial Defense Review Independent Panel

AGENCY: Department of Defense (DoD).

ACTION: Establishment of Federal advisory committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.50(a), the Department of Defense gives notice that it is establishing the charter for the Quadrennial Defense Review Independent Panel (hereafter referred to as the Panel).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Panel is a non-discretionary federal advisory committee established under the provisions of 10 U.S.C. 118(f), that shall provide the Committees on the Armed Services of the Senate and House of Representatives an assessment of the Department of Defense's Quadrennial Defense Review.

The Panel shall be comprised of no more than twelve members appointed by the Secretary of Defense, and shall be bipartisan.

The Secretary of Defense shall appoint Panel members to serve for the duration of this Quadrennial Defense Review, and those members, who are not full-time or permanent part-time Federal employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109 and serve as Special Government Employees.

The Secretary of Defense shall appoint two co-chairmen from the twelve members appointed, and these individuals shall be divided equally on a bipartisan basis.

Any vacancy in the Panel shall be filled in the same manner as the original appointment and, with the exception of travel and per diem for official travel, Panel members shall serve without compensation.

With DoD approval, the Panel is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provision of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C 552B, as amended), and other appropriate Federal regulations.

Such Subcommittees or Working Groups shall not work independently of the chartered Panel, and shall report their recommendations and advice to the Panel for full deliberation and discussion. Subcommittees or Working Groups have no authority to make decisions on behalf of the chartered Panel nor can they report directly to the Department of Defense or any Federal officers or employees who are not Panel members.

Subcommittee members, who are not Panel members, shall be appointed in the same manner as the Board members.

The Panel shall meet at the call of the Board's Designated Federal Officer, in consultation with the Panel's Chairperson. The estimated number of Panel meetings is 3 per year. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings, however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Panel membership about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Panel.

All written statements shall be submitted to the Designated Federal Officer for the Quadrennial Defense Review Independent Panel, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Panel's Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Panel. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: September 28, 2009.

Patricia L. Toppings,

OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E9–23743 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Task Force on Sexual Assault in the Military Services

AGENCY: Office of the Assistant Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Defense Task Force on Sexual Assault in the Military Services (hereafter referred to as the Task Force) will meet on October 19, 20, and 21, 2009. Subject to the availability of space, this meeting is open to the public. Seating is on a first-come basis.

DATES: The Task Force will meet from 1 to 4:30 p.m. on Monday, October 19; and from 8 a.m. to 4:30 p.m. on Tuesday, October 20 and Wednesday, October 21, 2009. Times are Eastern Daylight Time (hereafter referred to as EDT).

ADDRESSES: The meeting will be held at the Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Michael Molnar, Deputy to the Executive Director, 2850 Eisenhower Avenue, Suite 100, Alexandria, Virginia 22314; phone (888) 325–6640; fax (703) 325–6710; e-mail *michael.molnar@wso.whs.mil*.

Committee's Designated Federal Officer: Colonel Cora M. Jackson-Chandler; 2850 Eisenhower Avenue, Suite 100, Alexandria, Virginia 22314; phone (888) 325–6640; fax (703) 325–

6710; e-mail *cora.chandler@wso.whs.mil*.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to obtain and discuss information on the Task Force's congressionally mandated task to examine matters related to sexual assault in the Military Services through briefings from, and discussion with, Task Force staff, subject-matter experts, document review, and preparation of the Task Force report.

Agenda

Monday, October 19, 2009

1 p.m.–1:05 p.m. Welcome, Administrative Remarks;
1:05 p.m.–1:10 p.m. Opening Remarks;
1:10 p.m.–2:30 a.m. Content Discussion and Writing of the Final Report;
2:30 p.m.–2:45 p.m. Break;
2:45 p.m.–4:25 p.m. Content Discussion and Writing of the Final Report;
4:25 p.m.–4:30 p.m. Wrap Up.

Tuesday, October 20, 2009

8 a.m.–8:05 a.m. Welcome, Administrative Remarks;
8:05 a.m.–8:10 a.m. Opening Remarks;
8:10 a.m.–9:30 a.m. Content Discussion and Writing of the Final Report;
9:30 a.m.–9:45 a.m. Break;
9:45 a.m.–12 p.m. Content Discussion and Writing of the Final Report;
12 p.m.–1 p.m. Noon Meal;
1 p.m.–2:30 p.m. Content Discussion and Writing of the Final Report;
2:30 p.m.–2:45 p.m. Break;
2:45 p.m.–4:25 p.m. Content Discussion and Writing of the Final Report;
4:25 p.m.–4:30 p.m. Wrap Up.

Wednesday, October 21, 2009

8 a.m.–8:05 a.m. Welcome, Administrative Remarks;
8:05 a.m.–8:10 a.m. Opening Remarks;
8:10 a.m.–9:30 a.m. Content Discussion and Writing of the Final Report;
9:30 a.m.–9:45 a.m. Break;
9:45 a.m.–12 p.m. Content Discussion and Writing of the Final Report;
12 p.m.–1 p.m. Noon Meal;
1 p.m.–2:30 p.m. Content Discussion and Writing of the Final Report;
2:30 p.m.–2:45 p.m. Break;
2:45 p.m.–4:25 p.m. Content Discussion and Writing of the Final Report;
4:25 p.m.–4:30 p.m. Wrap Up.

The public can view meeting updates at *http://www.dtic.mil/dtfsams*.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Defense Task Force on Sexual Assault in the Military Services about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the Defense Task Force on Sexual Assault in the Military Services.

All written statements shall be submitted to the Designated Federal Officer for the Defense Task Force on Sexual Assault in the Military Services, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer is provided in this notice under **FOR FURTHER INFORMATION CONTACT**, or can be obtained from the GSA's FACA Database: *https://www.fido.gov/facadatabase/public.asp*.

Written statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the listed address above no later than 7 a.m., EDT, Monday, October 12, 2009. Written statements received after this date may not be provided to, or considered by, the Defense Task Force on Sexual Assault in the Military Services until its next meeting.

The Designated Federal Officer will review all timely submissions with the Defense Task Force on Sexual Assault in the Military Services Co-Chairs and ensure they are provided to all members of the Defense Task Force on Sexual Assault in the Military Services before the meeting that is the subject of this notice.

Dated: September 25, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23740 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Business Board (DBB)

AGENCY: Department of Defense (DoD).

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, DoD announces that the Defense Business Board (DBB) will meet on October 22, 2009. Subject to the availability of space, this meeting is open to the public.

DATES: The public meeting will be held from 9 to 11 a.m. on Thursday, October 22, 2009.

ADDRESSES: The public meeting will be held at the Pentagon, Room 3E–863, Washington, DC (escort required, see **SUPPLEMENTARY INFORMATION** for further details).

FOR FURTHER INFORMATION CONTACT: For meeting information please contact Ms. Debora Duffy, Defense Business Board, 1155 Defense Pentagon, Room 5B–1088A, Washington, DC 20301–1155, *Debora.duffy@osd.mil*, (703) 697–2168.

The Board's Designated Federal Officer is Ms. Phyllis Ferguson, Defense Business Board, 1155 Defense Pentagon, Room 5B–1088A, Washington, DC 20301–1155, *Phyllis.ferguson@osd.mil*, (703) 695–7563.

SUPPLEMENTARY INFORMATION:

Background

At this meeting, the Board will deliberate findings and recommendations from four Task Groups: (1) ''Reducing Acquisition Costs by Applying Best Business Practices to Fixed-Price Contracting,'' (2) ''Managing DoD Under Sustained Topline Pressures,'' (3) ''Recommendations for Insourcing the Acquisition Workforce,'' and (4) ''Assessing the Defense Industrial Base.'' The mission of the DBB is to advise the Secretary of Defense on effective strategies for implementation of best business practices of interest to the Department of Defense.

Availability of Materials for the Meeting

A copy of the draft agenda for the October 22, 2009, meeting may be obtained from the Board's Web site at *http://www.defenselink.mil/dbb* under ''Meeting Materials.''

Public's Accessibility to the Meeting

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. All members of the public who wish to attend the meeting must contact Ms. Duffy (see **FOR FURTHER INFORMATION CONTACT**) no later than noon on Thursday, October 8th to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance in time to complete security screening by 8:45 a.m. Security screening requires two forms of identification: (1) A

government-issued photo I.D., and (2) any type of secondary I.D., which verifies the individual's name (*i.e.* debit card, credit card, work badge, social security card).

Special Accommodations

Individuals requiring special accommodations to access the public meeting should contact Ms. Duffy (see **FOR FURTHER INFORMATION CONTACT**) at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public session.

Written comments are accepted until the date of the meeting, however, written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting.

Written comments should be submitted via email to the DFO (see **FOR FURTHER INFORMATION CONTACT**) in the following formats (Adobe Acrobat, WordPerfect, or Word format). Please note: Since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all public presentations will be treated as public documents and will be made available for public inspection, up to and including being posted on the Board's Web site.

Dated: September 25, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23737 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). The topic of the meeting on October 20–22, 2009, is to review new start research requesting Strategic Environmental Research and Development Program (SERDP) funds in excess of $1M. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

DATES: The meeting will be held: Tuesday, October 20, 2009, from 8:30 a.m. to 5:30 p.m.; Wednesday, October 21, 2009, from 8:30 a.m. to 4:30 p.m.; and Thursday, October 22, 2009 from 8:30 a.m. to 12 p.m.

ADDRESSES: The meeting will be held at the SERDP Office Conference Center, 901 North Stuart Street, Suite 804, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Bunger, SERDP Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2126.

Dated: September 21, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23744 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Military Leadership Diversity Commission (MLDC)

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Military Leadership Diversity Commission (MLDC) will meet on October 21 and 22, 2009, in Arlington, VA. Subject to and the availability of space, the meeting will be open to the public.

DATES: The MLDC will meet from 9 a.m. to 6 p.m. on Wednesday, October 21 and Thursday, October 22, 2009.

ADDRESSES: The meeting will be held at the Double Tree Hotel, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Master Chief Steven A. Hady, Designated Federal Officer, MLDC, at (703) 602–0838, 1851 South Bell Street, Suite 532, Arlington, VA. E-mail *Steven.Hady@wso.whs.mil.*

Committee's Designated Federal Officer or Point of Contact: Master Chief Steven A. Hady, Designated Federal Officer, MLDC, at (703) 602–0838 or (703) 347–5295, 1851 South Bell Street, Suite 532, Arlington, VA. E-mail *Steven.Hady@wso.whs.mil.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for the MLDC commissioners to discuss the congressional requirements of the Commission, and to map the Commission's efforts to address these congressional concerns.

Agenda

Wednesday, October 21, 2009

9 a.m. –1 p.m.

Designated Federal Officer (DFO) opens the meeting;
Commission Chairman opening remarks;
Service Chiefs discussion regarding their visions of diversity (Invited);
General Counsel Offices of OSD and Services Briefings.

1 p.m.

DFO adjourns the meeting.

2 p.m.–6 p.m.

DFO opens the meeting ;
Chairman briefs to Commissioners (objectives and approach) followed by:
Open discussion on objectives and approach;
Discussion on outlines of white papers and the interim report;
Discussion on elements of uniform DoD definition of diversity.

6 p.m.

Commission Chairman Closing Remarks;
DFO adjourns the meeting.

Thursday, October 22, 2009

9 a.m.–12 p.m.

DFO opens the meeting;
Commission Chairman opening remarks;
Enlisted and officer accessions briefings from the responsible military organizations.

12 p.m.

DFO adjourns the meeting.

1 p.m–6 p.m.

DFO opens the meeting;
Service Academies briefing;
Outreach programs briefings;
Discussion on recruiting and outreach programs from the responsible military organizations.

6 p.m.

Commission Chairman Closing Remarks;

DFO adjourns the meeting.

Public's Accessibility to the Meeting:

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the October 21 and 22 meetings will be open to the public. Please note that the availability of seating is on a first-come basis.

Written Statements:

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Commission about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of a planned meeting of the MLDC.

All written statements shall be submitted to the Designated Federal Officer for the Commission, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Officer can be obtained from the **FOR FURTHER INFORMATION CONTACT** section of this notice or from GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the Commission until its next meeting.

The Designated Federal Officer will review all timely submissions with the MLDC Chairperson and ensure they are provided to all members of the Commission before the meeting that is the subject of this notice.

Dated: September 25, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23742 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Military Health Risk Management Demonstration Project

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs/TRICARE Management Activity, Department of Defense.

ACTION: Notice of a Military Health Risk Management demonstration project.

SUMMARY: This notice is to advise interested parties of a Military Health System (MHS) demonstration project entitled ''Military Health Risk Management Demonstration Project''. This demonstration project, which will be available for participation by select non-Medicare eligible, retired TRICARE-eligible beneficiaries, and their family members, is designed to evaluate the efficacy of providing incentives to encourage healthy behaviors on the part of these MHS beneficiaries.

DATES: *Effective Date:* This demonstration will be effective from October 1, 2009, until February 28, 2012.

FOR FURTHER INFORMATION CONTACT: Dr. Barry Cohen, Director of Healthcare Operations—TRICARE Management Activity, 5111 Leesburg Pike, Suite 810, Falls Church, VA 22041–3206; telephone (703) 681–7515.

SUPPLEMENTARY INFORMATION:

A. Background

Health Risk Management involves utilizing a self-reported health risk assessment to identify areas where TRICARE beneficiaries may be at risk to develop certain chronic illnesses. The questionnaire covers a wide range of lifestyle behaviors and health issues. In addition, physiological and biometric measures such as blood pressure, glucose level, lipids, nicotine use, and weight are also considered to aid in determining the overall level of risk for chronic disease. This demonstration project will assess the effects of providing incentives along with wellness programs and healthy behaviors and lifestyle practices among non-Medicare-eligible retired beneficiaries and their family members who are enrolled in TRICARE Prime.

B. National Defense Authorization Act (NDAA) for Fiscal Year 2009 (FY09) Military Health Risk Management Directive

Section 712 of the NDAA for FY09 requires the Department to develop a wellness assessment to be offered to beneficiaries enrolled in the demonstration project. The wellness assessment will incorporate nationally recognized standards for health and healthy behaviors, will be offered to determine a baseline assessment, and will be repeated at appropriate intervals. The wellness assessment will include a self-reported health risk assessment, physiological, and biometric measures; including at least blood pressure, glucose level, lipids, nicotine use and weight. Non-Medicare-eligible retired beneficiaries of the MHS and their dependents who are enrolled in TRICARE Prime and who reside in the demonstration project service areas will be offered the opportunity to enroll in the demonstration project. The demonstration project will be conducted in at least three geographic areas within the United States where TRICARE Prime is offered. The area covered by the project will be referred to as the demonstration project service area. Programs will be developed to assist enrollees to improve healthy behaviors, as identified by the wellness assessment. For the purpose of conducting the demonstration project, monetary and/or nonmonetary incentives will be offered to enrollees to encourage participation in the demonstration project.

C. Description of Demonstration Project

The Military Health Risk Management demonstration project will be conducted to evaluate whether monetary incentives in conjunction with wellness programs will encourage healthy behaviors among non-Medicare-eligible retired beneficiaries and their family members who are enrolled in TRICARE Prime and reside in the demonstration project service areas. The duration of the project will be approximately 3 years. There will be a monetary incentive award to enrollees for full participation in this project of an amount equivalent to 50 percent of the annual TRICARE Prime enrollment fee ($230/family or $115/individual).

For the purpose of this study, at least one demonstration project service area will encompass a military treatment facility (MTF), and the others will encompass areas supported exclusively by purchased care. The National Naval Medical Center, Medical Homes Program, Bethesda, MD, has been selected as the MTF demonstration project service area; the Designated Provider Programs at Martin's Point, Portland, ME, and CHRISTUS Health, Houston, TX, have been selected as the purchased care demonstration project service areas.

D. Implementation

Each site will be responsible for identifying a cohort of retired beneficiaries and their family members who are enrolled in TRICARE Prime and are non-Medicare-eligible to participate in the demonstration. Following the enrollment period, the site will maintain the demographic, clinical, and other data required to evaluate the effectiveness of the demonstration. The

service area sites will use a self-reported Health Risk Assessment (HRA) designed to screen and identify the participants' health risk factors and provide targeted interventions that help prevent, manage, and improve chronic conditions. They will perform all of the study participants' physiological and biometric measures, including at least blood pressure, glucose levels, lipids, nicotine use, and weight. The service area sites will schedule follow-up visits, encourage participants to take advantage of available online educational Web sites, and enroll in established wellness programs. They will also direct participants to retake the HRA/biometrics annually to reassess health behaviors and outcomes. A toll-free phone line will be available to answer questions regarding enrollment and monetary incentives from demonstration participants.

Dated: September 25, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23741 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense (DoD).

ACTION: Renewal of Federal advisory committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.50, the Department of Defense gives notice that it is renewing the charter for the Defense Task Force on Sexual Assault in the Military Services (hereafter referred to as the Task Force).

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Task Force, pursuant to Section 576 of Public Law 108–375, is a non-discretionary Federal advisory committee established to conduct an examination of matters relating to sexual assault by members or against members of the Armed Forces of the United States.

Pursuant to Section 576(e) of public Law 108–375, the Task Force, no later than one year after the initiation of its examination, shall submit to the Secretary of Defense and the Secretaries of the Army, Navy and Air Force on the activities of the Department of Defense and the Armed Forces to respond to sexual assault.

The Task Force shall be comprised of no more than ten members and the membership shall be comprised of an equal number of DoD and civilian members.

The Secretary of Defense shall select the DoD Co-Chairperson, and the civilian members shall select a civilian Co-Chairperson.

Task Force members who are appointed by the Secretary of Defense, who are not full-time or permanent part-time Federal employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109 and serve as Special Government Employees. All members shall be appointed on an annual basis for the duration of the Task Force.

Task Force members who are Federal officers or employees shall serve without compensation (other than compensation to which they are entitled to as Federal officers or employees).

Other Task Force members shall be appointed under the authority of 5 U.S.C 3161 and will receive compensation for their service. All Task Force members shall receive compensation for travel and per diem for official Task Force travel.

With DoD approval, the Task Force is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C 552B, as amended), and other appropriate Federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Task Force, and shall report all their recommendations and advice to the Task Force for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Task Force nor can they report directly to the Department of Defense or any Federal officers or employees who are not Task Force members.

Subcommittee members, who are not Task Force members, shall be appointed in the same manner as the Task Force members.

The Task Force shall meet at the call of the Task Force's Designated Federal Officer, in consultation with the Chairperson. The estimated number of Task Force meetings is six per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all meetings, however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Defense Task Force on Sexual Assault in the Military Services membership about the Task Forces' mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Defense Task Force on Sexual Assault in the Military Services.

All written statements shall be submitted to the Designated Federal Officer for the Defense Task Force on Sexual Assault in the Military Services, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for Defense Task Force on Sexual Assault in the Military Services' Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Defense Task Force on Sexual Assault in the Military Services. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: September 28, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23739 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2010 Diagnosis Related Group (DRG) Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE DRG-based payment system in order to

conform to changes made to the Medicare Prospective Payment System (PPS). It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios and the data necessary to update the Fiscal Year (FY) 2010 rates.

DATES: The rates, weights, and Medicare PPS changes which affect the TRICARE DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 2009.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Ann N. Fazzini, Medical Benefits and Reimbursement Branch, TMA, telephone (303) 676–3803.

Questions regarding payment of specific claims under the TRICARE DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE, is that the TRICARE DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE system will follow the same rules that apply to the Medicare PPS. The Centers for Medicare and Medicaid Services (CMS) publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE DRG-Based Payment System

Following is a discussion of the changes CMS has made to the Medicare PPS that affect the TRICARE DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used for the TRICARE DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and has implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 2001, DRG 435 has been replaced by DRG 523. The TRICARE system has replaced DRG 523 with the two age-based DRGs (900 and 901). For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to Major Diagnostic Category (MDC) 15 occur before assignment of the PreMDC DRGs. This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and to assign patients to PreMDC DRGs 480, 103 and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. For admissions occurring on or after October 1, 2001, DRGs 512 and 513 were added to the PreMDC DRGs, between DRGs 480 and 103 in the TRICARE grouper hierarchy logic. For admissions occurring on or after October 1, 2004, DRG 483 was deleted and replaced with DRGs 541 and 542, splitting the assignment of cases on the basis of the performance of a major operating room procedure. The description for DRG 480 was changed to ''Liver Transplant and/or Intestinal Transplant,'' and the description for DRG 103 was changed to ''Heart/Heart Lung Transplant or Implant of Heart Assist System.'' For Fiscal Year 2007, CMS implemented classification changes, including surgical hierarchy changes. The TRICARE Grouper incorporated all changes made to the Medicare Grouper, with the exception of the pre-surgical hierarchy changes, which will remain the same as Fiscal Year 2006. For Fiscal Year 2008, Medicare implemented their Medicare-Severity DRG (MS–DRG) based payment system. TRICARE, however, continued with the Centers for Medicare and Medicaid Services DRG-based (CMS–DRG) payment system for Fiscal Year 2008. For Fiscal Year 2009, the TRICARE/CHAMPUS DRG-based payment system shall be modeled on the MS–DRG system, with the following modifications.

The MS–DRG system consolidated the 43 pediatric CMS DRGs that were defined based on age less than or equal to 17 into the most clinically similar MS–DRGs. In their Inpatient Prospective Payment System final rule for MS–DRGs, Medicare stated for their population these pediatric CMS DRGs contained a very low volume of Medicare patients. At the same time, Medicare encouraged private insurers and other non-Medicare payers to make refinements to MS–DRGs to better suit the needs of the patients they serve. Consequently, TRICARE finds it appropriate to retain the pediatric CMS–DRGs for our population. TRICARE is also retaining the TRICARE-specific DRGs for neonates and substance use.

TRICARE has retained the MS–DRG numbering system for Fiscal Year 2009, and those TRICARE-specific DRGs have been assigned available, blank DRG numbers unused in the MS–DRG system. We refer the reader to *http://www.tricare.mil/drgrates* for a complete crosswalk containing the TRICARE DRG numbers for Fiscal Year 2009.

For Fiscal Year 2009, TRICARE will use the MS–DRG v26.0 pre-MDC hierarchy, with the exception that MDC 15 is applied after DRG 011–012 and before MDC 24.

For Fiscal Year 2010, there are no additional or deleted DRGs.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE will continue to use the same wage index amounts used for the Medicare PPS. TRICARE will also duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board. In addition, TRICARE will continue to utilize the out commuting wage index adjustment.

C. Revision of the Labor-Related Share of the Wage Index

TRICARE is adopting CMS' percentage of labor-related share of the standardized amount. For wage index values greater than 1.0, the labor-related portion of the Adjusted Standardized Amount (ASA) shall equal 68.8 percent. For wage-index values less than or equal to 1.0, the labor related portion of the ASA shall continue to equal 62 percent.

D. Hospital Market Basket

TRICARE will update the adjusted standardized amounts according to the

final updated hospital market basket used for the Medicare PPS for all hospitals subject to the TRICARE DRG-based payment system according to CMS' August 27, 2009, final rule. For Fiscal Year 2010, the market basket is 2.1 percent.

E. Outlier Payments

Since TRICARE does not include capital payments in our DRG-based payments (TRICARE reimburses hospitals for their capital costs as reported annually to the contractor on a pass-through basis), we will use the fixed-loss cost-outlier threshold calculated by CMS for paying cost outliers in the absence of capital prospective payments. For Fiscal Year 2010, the fixed-loss cost-outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for Indirect Medical Education (IDME) plus a fixed-dollar amount. Thus, for Fiscal Year 2010, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE DRG base payment rate (wage adjusted) for the DRG plus the IDME payment plus $21,358 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

F. National Operating Standard Cost as a Share of Total Costs

The Fiscal Year 2010 TRICARE National Operating Standard Cost as a Share of Total Costs (NOSCASTC) used in calculating the cost outlier threshold is 0.923. TRICARE uses the same methodology as CMS for calculating the NOSCASTC; however, the variables are different because TRICARE uses national cost to charge ratios while CMS uses hospital-specific cost-to-charge ratios.

G. Indirect Medical Education (IDME) Adjustment

Passage of the Medicare Prescription Drug Improvement and Modernization Act (MMA) of 2003 modified the formula multipliers to be used in the calculation of the indirect medical education IDME adjustment factor. Since the IDME formula used by TRICARE does not include disproportionate share hospitals (DSHs), the variables in the formula are different than Medicare's; however, the percentage reductions that will be applied to Medicare's formula will also be applied to the TRICARE IDME formula. The new multiplier for the IDME adjustment factor for TRICARE for Fiscal Year 2010 is 1.02.

H. Expansion of the Post-Acute-Care Transfer Policy

For Fiscal Year 2010 TRICARE is adopting CMS' expanded post-acute-care transfer policy according to CMS' final rule published August 27, 2009.

I. Blood Clotting Factor

For Fiscal Year 2010, TRICARE is adopting CMS' payment methodology for blood clotting factor according to CMS' final rule published August 18, 2006.

J. Cost-to-Charge Ratio

While CMS uses hospital-specific cost-to-charge ratios, TRICARE uses a national cost-to-charge ratio. For Fiscal Year 2010, the cost-to-charge ratio used for the TRICARE DRG-based payment system for acute care hospitals and neonates will be 0.3740. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers, the cost-to-charge ratio used is 0.4047.

K. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *http://www.tricare.osd.mil* under the sequential headings TRICARE Provider Information, Rates and Reimbursements, and DRG Information. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE DRG-based payment system during Fiscal Year 2010. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR part 199.

Dated: September 25, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23738 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2009–0018]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by November 2, 2009.

Title, Form and OMB Number: Terminal and Transfer Facilities Descriptions, IWR Forms 1–9; OMB Control Number 0710–0007.

Type of Request: Extension.

Number of Respondents: 1,262.

Responses per Respondent: 1.

Annual Responses: 1,262.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 316.

Needs and Uses: Data gathered and published as one of the 56 Port Series Reports, relating to terminals, transfer facilities, storage facilities, and intermodal transportation. This information is used in navigation, planning, safety, National security, emergency operations, and general interest studies and activities. Respondents are terminal and transfer facility operators. These data are essential to the Waterborne Commerce Statistics Center in Exercising their enforcement and quality control responsibilities in the collection of data from vessel reporting companies.

Affected Public: Business or other for-profit; Federal government; and State, Local or Tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: September 21, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23736 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2009–0022]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by November 2, 2009.

Title, Form, and OMB Number: Air Force Recruiting Information Support System (AFRISS); OMB control number 0701–0150.

Type of Request: Extension.

Number of Respondents: 3,100.

Responses per Respondent: 1.

Annual Responses: 3,100.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 1,033.

Needs and Uses: Air Force Recruiting Service requires the collection of specific information on prospective Air Force enlistees (prospective Air Force enlistees include Active, Guard, and Reserve) entering the Air Force. The information is used to create the initial personnel record, prescreen and qualify enlistees fit for service and ultimately induction. The information is also collected to process security clearances and to record metrics to be used for demographics/market research and system performance.

Affected Public: Individuals or households.

Frequency: On occasion.

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

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: September 21, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23735 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket No. USA–2009–0019]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by November 2, 2009.

Title, Form and OMB Number: Lock Performance Monitoring System (LMPS); Waterway Traffic Report, ENG FORMS 3102C and 3102D; OMB Control Number 0710–0008.

Type of Request: Extension.

Number of Respondents: 5,132.

Responses per Respondent: 98.31.

Annual Responses: 504,527.

Average Burden per Response: 2.5 minutes.

Annual Burden Hours: 21,022.

Needs and Uses: The U.S. Army Corps of Engineers utilizes the data collected to monitor and analyze the use and operation of Federally owned and operated locks; owners, agents and masters of vessels and estimated tonnage and commodities carried. The information is used for sizing and scheduling replacement or maintenance of locks and canals.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: September 21, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–23734 Filed 9–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act

(44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by November 1, 2009.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget; 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503 or e-mailed to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: September 28, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: Emergency.

Title: Trends in International Mathematics and Science Study (TIMSS:11) and Progress in International Reading Literacy Study (PIRLS:11).

Abstract: NCES seeks OMB approval for Trends in International Mathematics and Science Study (TIMSS) 2011 and the Progress in International Reading Literacy Study (PIRLS) 2011, both coordinated by the International Association for the Evaluation of Educational Achievement (IEA). TIMSS is administered every four years in more than 60 countries and provides data for internationally benchmarking U.S. performance in mathematics and science at the fourth- and eighth-grade levels against other countries around the world. PIRLS is administered every five years in more than 50 countries and provides assessment data for internationally benchmarking U.S. performance in fourth-grade reading. The international field test for the two studies will begin on March 1, 2010, and the full scale collection in April-May 2011. The Department is seeking emergency processing for the recruitment and field test activities for this collection. The collection for the full-scale study will be submitted at the later date under the normal clearance process.

Additional Information: NCES is requesting that the Office of Management and Budget (OMB) approve on an emergency basis the PIRLS/TIMSS March-April 2010 field test, including recruitment of selected schools, school districts, and State education agencies for the field test starting in November 2009. In order to have a reasonable chance to meet the minimum number of schools for the PIRLS and TIMSS field test and to conduct a valid field test including of the response rates under the proposed joint sampling plan, NCES must initiate contact with states and school districts as soon as possible after it receives the list of sample schools chosen by the IEA, in early November.

Frequency: Annually.

Affected Public: Individuals or household; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 6,739.
Burden Hours: 5,783.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4148. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–23688 Filed 9–30–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

State Energy Advisory Board; Notice of Open Teleconference

AGENCY: Department of Energy.

ACTION: Notice of open teleconference.

SUMMARY: This notice announces a meeting of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: October 21, 2009, 2 to 3 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Office of Commercialization and Project Management, Energy Efficiency Division, Golden Field Office, U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303–275–4801.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Discuss ways STEAB can support DOE's

implementation of the Economic Recovery Act, review details of the upcoming November Board Meeting in Raleigh, NC, and update members on the Board's routine business matters.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site, *http://www.steab.org*.

Issued at Washington, DC, on September 24, 2009.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E9–23682 Filed 9–30–09; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 271–128]

Entergy Arkansas, Inc.; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

September 24, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license.

b. *Project No:* 271–128.

c. *Date Filed:* July 30, 2009.

d. *Applicant:* Entergy Arkansas, Inc.

e. *Name of Project:* Carpenter-Remmel Hydroelectric Project.

f. *Location:* Lakes Hamilton and Catherine on the Quachita River in Hot Springs and Garland Counties, Arkansas.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* Blake Hogue, (501) 844–2197.

i. *FERC Contact:* Mark Carter, (202) 502–6554.

j. *Deadline for filing comments, motions to intervene, and protests:* October 26, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, it must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Entergy Arkansas, Inc. (licensee) requests a license amendment that would delegate authority for dredging and excavation activities to the licensee, for up to 500 cubic yards of material. Prior to filing of the application, the licensee consulted with the Arkansas Historic Preservation Program, Arkansas Department of Environmental Quality, Arkansas Game and Fish Commission, Arkansas Department of Parks & Tourism, U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3372 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23657 Filed 9–30–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 24, 2009.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC09–72–000.

Applicants: MACH Gen, LLC, Merrill Lynch GENCO II, LLC.

Description: Notice of Disposition of Jurisdictional Facilities of Merrill Lynch Genco II, LLC.

Filed Date: 09/23/2009.

Accession Number: 20090923–5050.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 14, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER01–313–011; ER01–424–011.

Applicants: California Independent System Operator Corporation; Pacific Gas and Electric Company.

Description: Second Informational Report of the California Independent System Operator Corporation.
Filed Date: 09/14/2009.
Accession Number: 20090914–5212.
Comment Date: 5 p.m. Eastern Time on Monday, October 5, 2009.

Docket Numbers: ER09–135–004; ER09–134–003; ER09–136–003; ER09–137–003.
Applicants: FirstEnergy Generation Corp.; FirstEnergy Solutions Corp.; FirstEnergy Nuclear Generation Corp.; FirstEnergy Generation Mansfield Unit 1.
Description: FirstEnergy Generation Corp *et al.* submits Substitute Third Revised Sheet 2 *et al.* to FERC Electric Tariff, First Revised Volume 1.
Filed Date: 09/21/2009.
Accession Number: 20090924–0023.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1689–001.
Applicants: Backyard Farms Energy LLC.
Description: Backyard Farms Energy, LLC submits Amended and Restated Application for authorization to make wholesale sales of energy and capacity at negotiated, market-based rates.
Filed Date: 09/22/2009.
Accession Number: 20090923–0009.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1720–000.
Applicants: Tuolumne Wind Project, LLC.
Description: Tuolumne Wind Project, LLC submits request to withdraw the First Revised Sheet 1 to FERC Electric Tariff, Original Volume 1.
Filed Date: 09/18/2009.
Accession Number: 20090921–0063.
Comment Date: 5 p.m. Eastern Time on Friday, October 9, 2009.

Docket Numbers: ER09–1721–000.
Applicants: ISO New England Inc.; New England Power Pool.
Description: ISO New England Inc. *et al.* submits Fourth Revised Sheet 64A *et al.* to FERC Electric Tariff 3.
Filed Date: 09/18/2009.
Accession Number: 20090921–0064.
Comment Date: 5 p.m. Eastern Time on Friday, October 9, 2009.

Docket Numbers: ER09–1730–000.
Applicants: WSPP Inc.
Description: WSPP, Inc requests that the Commission amend their Agreement to include Royal Bank of Canada and Windy Flats Partners, LLC as members of WSPP.
Filed Date: 09/22/2009.
Accession Number: 20090922–0084.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1731–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Co. submits the Blythe Solar 1 Project Tie-Line Facilities Agreement and Large Generator Interconnection Agreement etc. with FSE Blythe1, LLC.
Filed Date: 09/22/2009.
Accession Number: 20090922–0085.
Comment Date: 5 p.m. Eastern Time on Tuesday, October 13, 2009.

Docket Numbers: ER09–1736–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits First Revised Sheet 125 *et al.* to FERC Electric Tariff, Fifth Revised Volume 1 under ER09–1736.
Filed Date: 09/23/2009.
Accession Number: 20090924–0029.
Comment Date: 5 p.m. Eastern Time on Wednesday, October 14, 2009.

Docket Numbers: ER09–1737–000.
Applicants: ISO New England Inc. & New England Power.
Description: ISO New England, Inc. *et al.* submits 4th Revised Sheet 7013 *et al.* to FERC Electric Tariff 3 to extend the expiration date of the Real-Time Price Response Program and Day-Ahead Load Response Program under ER09–1737.
Filed Date: 09/23/2009.
Accession Number: 20090924–0030.
Comment Date: 5 p.m. Eastern Time on Wednesday, October 14, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,
Secretary.

[FR Doc. E9–23658 Filed 9–30–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1655–000]

Fowler Ridge II Wind Farm LLC; Notice of Filing

September 24, 2009.

Take notice that, on September 23, 2009, Fowler Ridge II Wind Farm LLC filed to supplement its filing in the above captioned docket with information required under the Commission's regulations. Such filing served to reset the filing date in this proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 14, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23655 Filed 9–30–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1555–000]

Wisconsin Power and Light Company; Notice of Filing

September 24, 2009.

Take notice that, on September 23, 2009, Wisconsin Power and Light Company filed to supplement its filing in the above captioned docket with information required under the Commission's regulations. Such filing served to reset the filing date in this proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 2, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23654 Filed 9–30–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2305–020]

Sabine River Authority of Texas; Sabine River Authority, State of Louisiana; Notice of Dispute Resolution Panel Meeting and Technical Conference

September 24, 2009.

On September 15, 2009, Commission staff, in response to the filing of a notice of study dispute by the U.S. Department of Agriculture (Forest Service) on August 26, 2009, convened a single three-person Dispute Resolution Panel pursuant to 18 CFR 5.14(d).

The Panel will hold a technical conference at the time and place noted below. The session will address study disputes regarding terrestrial special status species, cultural resources, non-native invasive plant species (noxious weeds), land use, and soil erosion. The focus of the technical session is for the disputing agencies, applicants, and Commission to provide the Panel with additional information necessary to evaluate the disputed studies. All local, State, and Federal agencies, Indian tribes, and other interested parties are invited to attend the meeting as observers. The Panel also may request information or clarification on written submissions, as necessary, to understand the matters in dispute. The Panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at their discretion, limit the speaking time for each participant.

If you have any questions, please contact Emily Carter at (202) 502–6512.

Technical Conference

Date: Tuesday, October 6, 2009.
Time: 9 a.m.–5 p.m. (CDT).
Place: Hilton Garden Inn-Houston/Bush Intercontinental Airport, 15400 John F. Kennedy Boulevard, Houston, Texas 77032.
Phone: 281–449–4148.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23656 Filed 9–30–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP09–1065–000]

Gulf South Pipeline Company, LP; Notice of Offer of Settlement

September 24, 2009.

Take notice that on September 22, 2009, Gulf South Pipeline Company, LP (Gulf South) filed an Offer of Settlement and Stipulation and Agreement (Settlement), including *pro forma* tariff sheets, pursuant to 18 CFR 385.207 (a)(5) (2009) to create a new Rate Zone 5 on its system and resolve uncertainty regarding the proper rates for transportation on Gulf South's Southeast Expansion.

Gulf South states that copies of this filing are being mailed, or sent by e-mail if requested, to all affected customers of Gulf South and interested state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (2009)) by the date set forth below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices or motions

must be filed on or before the dates as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date set below need not serve motions to intervene or protests on persons other than the Applicant. Initial comments on the Settlement are due not later than 10 days after the filing of the Settlement, and reply comments are due not later than 17 days after the filing of the Settlement.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Interventions, Protests and Initial Comments are due by: October 2, 2009.

Reply Comments are due by: October 9, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–23653 Filed 9–30–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2009–0383; FRL–8964–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Small Municipal Waste Combustors (Renewal), EPA ICR Number 1900.04, OMB Control Number 2060–0423

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before November 2, 2009.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2009–0383, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Rebecca Kane, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–5960; fax number: (202) 564–0050; e-mail address: *kane.rebecca@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 8, 2009 (74 FR 32580), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2009–0383, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: NSPS for Small Municipal Waste Combustors (Renewal).

ICR Numbers: EPA ICR Number 1900.04, OMB Control Number 2060–0423.

ICR Status: This ICR is scheduled to expire on October 31, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: These regulations apply to small municipal waste combustors (MWCs) commencing construction after

August 30, 1999, and small MWC units commencing reconstruction or modification after June 6, 2001, that combust greater than 35 tons per day (tpd) but less than 250 tpd of municipal solid waste. This information collection is required as a result of the implementation of the New Source Performance Standards developed under the authority of sections 111 and 129 of the Clean Air Act. The regulations require initial notifications, performance tests, and periodic reports. Owners or operators also are required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility or any period during which the monitoring system is inoperative. Owners and operators of small MWCs are required to measure, record, and report emission rates and operating parameters, follow good combustion practices, and submit a siting analysis. Owners or operators subject to these regulations are required to maintain records of measurements and reports for at least five years.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,108 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Small Municipal Waste Combustors.

Estimated Number of Respondents: 2.

Frequency of Response: Initially, semiannually, annually, and on occasion.

Estimated Total Annual Hour Burden: 9,975.

Estimated Total Annual Cost: $1,087,204, which includes $938,068 in labor costs, $66,000 in capital/start-up costs, and operation and maintenance costs of $83,136.

Changes in the Estimates: The adjustment decrease in burden from the most recently approved ICR is an adjustment due to a decrease in the number of respondents, from three to two.

Dated: September 26, 2009.

John Moses,

Director, Collection Strategies Division.

[FR Doc. E9–23692 Filed 9–30–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[A–1–FRL–8964–3]

Notice of Prevention of Significant Deterioration; Final Determination for Dominion Energy Brayton Point, Somerset, MA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that on May 13, 2009, the Environmental Appeals Board (''EAB'') of EPA denied review of the petition for review of a Prevention of Significant Deterioration (''PSD'') permit (''Permit'') that EPA New England issued to Dominion Energy Brayton Point, LLC (''Dominion''). The Permit was issued pursuant to the PSD regulations under 40 CFR 52.21.

DATES: The effective date of the EAB's decision, and the Permit, is May 13, 2009. Pursuant to Section 307(b)(1) of the Clean Air Act (''CAA''), 42 U.S.C. 7607(b)(1), judicial review of this permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the First Circuit within November 30, 2009.

ADDRESSES: The relevant documents for the Permit are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Boston, MA 02114–2023. To arrange viewing of these documents, contact Donald Dahl at (617) 918–1657 or *dahl.donald@epa.gov*. The Permit is also available at *http://www.epa.gov/NE/communities/pdf/braytonpoint/CoolingTowerPermit.pdf*.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAP), Boston, MA 02114–2023.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. What Action Is EPA Taking?
II. What Is the Background Information?
III. What Did the EAB Decide?

I. What Action Is EPA Taking?

We are notifying the public of a final decision by the EAB on the Permit issued by EPA New England pursuant to the PSD regulations found at 40 CFR 52.21.

II. What Is the Background Information?

Dominion operates an existing coal-fired electric generating station in Somerset, Massachusetts. In March 2003, Massachusetts ended its agreement with EPA to implement the PSD program. Based on this action and since Massachusetts did not subsequently request PSD delegation, EPA is currently the PSD permitting authority within Massachusetts.

Dominion submitted a PSD application to EPA New England requesting approval to construct and operate two new cooling water towers at its facility in Somerset, Massachusetts. After consideration of the PSD application, EPA New England issued the draft Permit on January 28, 2009, for public review and comment. On April 2, 2009, after providing an opportunity for public comment and a public hearing on March 2, 2009, EPA issued the final Permit. The Permit limits particulate matter of 10 microns or less in size and particulate matter of 2.5 microns or less in size from each cooling water towers to 1,066 pounds per day. Subsequent to the issuance of the revised Permit, the EAB received a petition requesting review of the Permit. The EAB denied review of the petition.

III. What Did the EAB Decide?

The petition, which was filed by Bristol County Broadcasting, Incorporated, argued that the cooling water towers would have a significant adverse affect on the petitioner's AM radio transmissions. The EAB denied review of this petition on two points. First, the petition did not challenge any provision of the Permit governing air emissions of regulated pollutants. Second, the petitioner did not participate in the permitting process during the public comment period for the Permit. Readers interested in more detail on the appeal issues raised by the petitioner and the reasons for the EAB's denial of review may download EAB's Order Denying Review from the EAB Web site at *http://www.epa.gov/eab*.

Pursuant to 40 CFR 124.19(f)(1), for purposes of judicial review, final agency action occurs when a final PSD permit is issued and agency review procedures

are exhausted. This notice is being published pursuant to 40 CFR 124.19(f)(2), which requires notice of any final agency action regarding a PSD permit to be published in the **Federal Register**. This notice constitutes notice of the final agency action denying review of the revised Permit and, consequently, notice of EPA New England's issuance of the Permit (PSD Permit No. 052–120–MA14) to Dominion. If available, judicial review of these determinations under section 307(b)(1) of the CAA may be sought only by the filing of a petition for review in the United States Court of Appeals for the First Circuit, within 60 days from the date on which this notice is published in the **Federal Register**. Under section 307(b)(2) of the CAA, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: August 5, 2009.

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. E9–23634 Filed 9–30–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8964–5]

Proposed Administrative Cost Recovery Agreement Pursuant to Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for the Merrill Meyers Site, Wells County, IN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for public comment.

SUMMARY: In accordance with Section 122(i) of CERCLA, 42 U.S.C. 9622(i), notification is hereby given of a proposed administrative settlement agreement regarding partial recovery of costs incurred by EPA in implementing a removal action at the Merrill Meyers [sic] Site, Petroleum, in Wells County, Indiana. EPA proposes to enter into this agreement under the authority of Sections 107 and 122(h) of CERCLA, 42 U.S.C. 9607 and 9622(h). The proposed agreement has been executed by Merrill A. and Janice A. Myers, residing in Petroleum, Indiana. Under the proposed agreement, the Myers will pay $174,706.67 to reimburse the Superfund for part of the $228,831.93 in costs incurred by EPA in implementing the removal action. For thirty days following the date of publication of this notice, EPA will receive written comments relating to the proposed agreement. EPA will consider all comments received and may decide not to enter into the proposed agreement if comments disclose facts or considerations which indicate that the agreement is inappropriate, improper or inadequate.

DATES: Comments on the proposed agreement must be received by EPA on or before November 2, 2009.

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, and should refer to: In the Matter of Merrill Meyers Site, EPA Docket No. V–W–'09–C–936.

FOR FURTHER INFORMATION CONTACT: Cathleen R. Martwick, Associate Regional Counsel, by mail at: U.S. Environmental Protection Agency, Office of Regional Counsel (C–14J), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, or by phone at: (312) 886–7166. A copy of the proposed administrative settlement agreement may be obtained in person or by mail from the EPA's Region 5 Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Additional background information relating to the settlement is available for review at the EPA's Region 5 Office of Regional Counsel.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601–9675.

Dated: September 18, 2009.

Douglas Ballotti,

Acting Director, Superfund Division, Region 5.

[FR Doc. E9–23689 Filed 9–30–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8957–8]

Proposed CERCLA Administrative Cost Recovery Settlement; Dutch Boy Site, Chicago, IL

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Dutch Boy Site in Chicago, Illinois with the following settling party: NL Industries, Inc. The settlement requires the settling party to reimburse the EPA Hazardous Substance Superfund $165,709.61. The settlement includes a covenant not to sue the settling party pursuant to Section 107(a) of CERCLA, 42 U.S.C. 9607(a). For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations, which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA Record Center, Room 714, EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604 and the Chicago Public Library, Pullman Branch, 11001 South Indiana Avenue, Chicago, Illinois 60628.

DATES: Comments must be submitted to EPA on or before November 2, 2009.

ADDRESSES: The proposed settlement is available for public inspection at the EPA Record Center, Room 714, 77 West Jackson Boulevard, Chicago, Illinois 60604 and the Chicago Public Library, Pullman Branch, 11001 South Indiana Avenue, Chicago, Illinois 60628. A copy of the proposed settlement may be obtained from the EPA Record Center, Room 714, EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604 or by calling (312) 353–5821. Comments should reference the Dutch Boy Site located in Chicago, Illinois and should be addressed to Christine Liszewski, EPA, Office of Regional Counsel (C–14J), 77 West Jackson Boulevard, Chicago, Illinois 60604 or *liszewski.christine@epa.gov*.

FOR FURTHER INFORMATION CONTACT: Christine Liszewski, EPA, Office of Regional Counsel (C–14J) at 77 West Jackson Boulevard, Chicago, IL 60604 or at (312) 886–4670 or via e-mail at *liszewski.christine@epa.gov*.

Dated: September 3, 2009.

Richard C. Karl,

Director, Superfund Division, Region 5, U.S. Environmental Protection Agency.

[FR Doc. E9–23690 Filed 9–30–09; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Economic Impact Policy

This notice is to inform the public that the Export-Import Bank of the United States has received an application to finance approximately $260 million for the U.S. export of approximately $268 million worth of power equipment and services to a buyer in the United Arab Emirates (UAE). The U.S. exports will enable the UAE company to produce aluminum. Production is scheduled to commence in 2010, with full production beginning in 2011. The UAE company will have an initial production capacity of 718,000 metric tons of aluminum per year, with efficiency gains expected to increase production capacity up to 750,000 metric tons per year. The total value of the aluminum producing facility is estimated to be $7.2 billion. It is envisioned this new aluminum production will be primarily sold to customers in Algeria, Bahrain, Egypt, Germany, Japan, South Korea, Libya, Malaysia, Saudi Arabia, Singapore, Thailand, Taiwan, and Vietnam. Some of the new aluminum will also be sold domestically within the UAE. Interested parties may submit comments on this transaction by email to *economic.impact@exim.gov* or by mail to 811 Vermont Avenue, NW., Room 1238, Washington, DC 20571, within 14 days of the date this notice appears in the **Federal Register**.

Helene S. Walsh,

Vice President, Policy Analysis Division.

[FR Doc. E9–23609 Filed 9–30–09; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Submitted to the Office of Management and Budget for Review and Approval, Comments Requested

September 25, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments on November 2, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at (202) 395–5167, or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to Cathy Williams, Federal Communications Commission (FCC). 445 12th Street SW, Washington DC 20554. To submit your comments by e–mail send then to: PRA@fcc.gov and to Cathy Williams@fcc.gov. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward–pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1089.

Title: Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP–Enabled Service Providers, CG Docket No. 03–123 and WC Docket No. 05– 196, FCC 08151 and FCC 08–275.

Form Number: Not Applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities; Individuals or households; Not–for–profit institutions; State, local or tribal government.

Number of Respondents and Responses: 12 respondents; 5,608,692 responses.

Estimated Time per Response: 3 minutes (.05 hours) to 1 hour.

Frequency of Response: One–time, quarterly and on occasion reporting requirements; Recordkeeping requirement; Third party disclosure requirement.

Total Annual Burden: 206,061.

Total Annual Cost: $4,251,635.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 1, 2, 4(i), (4)(j), 225, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 225, 251, and 303(r).

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because the Commission has no direct involvement in the collection of personally identifiable information (PII) from individuals and/or households.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On November 30, 2005, the Commission released Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities; Access to Emergency Services, Notice of Proposed Rulemaking (VRS/IP Relay 911 NPRM), CG Docket No. 03–123, FCC 05–196, published at 71 FR 5221 (February 1, 2006), which addressed the issue of access to emergency services for Internet–based forms of Telecommunications Relay Services (TRS), namely Video Relay Service (VRS) and Internet Protocol (IP) Relay. The Commission sought to adopt means to ensure that such calls promptly reach the appropriate emergency service provider.

On May 8, 2006, the Commission released Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities; Misuse of IP Relay Service and Video Relay Service, Further Notice of Proposed Rulemaking (IP Relay/VRS Misuse FNPRM), CG Docket No. 03–123, FCC 06–58 published at 71 FR 31131 (June 1, 2006), which sought further comment on whether IP Relay and VRS providers

should be required to implement user registration systems and what information users should provide, as a means of curbing illegitimate IP Relay and VRS calls.

On May 9, 2006, the Commission released Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities, Declaratory Ruling and Further Notice of Proposed Rulemaking (Interoperability Declaratory Ruling and FNPRM), CG Docket No. 03–123, FCC 06–57, published at 71 FR 30818 and 71 FR 30848 (May 31, 2006). In the Interoperability Declaratory Ruling and FNPRM, the Commission sought comment on the feasibility of establishing a single, open, and global database of proxy numbers for VRS users that would be available to all service providers, so that a hearing person can call a VRS user through any VRS provider, without having first to ascertain the VRS user's current IP address.

On June 24, 2008, the Commission released Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP–Enabled Service Providers, Report and Order and Further Notice of Proposed Rulemaking (First Numbering Order), CG Docket No. 03–123 and WC Docket No. 05–196, FCC 08–151, addressing the issues raised in these notices. The First Numbering Order establishes a reliable and consistent means by which others (including emergency personnel) can identify or reach VRS and IP Relay users by, among other things, integrating VRS and IP Relay users into the ten–digit, North American Numbering Plan (NANP) numbering system.

To complete a telephone call to an Internet–based TRS user, a provider must have some method of logically associating the telephone number dialed by the caller to the Internet–based TRS user's device. The method adopted by the Commission, known as the TRS Numbering Directory, is a central database that maps each user's telephone number to routing information needed to find that user's device on the Internet. The First Numbering Order requires VRS and IP Relay providers to collect and maintain the routing information from their registered users and to provision that information to the TRS Numbering Directory so that this mapping can occur.

In addition, to establish a reliable means for VRS and IP Relay providers to automatically know the physical location of their users, the First Numbering Order requires VRS and IP Relay providers to collect and maintain the Registered Location of their registered users. And to ensure that emergency personnel can retrieve a user's Registered Location (along with the provider's name and the identification number of the Communications Assistant for call back purposes), the First Numbering Order requires VRS and IP Relay providers to make that information available from or through the appropriate automatic location information (ALI) database.

To ensure that VRS and IP Relay users are aware of their providers' numbering and E911 service obligations and to inform those users of their providers' E911 capabilities, the First Numbering Order requires each VRS and IP Relay provider to post an advisory on its Web site, and in any promotional materials directed to consumers, addressing numbering and E911 services for VRS or IP Relay. Providers also must obtain and keep a record of affirmative acknowledgement from each of their registered users of having received and understood the user notification.

On December 19, 2008, the Commission released the Telecommunications Relay Services and Speech–to–Speech Services for Individuals with Hearing and Speech Disabilities; E911 Requirements for IP–Enabled Service Providers, Second Report and Order and Order on Reconsideration (Second Numbering Order), CG Docket No. 03–123 and WC Docket No. 05–196, FCC 08–275, further addressing the duties of VRS and IP Relay providers to supply numbering and E911 capabilities to their users, as established in the First Numbering Order.

The Second Numbering Order revises the ''User Notification'' information collection requirement adopted in the First Numbering Order. Specifically, VRS and IP Relay consumer advisories must explain that: (1) The consumer may obtain a telephone number from, and register with, his or her provider of choice; (2) the consumer may change default providers while retaining the same telephone number by porting that number to the new default provider; (3) the consumer may make calls through, and receive calls from, any provider; and (4) the provider cannot condition the ongoing use or possession of equipment, or the receipt of different or upgraded equipment, on the consumer continuing to use the provider as his or her default provider.

The Second Numbering Order also adds five new information collection requirements to those adopted in the First Numbering Order. First, once a VRS or IP Relay user with a ''proxy'' or ''alias'' number obtains a NANP telephone number, the VRS or IP Relay provider must provide a message notifying callers of the user's new NANP telephone number and advising callers that, after November 12, 2009, the user may only be reached by the NANP telephone number. (Although the permissive dialing period was scheduled to end on June 30, 2009, the Consumer and Governmental Affairs Bureau later extended this deadline until after November 12, 2009.) This notification requirement is intended to smooth the transition of VRS and IP Relay users to NANP telephone numbers by ensuring that a VRS or IP Relay user can be reached by a calling party who may not yet know the user's new number.

Second, VRS and IP Relay providers must verify whether a user who places a call through a provider is registered with another provider in order to distinguish a new user who has not yet registered from an existing user who is dialing around the default provider with which he or she is registered. A VRS or IP Relay provider may do this by requesting a user's ten–digit NANP number and querying the Numbering Directory using that number.

Third, VRS and IP Relay providers must institute procedures to verify the accuracy of registration information, including the consumer's name and mailing address, and include a self certification component requiring consumers to verify that they have a medically recognized hearing or speech disability necessitating their use of TRS. These measures will be used by VRS and IP Relay providers to ensure that their services are not used for fraudulent or other purposes not authorized by the statute or by the Commission's rules.

Fourth, any VRS or IP Relay provider wishing to pass through numbering–related costs to its users must obtain Commission approval to do so. This requirement will be used by the Consumer and Governmental Affairs Bureau, acting on delegated authority, to ensure that only customer–specific, actually incurred costs are passed on to VRS and IP Relay users.

Finally, each VRS provider that provisions equipment to a consumer must make available to the consumer's newly selected default provider certain information about that equipment that will be used by the new default provider to perform the functions required of a default provider, including enabling point–to–point (non–relay) communications between VRS users, when a user switches providers but

wishes to use equipment supplied by another default provider.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–23664 Filed 9–30–09; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act; Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:34 a.m. on Tuesday, September 29, 2009, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision and resolution activities.

In calling the meeting, the Board determined, on motion of Director John E. Bowman (Acting Director, Office of Thrift Supervision), seconded by Director Thomas J. Curry (Appointive), concurred in by Director John C. Dugan (Comptroller of the Currency), Vice Chairman Martin J. Gruenberg, and Chairman Sheila C. Bair, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: September 29, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–23814 Filed 9–29–09; 4:15 pm]

BILLING CODE P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Release of Exposure Drafts on Implementation Guidance on Cleanup Costs Associated With Equipment, and Asbestos Cleanup Costs Associated With Facilities and Installed Equipment

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in April, 2004, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has released the Exposure Draft on *Implementation Guidance on Cleanup Costs Associated With Equipment.*

The exposure draft addresses important implementation questions regarding the consistent application of SFFAS 6 as it relates to cleanup costs associated with equipment. The Federal Accounting Standards Advisory Board (FASAB) also issued the Exposure Draft on *Implementation Guidance on Asbestos Cleanup Costs Associated With Facilities and Installed Equipment.*

The Exposure Draft addresses important implementation questions regarding the consistent application of TB2006–1 as it relates to asbestos cleanup costs associated with facilities and installed equipment.

The Exposure Drafts are available on the FASAB home page *http://www.fasab.gov/exposure.html.* Copies can be obtained by contacting FASAB at (202) 512–7350.

Respondents are encouraged to comment on any part of the exposure drafts. Written comments are requested by December 4, 2009, and should be sent to: Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street, NW., Suite 6814, Mail Stop 6K17V, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Wendy Payne, Executive Director, at (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: September 25, 2009.

Charles Jackson,

Federal Register Liaison Officer.

[FR Doc. E9–23663 Filed 9–30–09; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees of Hangar 481, at Kirtland Air Force Base, Albuquerque, NM, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees of Hangar 481, at Kirtland Air Force Base, Albuquerque, New Mexico, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Hangar 481 at Kirtland Air Force Base.

Location: Albuquerque, New Mexico.

Job Titles and/or Job Duties: All employees who worked at Hangar 481, at Kirtland Air Force Base.

Period of Employment: March 1, 1989 through June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E9–23685 Filed 9–30–09; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees for the Hanford Site, Richland, WA, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health

(NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees for the Hanford site in Richland, Washington, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Hanford site.

Location: Richland, Washington.

Job Titles and/or Job Duties: All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors.

Period of Employment: October 1, 1943 through June 30, 1972.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E9–23686 Filed 9–30–09; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10237 and CMS–10137]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Advantage Applications-Part C ; *Use:* Under section 1851(a)(1) of the Social Security Act, every individual entitled to Medicare Part A and enrolled under Part B, except for most individuals with end-stage renal disease (ESRD), could elect to receive benefits either through the Original Medicare Program or an M+C plan, if one was offered where he or she lived. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) Public Law 108–173 was enacted on December 8, 2003. The MMA established the Medicare Prescription Drug Benefit Program (Part D) and made revisions to the provisions of Medicare Part C, governing what is now called the Medicare Advantage (MA) program (formerly Medicare+Choice). The MMA was amended on July 15, 2008 by the enactment of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA).

Coverage for the prescription drug benefit is provided through contracted prescription drug plans or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost plans that are required under section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the MA and MA–PD plans must complete an application, negotiate rates and receive final approval from CMS. Certain existing MA plans may also expand their contracted area by completing the Service Area Expansion (SAE) application. Health plans must meet regulatory requirements to enter into a contract with CMS in order to provide health benefits to Medicare beneficiaries. The revised MA applications are the collection receptacles required. Refer to the supporting document- High-Level Summary of All Part C Application Revisions- for a list of changes: *Form Number:* CMS–10237 (OMB#: 0938–0935); *Frequency:* Reporting—Yearly; *Affected Public:* Business or other for-profits and not-for-profit institutions; *Number of Respondents:* 291; *Total Annual Responses:* 291; *Total Annual Hours:* 9547. (For policy questions regarding this collection contact Letticia Ramsey at 410–786–5262. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Application for Prescription Drug Plans (PDP); Application for Medicare Advantage Prescription Drug (MA–PD); Application for Cost Plans to Offer Qualified Prescription Drug Coverage; Application for Employer Group Waiver Plans to Offer Prescription Drug Coverage; Service Area Expansion Application for Prescription Drug Coverage; *Use:* The Medicare Prescription Drug Benefit program was established by section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and is codified in section 1860D of the Social Security Act (the Act). Section 101 of the MMA amended Title XVIII of the Social Security Act by redesignating Part D as Part E and inserting a new Part D, which establishes the voluntary Prescription Drug Benefit Program (''Part D''). The MMA was amended on July 15, 2008 by the enactment of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA).

Coverage for the prescription drug benefit is provided through contracted prescription drug plans (PDPs) or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates and receive final approval from CMS. Existing Part D sponsors may also expand their contracted service area by completing the Service Area Expansion (SAE) application. Refer to supporting document ''Summary of Substantive and Technical Changes for All Part D Application Revisions from 2010 Version of Part D application to 2011 Draft Version'': *Form Number:* CMS–10137 (OMB#: 0938–0936); *Frequency:* Reporting—Once; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 453; *Total Annual Responses:* 453; *Total Annual Hours:*

11,919. (For policy questions regarding this collection contact Marla Rothouse at 410–786–8063. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *November 2, 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: September 24, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–23707 Filed 9–30–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–09–08AU]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Assessing Problem Areas in Referrals for Chronic Hematologic Malignancies and Developing Interventions to Address Them—New—Division of Cancer Prevention and Control (DCPC), National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Despite the advent of new diagnostics and therapeutics for patients with chronic hematological malignancies, data from the United States, Europe and Canada allude to a problem of timely referral and diagnosis for patients with cancer. Improving the timeliness of care and referral to appropriate specialists are key health care quality objectives.

CDC proposes to conduct a one-time study to collect qualitative and quantitative information on optimal and suboptimal referral patterns for patients with confirmed or suspected chronic hematologic malignancies. Information will be collected to identify specific factors related to delays in diagnosis and/or referral to appropriate medical specialists. Information will be collected through in-depth interviews with hematologic cancer patients, in-depth interviews and focus groups with primary care providers, interviews with specialists in hematology and oncology, and a one-time postal survey to a sample of primary care providers (PCP). The PCP survey may be completed in paper form or via the Web.

The ultimate goal is to develop tools that will improve the awareness, diagnosis, and referral of persons with chronic hematological cancers by primary care providers.

There are no costs to respondents other than their time. The total estimated annualized burden hours are 198.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	No. of respondents	No. of responses per respondent	Average burden per response (in hours)
Community Hematologists/Oncologists	Community Hematologists and Oncologists Interview Phone Recruitment Script.	100	1	2/60
	Community Hematologists and Oncologists Interview Guide.	18	1	1.5
Patients	Patient Interview Phone Recruitment Script	50	1	2/60
	Patient Interview Guide	18	1	1.5
Primary Care Providers (PCP)	PCP Survey Cover Letter	250	1	2/60
	PCP Survey	150	1	20/60
	PCP Opt-Out Card	100	1	2/60
	PCP Survey Reminder Letter	200	1	2/60
	PCP Interview Phone Recruitment Script	100	1	3/60
	PCP Interview Guide	18	1	1.5
	PCP Focus Group Phone Recruitment Script	50	1	3/60
	PCP Focus Group Guide	18	1	2

Dated: September 20, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–23681 Filed 9–30–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2009–E–0017 and FDA–2009–E–0019]

Determination of Regulatory Review Period for Purposes of Patent Extension; CLEVIPREX

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for CLEVIPREX and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6222, Silver Spring, MD 20993–0002, 301–796–3602.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product CLEVIPREX (clevidipine butyrate). CLEVIPREX is indicated for the reduction of blood pressure when oral therapy is not feasible or not desirable. Subsequent to this approval, the Patent and Trademark Office received patent term restoration applications for CLEVIPREX (U.S. Patent Nos. 5,739,152 and 5,856,346) from AstraZeneca AB, and the Patent and Trademark Office requested FDA's assistance in determining the patents' eligibilities for patent term restoration. In a letter dated February 18, 2009, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of CLEVIPREX represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for CLEVIPREX is 4,475 days. Of this time, 4,078 days occurred during the testing phase of the regulatory review period, while 397 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and CosmeticAct (the act) (21 U.S.C. 355(i)) became effective*: May 3, 1996. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on May 3, 1996.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act:* July 2, 2007. FDA has verified the applicant's claim that the new drug application (NDA) 22–156 was submitted on July 2, 2007.

3. *The date the application was approved*: August 1, 2008. FDA has verified the applicant's claim that NDA 22–156 was approved on August 1, 2008.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,314 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments and ask for a redetermination by November 30, 2009. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by March 30, 2010. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Division of Dockets Management. Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 23, 2009.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. E9–23650 Filed 9–30–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0461]

Draft Guidance for Industry on Format and Content of Proposed Risk Evaluation and Mitigation Strategies (REMS), REMS Assessments, and Proposed REMS Modifications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Format and Content of Proposed Risk Evaluation and Mitigation Strategies (REMS), REMS Assessments, and Proposed REMS Modifications.'' The Food and Drug Administration Amendments Act of 2007 (FDAAA) added new provisions to the Federal Food, Drug, and Cosmetic Act (the act) giving FDA the authority to require REMS. The draft guidance describes the format and content of a proposed risk evaluation and mitigation strategy, including REMS supporting documentation, the content of assessments and proposed modifications of approved REMS, what identifiers to use on REMS documents, and how to communicate with FDA about a REMS.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit written or electronic comments on the draft guidance by December 30, 2009.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The draft guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Regarding questions for the Center for Drug Evaluation and Research: Kathleen Frost, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 4316, Silver Spring, MD 20993–0002, 301–796–2380.

Regarding questions for the Center for Biologics Evaluation and Research: Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Format and Content of Proposed Risk Evaluation and Mitigation Strategies (REMS), REMS Assessments, and Proposed REMS Modifications.'' On September 27, 2007, the President signed into law FDAAA (Public Law 110–85). Title IX, Subtitle A, section 901 of FDAAA created new section 505–1 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355–1). Section 505–1(a) of the act authorizes FDA to require persons who submit certain applications or hold certain approved applications[1] to submit a proposed REMS if FDA determines that a REMS is necessary to ensure that the benefits of a drug outweigh the risks of the drug and informs the holder of the application for the drug of the determination. Sections 505–1(c) through (f) describe the content of a required strategy. Section 505–1(g) describes assessments and modifications of an approved strategy.

The draft guidance provides information regarding FDA's current thinking on the format and content that should be used for submissions of proposed REMS, including a description of REMS supporting documentation. It also includes preliminary information on the content of assessments and proposed modifications of approved REMS, information on identifiers that should be included on the first page of REMS submissions, and information on whom to contact to communicate with FDA about a REMS.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the format and content of proposed REMS, REMS assessments, and proposed REMS modifications. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

[1] Section 505–1(b)(2) of the act (21 U.S.C. 355(p)(1)) provides that section 505–1 of the act applies to applications for prescription drugs approved under section 505(b) or (j) of the act and applications approved under section 351 of the Public Health Service Act (42 U.S.C. 262). See Section 505(p)(1).

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

III. Paperwork Reduction Act of 1995

This guidance contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collection of information in the guidance was approved under OMB control numbers 0910–0001 and 0910–0338.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.regulations.gov*.

Dated: September 25, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23616 Filed 9–30–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Children's Study Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Children's Study Advisory Committee.

Date: October 21, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: The agenda will include a Report from the Director, NICHD, an update from the NCS Acting Director, discussions on recruitment strategies, the Vanguard Center protocol and interim outcome assessments. Additional information on the meeting logistics can be obtained on the conference Web site: *http://www.circlesolutions.com/ncs/ncsac/.*

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892.

Contact Person: Jessica Sapienza, Executive Secretary, National Children's Study, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 3A01, Bethesda, MD 20892. (703) 902–1339. *ncs@circlesolutions.com.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, drivers license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23608 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

National Mammography Quality Assurance Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: National Mammography Quality Assurance Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 2, 2009, from 9 a.m. to 5 p.m.

Location: Holiday Inn, Walker-Whetstone Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Normica Facey, Center for Devices and Radiological Health (White Oak, Bldg. 66, rm. 4652), Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–5914, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512397. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting can not always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On November 2, 2009, the committee will discuss guidance documents issued since the last meeting. The committee will also receive updates on: Interventional mammography accreditation programs, recently approved alternative standards, facility inspection findings, the status of current inspection followup actions, and the radiological health program.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 29, 2009. Oral presentations from the public will be scheduled between approximately 9:30 a.m. and 10:30 a.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 23, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 26, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 25, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23621 Filed 9–30–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; NRSA Predoctoral Training Program in Systems Biology.

Date: October 28, 2009.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Room 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Blvd., Room 5B01G, Bethesda, MD 20892–7510, 301–435–6889.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23718 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Population Sciences Subcommittee.

Date: November 5–6, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Madison Hotel, 1177 15th St., NW., Washington, DC 20005.

Contact Person: Carla T. Walls, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892. (301) 435–6898. *wallsc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23716 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–P

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; Institutional Research Training—Clinical.

Date: November 12, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036.

Contact Person: Aileen Schulte, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov*.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Services-focused DCISRs and ACISRs.

Date: November 23, 2009.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Marina Broitman, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@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, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23717 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: November 19–20, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Intramural Research Program, National Institute on Drug Abuse, NIH, Johns Hopkins Bayview Campus, Baltimore, MD 21223.

Contact Person: Stephen J. Heishman, PhD, Research Psychologist, Clinical

Pharmacology Branch, Intramural Research Program, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23602 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. 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: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Visual System.

Date: October 14–15, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christine L. Melchior, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Oral Biology SBIR.

Date: October 21–22, 2009.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Larry Pinkus, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Immunology Member Conflict.

Date: October 27, 2009.

Time: 9:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Patrick K. Lai, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, 301–435–1052, *laip@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Hematology Special Emphasis Panel.

Date: October 30, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Delia Tang, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, 301–435–2506, *tangd@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23601 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurotransporters, Receptors, and Calcium Signaling Study Section, October 15, 2009, 8:30 a.m. to October 16, 2009, 6 p.m., Palomar Hotel, 2121 P Street, NW., Washington, DC, 20037 which was published in the **Federal Register** on September 22, 2009, 74 FR 48269–48273.

The meeting will be one day only October 16, 2009, from 8 a.m. to 8 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23600 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Instruments and Devices for the Neonatal Intensive Care Units.

Date: November 2, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute, of Child Health and Human Development, 6100 Executive Blvd., Room 5B01G, Bethesda, MD 20892–7510, 301–435–6889.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23725 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: October 29, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Legacy, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Anne Krey, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892. 301–435–6908. *ak41o@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23723 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Subcommittee.

Date: October 30, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Dennis Leszczynski, PhD, Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute, of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892, (301) 435–2717, *leszczyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 25, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23720 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 12, 2009, 8 a.m. to October 13, 2009, 12 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on September 22, 2009, 74 FR 48269–48273.

The meeting will be held October 13, 2009 to October 14, 2009. The meeting time and location remain the same.

The meeting is closed to the public.

Dated: September 24, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23597 Filed 9–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0281]

Pilot Program To Evaluate Proposed Proprietary Name Submissions; Procedures To Register for Participation and Submit Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the opportunity for pharmaceutical firms (applicants) to participate in a voluntary 2-year pilot program for the evaluation of proposed proprietary names to be conducted by FDA's Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER). The pilot program will enable participating pharmaceutical firms to evaluate proposed proprietary names and submit the data generated from those evaluations to FDA for review, as outlined in the FDA concept paper entitled ''PDUFA Pilot Project Proprietary Name Review.'' This document describes procedures to register and submit data for applicants who wish to have their proposed proprietary names evaluated under the pilot program.

DATES: FDA will begin accepting requests to register for the voluntary pilot program on October 1, 2009.

ADDRESSES: Submit written requests for single copies of the concept paper to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. The concept paper may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. Send two self-addressed adhesive labels to assist the office in processing your requests. Requests should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY**

INFORMATION section for electronic access to the concept paper.

FOR FURTHER INFORMATION CONTACT:

Carol Holquist, Center for Drug Evaluation and Research, Office of Surveillance and Epidemiology, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 4416, Silver Spring, MD 20993–0002, e-mail: *proprietary namereview@fda.hhs.gov* with the subject line identified as ''PNR Pilot Program for CDER/DMEPA;'' or

Ele Ibarra-Pratt, Center for Biologics Evaluation and Research, Advertising and Promotional Labeling Branch (HFM–602), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, e-mail: *CBERAPLB@fda.hhs.gov* with the subject line identified as ''PNR Pilot Program for CBER/APLB.''

SUPPLEMENTARY INFORMATION:

I. Background

In title I of the Food and Drug Administration Amendments Act of 2007 (FDAAA) (Public Law 110–85), Congress reauthorized and expanded the Prescription Drug User Fee program for fiscal years 2008 to 2012 (PDUFA IV). In performance goals agreed to in conjunction with the reauthorization of PDUFA IV, FDA agreed to publish a concept paper on and implement a pilot program to enable pharmaceutical firms participating in the pilot program to evaluate proposed proprietary names and submit the data generated from those evaluations to FDA for review. (See section IX.B at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm119243.htm*.) This process is consistent with other areas of drug review in which FDA evaluates data generated by firms rather than producing such data independently. FDA agreed to conduct a public meeting to discuss the content of the concept paper, which describes the following: (1) The logistics of the pilot program, (2) proposed recommendations for carrying out a proprietary name review, and (3) the way FDA intends to review submissions made under the pilot program. In keeping with the performance goals:

- On June 5 and 6, 2008, FDA held a public technical meeting (see meeting notice at 73 FR 27001, May 12, 2008), to discuss a draft concept paper describing the pilot program and FDA's thinking about how pharmaceutical firms could participate in the pilot program to evaluate proposed proprietary names and submit the data generated to FDA for review. FDA considered comments received at the meeting and submitted to the public docket.
- In the **Federal Register** of October 7, 2008 (73 FR 58604), FDA announced the availability of the concept paper entitled ''PDUFA Pilot Project Proprietary Name Review.'' The concept paper provides information to pharmaceutical firms about how to evaluate proposed proprietary names at the new drug application (NDA) or biologics license application (BLA) phase or investigational new drug application (IND) phase (before NDA or BLA submission) or when an abbreviated new drug application (ANDA) is submitted, and to submit the data generated from those evaluations to FDA for review.

In addition to developing the concept paper for the pilot program, FDA announced the availability of a draft guidance for industry entitled ''Contents of a Complete Submission for the Evaluation of Proprietary Names'' (draft proprietary names submission guidance) (73 FR 71009, November 24, 2008).[1] FDA also announced the availability of the source code and supporting technical documentation for the Phonetic Orthographic Computer Analysis (POCA) software program, an analytic tool designed to help identify drug and biologic names and medical terminology that are phonetically and orthographically similar to one another (74 FR 7450, February 17, 2009). POCA is one analytic tool that FDA uses to review proposed proprietary drug and biologic names.

II. PDUFA Pilot Program Proprietary Name Review Logistics

A. Overview

As discussed in the concept paper (section III of PDUFA Pilot Program—Logistics), applicants should contact the appropriate FDA center to register to participate in the pilot program before making their proprietary name submissions (see **FOR FURTHER INFORMATION CONTACT** and **DATES**). This document describes the following procedures for implementing the pilot program:

- Who the FDA points-of-contact are to register for participation,
- How to register by e-mail and what information to provide,
- When and where to send proposed proprietary name submissions, and
- What type of information to include in a complete submission to support parallel reviews of a proposed proprietary name.

B. Registration Is Required To Participate in the Pilot Program

As discussed in the concept paper, FDA will strive to include a cross-section of applicants that represent large, medium, and small companies during the 2-year program. FDA hopes that 25 to 50 proposed proprietary name submissions will be received and reviewed under the pilot program. To achieve this goal and to manage workload within the PDUFA IV timelines, FDA will only be able to accept an average of one to two submissions per month. Consequently, it will be necessary to register to participate before making a proposed proprietary name submission under the pilot program. To determine if space is available for an applicant to participate in the pilot program and agree on a date to make its planned submission, applicants should contact the designated point-of-contact for the appropriate center by e-mail as described in the following two sections of this document.

1. Registration for CDER Review

For proposed proprietary names that are being submitted as part of an IND, NDA, BLA, ANDA, or supplement reviewed by CDER, contact Carol Holquist by e-mail at *proprietaryname review@fda.hhs.gov*. Applicants should provide the following information in the e-mail for registration:

- E-mail subject heading: ''PNR Pilot Program for CDER/DMEPA,''
- First sentence in e-mail should indicate: ''Request for Registration in PNR Pilot Program,''
- Company name,
- Name of U.S. regulatory contact (include telephone number and e-mail address),
- Name of entity conducting proprietary name analysis (applicant company or third-party vendor),
- Application type (IND, NDA, BLA, ANDA, or supplement) and application number,

[1] The draft proprietary names submission guidance is not intended to address the PDUFA IV performance goal of developing and implementing a pilot program for evaluating proposed proprietary names, or other PDUFA IV performance goals. Rather, the draft proprietary names submission guidance, when finalized, is intended to promote prevention of medication errors by assisting industry in the submission of complete product information that will help FDA to evaluate the safety of proposed proprietary drug and biological product names, taking into account other factors that, in association with the name, can contribute to medication errors. Persons with access to the Internet may obtain the draft proprietary names submission guidance at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*, or *http://www.regulations.gov*.

• Proposed proprietary name (identify primary and alternate proprietary name, if any), and
• Approximate (requested) month for intended submission.

2. Registration for CBER Review

For biological drug products that are the subject of an IND, NDA, BLA, or supplement reviewed by CBER, contact Ele Ibarra-Pratt by e-mail at *CBERAPLB@fda.hhs.gov*. Applicants should provide the same information listed previously in section II.B.1 of this document, except that the e-mail subject heading should be: ''PNR Pilot Program for CBER/APLB.''

C. FDA Will Confirm Registration

FDA will respond to an applicant's e-mail request for registration to participate in the voluntary pilot program. The FDA point-of-contact will determine if the requested date of submission, by month, is available. If the requested date is available, FDA will e-mail the applicant confirming the applicant's registration in the pilot program.

If the applicant's requested date of submission, by month, is *not* available, FDA will propose an alternate date for the applicant to make the proprietary name submission under the pilot program. FDA will confirm the applicant's registration to participate once the applicant replies to FDA's e-mail acknowledging the acceptability of the alternate date.

If the alternate date is not acceptable to the applicant, the applicant should promptly notify FDA by e-mail. If an alternate date cannot be agreed upon and/or the applicant does not wish to participate in the pilot program, the applicant should so state in the e-mail response to FDA. An applicant that is not registered in the pilot program will submit its proposed name to the FDA for analysis and evaluation using FDA's traditional approach to the review of proposed proprietary names (see the draft proprietary names submission guidance).

D. Submissions Under the Pilot Program

1. When To Submit

Applicants registered in the pilot program should send their submissions to FDA for receipt within the first 2 business days of the agreed month. If the submission is not received on the first 2 business days of the agreed month, workload priorities may affect FDA's ability to review the proposed proprietary name as scheduled under the pilot program and FDA may convert the submission to a traditional review.

2. What to Submit—Content of Submission for Parallel Reviews

For all proprietary name submissions, the first page of the submission should include the statement ''REQUEST FOR PROPRIETARY NAME REVIEW'' in bold, capital letters. This statement should be immediately followed by the header ''PILOT PROGRAM'' in bold, capital letters.

Applicants should separate the data contained in the single submission into two separate sections to enable parallel reviews by FDA as follows:

• *Section I* should be labeled ''TRADITIONAL REVIEW'' and should contain the proposed proprietary name information that is submitted under FDA's traditional practice. For more information, see the draft proprietary names submission guidance and section III of Appendix B (Proposed Template for a Pilot Program Submission) of the concept paper. If this information is submitted as part of the pilot program, it is not necessary to submit it to the agency again.

• *Section II* should be labeled ''PILOT REVIEW'' and should contain the comprehensive evaluation of the proposed proprietary name, including the information and data listed in Appendix B of the concept paper. Only the data for the applicant's primary proposed proprietary name should be submitted. If the applicant has identified an alternate proprietary name, requests for the data regarding that name will be made only if FDA decides that the primary proposed proprietary name is not acceptable, after the decision is communicated to the applicant (see section II.E.1 of this document, Process to Request FDA Review of an Alternate Proposed Proprietary Name).

Although *Sections I* and *II* are contained in a single submission, the applicant should ensure that the data contained in each section can be reviewed independently. Data should not be cross-referenced; each section should encompass all of the data elements required for a complete submission. The prominent identification of the two sections of proposed proprietary name information will maintain the validity of the independent parallel reviews.

All proprietary name submissions under the pilot program will be screened for completeness (i.e., submission of information needed to evaluate the proprietary name). Applicants will be notified in writing if the submission does not contain all of the information needed to conduct the parallel reviews. Once the proposed proprietary name submission is considered complete, the submission will be reviewed within the PDUFA IV review performance goal timeframes [2] (i.e., IND—180 days from receipt of complete submission; NDA or BLA—90 days from receipt of complete submission).

3. How To Submit—Paper or Electronic Form

Submissions may be in paper or electronic form. For paper submissions, applicants should submit three copies of the submission to the same address as the original product application with which the proposed proprietary name is associated. Submit packages for proposed proprietary names for drugs, including biologics, that are the subject of an IND, NDA, BLA, or supplement to be reviewed by CDER to:

Center for Drug Evaluation and Research,
Food and Drug Administration,
Documents and Records Section,
5901–B Ammendale Road,
Beltsville, MD 20705–1266.

Submit packages for proposed proprietary names for biological drug products that are the subject of an IND, NDA, BLA, or supplement to be reviewed by CBER to:

Center for Biologics Evaluation and Research,
Document Control Center (HFM–602),
1401 Rockville Pike, rm. 200N,
Rockville, MD 20852–1448.

For electronic submissions, applicants should refer to FDA's Web site ''Electronic Common Technical Document (eCTD)'' at *http://www.fda.gov/Drugs/DevelopmentApprovalProcess/FormsSubmissionRequirements/ElectronicSubmissions/ucm153574.htm* and at *http://www.fda.gov/BiologicsBloodVaccines/DevelopmentApprovalProcess/ucm163685.htm*. Refer specifically to the following documents on the Web page:

• Guidance for industry on ''Providing Regulatory Submissions in Electronic Format—Human Pharmaceutical Product Applications and Related Submissions Using the eCTD Specifications,''
• eCTD Backbone File Specifications for Module 1, and
• FDA eCTD Table of Contents Headings and Hierarchy.

Applicants are encouraged to use the Electronic Submissions Gateway (ESG) to submit regulatory information. For information on the use of the ESG, refer

[2] For proposed proprietary names that are submitted in an ANDA, the PDUFA IV performance goal timeframes do not apply.

to *http://www.fda.gov/ForIndustry/ElectronicSubmissionsGateway/default.htm*.

4. Communications Concerning the Planned Submission

Applicants participating in the pilot program should contact the appropriate center point-of-contact by e-mail (see **FOR FURTHER INFORMATION CONTACT**) 120 days prior to the intended date of the proposed proprietary name submission to discuss specific details of the planned submission. If applicants plan to use alternative or additional methods to evaluate the safety of their proposed proprietary name(s), they should inform the appropriate center 120 days prior to their planned submission date. FDA does not have the resources to review the proposed alternative methodologies with the intent of coming to agreement with an applicant on the appropriateness of these alternative methodologies prior to submission. In such cases, FDA will review the alternative methodologies during the review of the actual submission.

If applicants have questions concerning the planned submission under the pilot program, they should contact the appropriate center point-of-contact by e-mail (see **FOR FURTHER INFORMATION CONTACT**) to discuss their questions. If necessary, applicants will be asked to submit their questions in writing; in some cases, a teleconference or face-to-face meeting to discuss the planned submission may be appropriate.

E. Process To Request FDA Review of an Alternate Proposed Proprietary Name

If, after parallel reviews of the proprietary name submission, FDA informs the applicant that the primary proposed proprietary name is unacceptable, the applicant should confirm in writing that it would like its previously identified alternate proposed proprietary name to be reviewed or submit a different alternate proprietary name. At this time, the applicant can request to have the alternate proprietary name evaluated by FDA under the pilot program or by the traditional review method. If the request is to have the alternate proprietary name reviewed under the pilot program, the applicant should submit the comprehensive evaluation of the alternate proposed proprietary name, including the information and data described in section II.D.2 of this document. If the request is to have the alternate proprietary name evaluated by the traditional method, the applicant may reference the information previously submitted for parallel review of the proposed primary proprietary name (*Section I* of the pilot program submission labeled ''TRADITIONAL REVIEW'').

A new proprietary name review clock for an alternate proposed proprietary name will not start until:

(1) The applicant has confirmed to the appropriate center, in writing, that it would like its alternate proprietary name evaluated by traditional review method or

(2) FDA receives the applicant's submission of an alternate proposed proprietary name along with the comprehensive information for section II ''PILOT REVIEW'' described in section II.D.2 of this document.

For either review method requested (traditional or pilot), the same PDUFA IV review performance goal timeframes apply to the review of the submission of an alternate proposed proprietary name (i.e., IND—180 days from receipt of complete submission; NDA or BLA—90 days from receipt of complete submission).

If the applicant requests that its alternate proprietary name be evaluated under the pilot program, the agency will take into account the date of the alternate proprietary name submission as it relates to the PDUFA IV goal for the application. The responsible center will use discretion to determine whether the agency will conduct a parallel review of the applicant's analysis or only a proprietary name evaluation using FDA's traditional approach. Although FDA would ideally also review the applicant's completed proprietary name analysis for the alternate name under the pilot program, resources may not permit such a review. Factors such as staffing will be used in making this determination.

F. Duration and Evaluation of the Pilot Program

At the end of fiscal year 2011, or after accruing 2 years of experience with pilot program submissions, FDA intends to evaluate the pilot program to determine whether to have applicants perform their own proprietary name analysis and submit resulting data to FDA for review. The results of this pilot program and recommended additions and/or changes to methods based on the reported results will be discussed in a future public meeting. Following that meeting, FDA will publish a draft guidance describing the best test methods for proprietary name evaluation.

III. Paperwork Reduction Act of 1995

The information collection provisions of this pilot program, excluding the submission of information that is part of the agency's traditional review of proprietary names, have been submitted to the Office of Management and Budget (OMB) for review, as required by section 3507 of the Paperwork Reduction Act of 1995. The provisions were approved and assigned OMB control number 0910–0648. This approval expires September 30, 2012. The proprietary name information submitted as part of the traditional review of proprietary names is approved under OMB control numbers 0910–0001 and 0910–0338. 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.

IV. Electronic Access

Persons with access to the Internet may obtain the concept paper at *http://www.fda.gov/downloads/Drugs/GuidanceCompliance RegulatoryInformation/Guidances/ucm072229.pdf*.

Dated: September 25, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23620 Filed 9–30–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Community Services, Program Expansion Supplement Grant Award

AGENCY: Office of Community Services, ACF, HHS.

ACTION: Notice to award a Program Expansion Supplement Grant.

CFDA Number: 93.710.

Legislative Authority: The legislative authority is provided in the American Recovery and Reinvestment Act of 2009 (ARRA) [Pub. L. 111–5]. Additional legislative authority and requirements are provided in Section 674(b)(2)(B) of the Community Services Block Grant Act (CSBG), as amended, by the Community Opportunity Accountability, and Training and Educational Services (Coats Human Services Reauthorization Act of 1998) [Pub. L. 105–285].

Amount of Award: $500,000.

Project Period: July 1, 2009–June 30, 2010.

Summary: The Office of Community Services (OCS) announces the award of a $500,000 single source program

expansion supplement to the National Association for State Community Services Programs (NASCSP), located in Washington, DC, to support performance training and technical assistance on data collection, analysis and dissemination issues faced by state community services programs within the Community Services Block Grant (CSBG) Network; develop performance based reporting tools for ARRA CSBG funded activities; develop and maintain a catalog of innovative programs and practices related to the American Recovery and Reinvestment Act of 2009 (ARRA). The project activities are designed to support and strengthen the ability of the CSBG Network to comply with and carry out CSBG activities funded by ARRA. The training projects and resources developed under the award will include analysis and explanation of the practical impact of ARRA for States and CSBG-eligible entities so that they can work more effectively to reach the ARRA goals and document how they have in fact reached those goals and used the ARRA funds.

Contact for Further Information: Danielle Williams, U.S. Department of Health and Human Services, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20047, Telephone: (202) 205–4717, E-mail: *Danielle.Williams@acf.hhs.gov*.

Dated: September 25, 2009.

Yolanda J. Butler,

Acting Director, Office of Community Services.

[FR Doc. E9–23726 Filed 9–30–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0294]

Regulation of Tobacco Products; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to December 28, 2009, the comment period for the notice that appeared in the **Federal Register** of July 1, 2009 (74 FR 31457). In the notice, FDA requested comments on the implementation of the Family Smoking Prevention and Tobacco Control Act (the Tobacco Act). The agency is taking this action in response to a request for an extension to allow interested persons additional time to submit comments.

DATES: Submit electronic and written comments by December 28, 2009.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*.

Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Erik Mettler, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD, 20850–3229, 301–796–4830, *Erik.Mettler@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of July 1, 2009 (74 FR 31457), FDA published a notice with a 90-day comment period to request comments on the implementation of the Tobacco Act. Comments from the public will inform FDA's actions implementing the Tobacco Act.

The agency has received a request for an extension of the comment period for the notice. This request conveyed concern that the current 90-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the notice.

FDA has considered the request and is extending the comment period for the notice for 90 days, until December 28, 2009. The agency believes that a 90-day extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

II. Request for Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments on this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 25, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23607 Filed 9–28–09; 11:15 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–600; Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form N–600, Application for Certificate of Citizenship; OMB Control Number 1615–0057.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 25, 2009, at 74 FR 30315, allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 2, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at rfs.regs@dhs.gov, and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov*.

When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0057 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–600, U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. USCIS uses the information on the form to make a determination that the citizenship eligibility requirements and conditions are met by the applicant.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 88,500 responses at 1 hour and 35 minutes (1.583 hours) per responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 140,095 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, telephone number 202–272–8377.

Dated: September 25, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9–23639 Filed 9–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Application-Permit-Special License Unlading-Lading-Overtime Services

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0005.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the U.S. Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application-Permit-Special License Unlading-Lading-Overtime Services. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before November 30, 2009, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Application-Permit-Special License Unlading-Lading-Overtime Services.

OMB Number: 1651–0005.

Form Number: Form 3171.

Abstract: Form 3171 is used by commercial carriers and importers as a request for permission to unlade imported merchandise, baggage, or passengers, and for overtime services of CBP officers in connection with lading or unlading of merchandise, or the entry or clearance of a vessel.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,500.

Estimated Number of Annual Responses per Respondent: 266.

Estimated Number of Total Annual Responses: 399,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 51,870.

Dated: September 28, 2009.

Tracey Denning,

Agency Clearance Officer, Customs and Border Protection.

[FR Doc. E9–23676 Filed 9–30–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–817; Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form I–817, Application for Family Unity Benefits; OMB Control No. 1615–0005.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of

Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 15, 2009, at 74 FR 28266, allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 2, 2009. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.*

When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0005 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Family Unity Benefits.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–817; U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information collected will be used to determine whether the applicant meets the eligibility requirements for benefits under 8 CFR 236.14 and 245a.33.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 6,000 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,000 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/*.

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: September 25, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services.

[FR Doc. E9–23641 Filed 9–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–589; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Form I–589, Application for Asylum and Withholding for Removal; OMB Control No. 1615–0067.

The Department Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until November 30, 2009.

During this 60 day period, USCIS will be evaluating whether to revise the Form I–589. Should USCIS decide to revise Form I–589 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form I–589.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Clearance Officer, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*. When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0067 in the subject box. Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Application for Asylum and Withholding of Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–589;

U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–589 is necessary to determine whether an alien applying for asylum and/or withholding of deportation in the United States is classified as refugee, and is eligible to remain in the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 63,138 responses at 12 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 757,656 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210, Telephone number 202–272–8377.

Dated: September 25, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–23640 Filed 9–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–30]

Emergency Comment Request; Notice of Proposed Information Collection for Public Comment; FHA Lender Approval, Annual Renewal, Periodic Updates and Noncompliance Reporting by FHA Approved Lenders

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 15, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (14) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number) and should be sent to: Ross A. Rutledge, HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail: *Ross_A._Rutledge@omb.eop.gov*; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian L. Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L_Deitzer@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to implement statutory changes related to FHA approved lenders contained in Section 203 of the ''Helping Families Save Their Homes Act of 2009'' (Pub. L. 111–22) (the HFSH Act). The HFSH Act establishes: (1) Additional ineligibility criteria for FHA-approved lenders and mortgagees including any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant seeking FHA lender approval or any currently approved FHA lender; (2) new reporting requirements if individual employees of the lender are subject to any sanction or any other administrative action, including if there is a revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Act; and (3) a new requirement that FHA lenders must use their business name as registered with FHA in all of their marketing materials.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: FHA Lender Approval, Annual Renewal, Periodic Updates and Required Reports from FHA Approved Lenders.

OMB Control Number, if applicable: 2502–0005.

Description of the need for the information and proposed use: This information is required for: (1) FHA lender approval, (2) Annual renewal of each FHA lender's approval, (3) Updates to a FHA lender's approval and (4) Various reports from FHA lenders.

AGENCY FORM NUMBERS, IF APPLICABLE

HUD–92001–A	FHA Lender Approval Application Form
HUD–92001–B	FHA Branch Registration Form
HUD–92001–C	Conversion of Existing FHA Lender Approval Type Application Form
HUD 92001–D Previously HUD–92001–C.	Title I Loan Noncompliances Report
HUD–92001–E	Application Fee Cover Sheet for Title I Approvals
HUD–92001–F	Application Fee Cover Sheet for Title II Approvals
HUD–92001–LC.	FHA Loan Correspondent Application Approval Form

ESTIMATION OF THE TOTAL NUMBERS OF HOURS NEEDED TO PREPARE THE INFORMATION COLLECTION INCLUDING NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, AND HOURS OF RESPONSE

[Information collection burden for 2502–0005]

Item No.	Information collection	Number of respondents	Total annual responses	Hours per response	Total annual hours	Cost per hour	Total annual cost
A	Non-online submission of HUD–92001–A Application for FHA Lender Approval.	400	400	2.00	800	$47	$37,600
B	Online submission of HUD–92001–A Application for FHA Lender Approval (Currently under development).			.50		47	
C	Non-online submission of HUD–92001–LC Application for FHA Loan Correspondent Approval.	1,800	1,800	2.00	3,600	47	169,200
D	Non-online submission of HUD–92001–C Application for Conversion of Existing FHA Lender Approval Type.	200	200	2.00	400	47	18,800
E	Non-online Submission of HUD–92100–B Application for Registration of New Branch (including attachments).		500	.50	250	47	11,750
F	Online Registration of New Branches via FHA Connection.		2,000	.10	200	47	9,400
G	Non-online Submission of HUD–92001–D Reporting of Title I Loan Non-Compliance.		100	1.00	100	47	4,700
H	Online Submission of Reporting of Title II Loan Non-Compliance.		4,800	.15	720	47	38,840
I	Non-online submission of HUD–92001–E and 92001–F Cover Sheets for Title I and Title II Lender Approval Applications or Conversion Fee Payment.		2,400	.05	120	47	5,640
J	Online Application Fee Payment for Title I or Title II Lender Approval or Conversion (currently under development).			.05			
K	Non-online submission of HUD 92001–E and 92001–F Cover Sheets for Title I and Title II Branch Fee Payment.		500	.05	25	47	1,175
L	Online Branch Registration Fee for Title I or Title II Branches.		2,000	.05	100	47	4,700
M	Online Annual Certification Report for all Title I and Title II approved lenders and loan correspondents.	14,000	14,000	.10	1,400	47	65,800
N	Online Submission of Annual Audited Financial Statements using the Lender Assessment SubSystem via FHA Connection by Title I and Title II Nonsupervised Lenders, Supervised Lenders and Nonsupervised Loan Correspondents.		11,000	3.00	33,000	47	1,510,000
O	Online payment of annual renewal fee by all FHA Lenders except Government Lenders.		13,800	.05	690	47	32,430
P	Online Termination of Existing Branch by all lenders.		4,000	.05	200	47	9,400
Q	Online Business Changes of a Lender		5,000	.25	1250	47	58,750
R	Non-Online Business Changes of a Lender.		4,000	.50	2,000	47	94,000
S	Non-online Credit Watch Termination Reinstatement Requests.		20	8.00	160	47	7,520
Totals			66,520		45,015	47	2,115,705

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 24, 2009.

Lillian L. Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E9–23710 Filed 9–30–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–32]

Notice of Proposed Information Collection: Comment Request Revitalization Area Designation and Management

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 30, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; e-mail *Lillian_L._Deitzer@HUD.gov* or telephone (202) 402–8048.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–1672 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Revitalization Area Designation and Management.

OMB Control Number, if applicable: 2502–0566.

Description of the need for the information and proposed use: The Department accepts requests from local governments or interested nonprofit organizations to designate specified geographic areas as revitalization areas. A request must describe the nominated area in terms of census block groups.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of burden hours is 24. The number of respondents is 12, the number of responses is 12, the frequency of response is on occasion, and the burden hour per response is 2.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: September 24, 2009.

Ronald Y. Spraker,

Acting General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. E9–23635 Filed 9–30–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5285–N–31]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; the Green Retrofit Program of the American Recovery and Revitalization Act of 2009

AGENCY: Office of Affordable Housing Preservation of the Office of Housing, Department of Housing and Urban Development.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 15, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within fourteen (14) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number) and should be sent to: Ross A. Rutledge, HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail: *Ross_A._Rutledge@omb.eop.gov;* fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian L. Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L_Deitzer@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

SUPPLEMENTARY INFORMATION:

This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to the Green Retrofit Program authorized by the American Recovery and Revitalization Act of 2009. The legislation includes authority for HUD to make loans, make grants, and take a variety of other actions to facilitate utility-saving investments and other investments that produce environmental benefits, in certain existing HUD-assisted multifamily housing, subject to agreement between HUD and the Owner. The Green Retrofit Program is detailed in HUD Notice H 09–02 issued on May 13, 2009.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the

burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: The Green Retrofit Program of the American Recovery and Revitalization Act of 2009.

Description of Information Collection: Information will be collected to ensure compliance with program mandates, Recovery Act reporting requirements, Davis-Bacon wage reporting requirements, and to measure the effectiveness of Green retrofits.

OMB Control Number: 2502–NEW.

Agency Form Numbers: None.

Members of Affected Public: Profit-motivated and not-for-profit owners of multifamily housing projects which have been approved for a grant or loan under the Green Retrofit Program. Eligible grant or loan recipients include projects receiving rental assistance pursuant to:

- Section 202 of the Housing Act of 1959 (12 U.S.C. 17012),
- Section 811 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 8013); or
- Section 8 of the United States Housing Act of 1937 as amended (42 U.S.C. 1437f).

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: An estimation of the total number of hours needed to prepare the information collection is 9,800, number of respondents is 200, the frequency of response is occasionally and the hours per response is approximately 3 hours.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 24, 2009.

Lillian L. Deitzer,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E9–23636 Filed 9–30–09; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5341–N–01]

Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2009 Continuum of Care (CoC) Homeless Assistance Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD announces the availability on its website of the applicant information, deadline information, and other requirements for the Continuum of Care (CoC) Homeless Assistance Program NOFA for FY2009. Approximately $1.43 billion is made available through this NOFA, through the Omnibus Appropriations Act, 2009 (Pub. L. 111–8, approved March 11, 2009). Carried over or recaptured funds from previous fiscal years, if available, may be added to this amount. Applicants may obtain copies of HUD's FY2009 CoC NOFA and the HUD's Fiscal Year 2009 Notice of Funding Availability (NOFA) Policy Requirements and General Section to HUD's FY2009 NOFAs for Discretionary Programs (General Section) at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* Applicants will be required to complete and submit their applications in *e-snaps* at *http://www.hud.gov/esnaps.* This system is not part of Grants.gov. Applicants are strongly encouraged to carefully review application submission requirements contained in the FY2009 CoC NOFA.

The Catalogue of Federal Domestic Assistance (CFDA) numbers for the CoC Homeless Assistance Program are: 14.235, Supportive Housing Program (SHP); 14.238, Shelter Plus Care (S+C) and 14.249, Section 8 Moderate Rehabilitation Single Room Occupancy (SRO).

FOR FURTHER INFORMATION CONTACT: Questions regarding specific program requirements should be directed to the agency contact identified in the program NOFA. Questions regarding the 2009 General Section should be directed to the Office of Departmental Grants Management and Oversight at 202–708–0667 (this is not a toll-free number) or the NOFA Information Center at 1–800–HUD–8929 (toll-free). Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

Dated: September 23, 2009.

Mercedes Márquez,

Assistant Secretary for Community Planning and Development.

[FR Doc. E9–23637 Filed 9–30–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

National Park Service

Rock Creek Park; Notice of extension of public comment period for the Draft Environmental Impact Statement and White-tailed Deer Management Plan for Rock Creek Park

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice of Extension of Public Comment Period for Draft Environmental Impact Statement and White-tailed Deer Management Plan for Rock Creek Park, Washington, DC.

SUMMARY: The National Park Service (NPS) is extending the public comment period through November 2, 2009, for the Draft Environmental Impact Statement (DEIS) and White-tailed Deer Management Plan for Rock Creek Park.

DATES: Comments must be received by November 2, 2009.

ADDRESSES: You may submit written comments by the following methods:

- Electronically, using the online comment form available on the NPS Planning, Environment and Public Comment (PEPC) Web site at *http://parkplanning.nps.gov/rocr* by selecting the link ''Deer Management Plan for Rock Creek Park.''
- In writing, addressed to: Superintendent, Rock Creek Park, 3545 Williamsburg Lane, NW., Washington, DC 20008.

The DEIS and White-tailed Deer Management Plan is available electronically at the website above, and bound copies are also available at the Rock Creek Nature Center, 5200 Glover Road, NW., Washington DC; at Rock Creek Park Headquarters, 3545 Williamsburg Lane, NW., Washington, DC; and at public libraries adjacent to Rock Creek Park.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. If you previously submitted

comments on the DEIS and White-tailed Deer Management Plan, please do not resubmit them, as your comments are already incorporated into the public record and will be fully considered in our final decision.

FOR FURTHER INFORMATION CONTACT: Adrienne A. Coleman, Superintendent, Rock Creek Park, at 3545 Williamsburg Lane, NW., Washington, DC 20008, or by telephone at (202) 895–6000.

Dated: September 24, 2009.

Margaret O'Dell,

Regional Director, National Capital Region.

[FR Doc. E9–23706 Filed 9–30–09; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–473 and 731–TA–1173 (Preliminary)]

Certain Sodium and Potassium Phosphate Salts From China

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping and countervailing duty investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701–TA–473 and 731–TA–1173 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of certain sodium and potassium phosphate salts,[1] provided for in subheadings 2835.24.00, 2835.31.00, and 2835.39.10 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by November 9, 2009. The Commission's views are due at Commerce within five business days thereafter, or by November 17, 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:* September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Jennifer Merrill (202–205–3188), 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 September 24, 2009, by ICL Performance Products, LP (St. Louis, MO) and Prayon, Inc. (Augusta, GA).

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 antidumping and countervailing 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 Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on October 15, 2009, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Jennifer Merrill (202–205–3188) not later than October 13, 2009, to arrange for their appearance. Parties in support of the imposition of antidumping and countervailing 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 October 20, 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

[1] The petition individually identifies sodium tripolyphosphate, monopotassium phosphate, dipotassium phosphate, and tetrapotassium pyrophosphate.

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: September 25, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–23627 Filed 9–30–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–776–779 (Second Review)]

Preserved Mushrooms From Chile, China, India, and Indonesia

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on preserved mushrooms from Chile, China, India, and Indonesia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is November 2, 2009. Comments on the adequacy of responses may be filed with the Commission by December 15, 2009. For further information concerning the conduct of these reviews 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, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

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

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 2, 1998, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of preserved mushrooms from Chile (63 FR 66529) and on February 19, 1999, Commerce issued antidumping duty orders on imports of preserved mushrooms from China, India, and Indonesia (64 FR 8308–8312). Commerce subsequently revoked in part the order on imports from Indonesia (68 FR 39521, July 2, 2003). Following five-year reviews by Commerce and the Commission, effective November 17, 2004, Commerce issued a continuation of the antidumping duty orders on imports of preserved mushrooms from Chile, China, India, and Indonesia (69 FR 67308). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are Chile, China, India, and Indonesia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its full five-year review determinations, the Commission found one domestic like product consisting of preserved mushrooms corresponding to the scope of Commerce's investigations.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its full five-year review determinations, the Commission defined the *Domestic Industry* to consist of all domestic producers of preserved mushrooms. Certain Commissioners defined the *Domestic Industry* differently in the original investigations.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy

Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 2, 2009. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is December 15, 2009. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 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). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be provided in response to this notice of institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2003.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2008, except as noted (report quantity data in pounds, drained weight, and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in pounds, drained weight, and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2008 (report quantity data in pounds, drained weight, and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2003, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 25, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–23564 Filed 9–30–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–658]

In the Matter of Certain Video Game Machines and Related Three-Dimensional Pointing Devices; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation Based on a Settlement Agreement

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 the presiding administrative law judge's initial determination (''ID'') (Order No. 44) granting a joint motion to terminate the above-captioned investigation based on a settlement agreement.

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 September 23, 2008, based on a complaint filed by Hillcrest Laboratories, Inc. of Rockville, Maryland (''Hillcrest''), alleging 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 video game machines and related three-dimensional pointing devices by reason of infringement of certain claims of United States Patent Nos. 7,139,983; 7,158,118; 7,262,760; and 7,414,611. 73 FR 54854 (September 23, 2008). The complaint named Nintendo Co., Ltd. of Japan and Nintendo of America, Inc. of Redmond, WA (collectively, ''Nintendo'') as respondents.

On August 21, 2009, Hillcrest and Nintendo jointly moved to terminate the investigation based on a settlement agreement. On August 31, 2009, the Commission investigative attorney supported the motion.

On September 8, 2009, the presiding administrative law judge issued the subject ID terminating the investigation. No petitions for review of this ID were filed.

The Commission has determined not to review the 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.

Marilyn R. Abbott,

Secretary to the Commission.

Issued: September 28, 2009.

William R. Bishop,

Acting Secretary to the Commission.

[FR Doc. E9–23665 Filed 9–30–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in United States v. Waste Management of Wisconsin, Inc., et al. Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Notice is hereby given that on September 25, 2009, a proposed Consent Decree was lodged with the United States District Court for the Eastern District of Wisconsin in *United States* v. *Waste Management of Wisconsin, Inc., et al.,* Case No. 09–cv–0135. The Consent Decree between the United States, on behalf of the U.S. Environmental Protection Agency (''U.S. EPA''), and the settling defendant relates to certain liabilities under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.,* in connection with the Watertown Tire Fire Site in Watertown, Wisconsin (the ''Site''). Under the proposed Consent Decree, the settling defendant is required to pay $3,500 to reimburse costs incurred by U.S. EPA in connection with the Site.

The Department of Justice will receive comments relating to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Waste Management of Wisconsin, Inc., et al.,* DJ Ref. No. 90–11–3–09429.

The Consent Decree may be examined at the Office of the United States Attorney for the Eastern District of Wisconsin, 517 E. Wisconsin Ave., Suite 530, Milwaukee, WI 53202–4580 by request to Assistant U.S. Attorney Matthew Richmond, and at the U.S. EPA Region V, 77 West Jackson Blvd., Chicago, IL 60604. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–23748 Filed 9–30–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Parole Commission

Public Announcement; Pursuant to the Government in the Sunshine Act (Pub. L. 94–409) [5 U.S.C. 552b]; Meeting Notice

TIME AND DATE: 10 a.m., Tuesday, October 6, 2009.

PLACE: 5550 Friendship Blvd., Fourth Floor, Chevy Chase, MD 20815.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of Minutes of July 16, 2009 Quarterly Business Meeting.
2. Approval of Final Rule on Applying the 1987 DC Board of Parole Guidelines to Sellmon cases.
3. Reports from the Chairman, Commissioners, Chief of Staff, and Section Administrators.

AGENCY CONTACT: Thomas W. Hutchison, Chief of Staff, United States Parole Commission. (301) 492–5990.

Dated: September 24, 2009.

Rockne J. Chickinell,

General Counsel, U.S. Parole Commission.

[FR Doc. E9–23593 Filed 9–30–09; 8:45 am]

BILLING CODE 4410–31–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

September 25, 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—ETA, 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: Employment and Training Administration.

Type of Review: Extension with change of a currently approved collection.

Title of Collection: Distribution of Characteristics of the Insured Unemployed.

OMB Control Number: 1205–0009.

Agency Form Number: ETA–203.

Affected Public: State Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Annual Burden Hours: 212.

Total Estimated Annual Costs Burden (does not include hour costs): $0.

Description: The ETA–203 is the only source of current, consistent demographic information (age, race/ethnic, sex, occupation, industry) on the Unemployment Insurance (UI) claimant population. These characteristics identify important claimant cohorts for legislative, economic and social planning purposes, and evaluation of the UI program on the Federal and State levels. For additional information, see related notice published at Volume 73 FR 77062 on December 18, 2008.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Placement Verification and Follow-up of Job Corps Participants.

OMB Control Number: 1205–0426.

Agency Form Number: N/A.

Affected Public: Individuals or households.

Total Estimated Number of Respondents: 73,373.

Total Estimated Annual Burden Hours: 15,593.

Total Estimated Annual Costs Burden (does not include hour costs): $0.

Description: This submission requests approval of three primary and two secondary data collection instruments that will be used to collect follow-up data on individuals who have but are no longer actively participating in Job Corps. For additional information, see related notice published at Volume 74 FR 10776 on March 12, 2009.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Employment and Training Administration Financial Report.

OMB Control Number: 1205–0461.

Agency Form Number: ETA–9130.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 848.

Total Estimated Annual Burden Hours: 3,392.

Total Estimated Annual Costs Burden (does not include hour costs): $0.

Description: ETA utilizes the data on ETA–9130 to assess the effectiveness of ETA programs and to monitor and analyze the financial activity of its grantees. Pre-designed software is provided to the grantees to reflect the requirements of ETA Form 9130 so that the required data is reported directly into the Enterprise Information Management System (EIMS) by the grant recipients. This data collection format allows ETA to evaluate program effectiveness and to monitor and analyze financial activity, while complying with OMB efforts to streamline Federal financial reporting. The focus of all ETA reporting has been to provide ease and simplicity for the grantees. The specific instruction relating to the required data element is visible at each data entry point. Electronic financial reporting has significantly increased the timeliness of financial reporting. For additional information, see related notice published at Volume 74 FR 34592 on July 16, 2009.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Recovery Act—Applications for Unemployment Insurance Modernization Incentive Payments.

OMB Control Number: 1205–0470.

Agency Form Number: N/A.

Affected Public: State Governments.

Total Estimated Number of Respondents: 36.

Total Estimated Annual Burden Hours: 288.

Total Estimated Annual Costs Burden (does not include hour costs): $0.

Description: Section 2003(f) of the American Recovery and Reinvestment Act of 2009 (ARRA) provides for unemployment insurance (UI) ''modernization incentive payments'' to be made from the Unemployment Trust Fund (UTF) to the states. The total amount available for all states is $7 billion dollars. To obtain its share, the state must make an application to the Department of Labor demonstrating that its UI law contains certain benefit eligibility provisions. The last date on which an incentive distribution may be made is September 30, 2011. When applying for a share of the UI modernization incentive payments, a state must document that the provisions of its law meet the requirements for obtaining an incentive payment. The state is also required to describe how it intends to use any incentive payment to improve or strengthen its UI program. . For additional information, see related notices published at Volume 74 FR 9108 on March 2, 2009 and 74 FR 23886 on May 21, 2009.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–23659 Filed 9–30–09; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the revision of the ''The

Consumer Expenditure Surveys: The Quarterly Interview and the Diary.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before November 30, 2009.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (*See* **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Expenditure (CE) Surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions. The CE Surveys have been ongoing since 1979.

The data from the CE Surveys are used (1) for CPI revisions, (2) to provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation, and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. Public and private users of price statistics, including Congress and the economic policymaking agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policymakers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand from the public and private sectors for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over five calendar quarters. The sample for each quarter is divided into three panels, with CUs being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Current Action

Office of Management and Budget clearance is being sought for the Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

The continuing CE Surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and obtain data for future CPI revisions.

The Consumer Expenditure program is planning several tests over the next several years in an effort to improve the CE surveys in the areas of both data quality and respondent burden.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Type of Review: Revision.

Agency: Bureau of Labor Statistics.

Title: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Affected Public: Individuals or households.

Form	Total respondents	Frequency	Total responses	Average time per response	Estimated total burden
CEQ—Interview	8,825	4	35,300	65 minutes	38,242
CEQ—Reinterview	4,000	1	4,000	10 minutes	667
CED—Diary (record-keeping)	7,050	2	14,100	105 minutes	24,675
CED—Diary (Interview)	7,050	3	21,150	25 minutes	8,813
CED—Diary (Reinterview)	1,300	1	1,300	10 minutes	217
Totals			75,850		72,614

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 21st day of September 2009.

Kimberley D. Hill,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E9–23712 Filed 9–30–09; 8:45 am]

BILLING CODE 4510–24–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 09–19]

Notice of Quarterly Report (April 1, 2009–June 30, 2009)

AGENCY: Millennium Challenge Corporation.

SUMMARY: The Millennium Challenge Corporation (MCC) is reporting for the quarter April 1, 2009 through June 30, 2009, on assistance provided under section 605 of the Millennium Challenge Act of 2003 (Pub. L. 108–199, Division D), as amended (the Act), and on transfers or allocations of funds to other Federal agencies under section 619(b) of the Act. The following report will be made available to the public by publication in the **Federal Register** and on the Internet Web site of the MCC (*http://www.mcc.gov*) in accordance with section 612(b) of the Act.

ASSISTANCE PROVIDED UNDER SECTION 605

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Country: Madagascar Year: 2009 Quarter 3 Total Obligation: $109,773,000 Entity to which the assistance is provided: MCA Madagascar Total Quarterly Disbursement: $5,909,757				
Land Tenure Project	$36,028,000	Increase Land Titling and Security.	$21,354,980	Area secured with land certificates or titles in the Zones. Proportion of the population informed about land tenure reforms in the Zones. Legal and regulatory reforms adopted. Number of land documents inventoried in the Zones and Antananarivo. Number of land documents restored in the Zones and Antananarivo. Number of land documents digitized in the Zones and Antananarivo. Average time for Land Services Offices to issue a duplicate copy of a title. Average cost to a user to obtain a duplicate copy of a title from the Land Services Offices. Number of land certificates delivered in the Zones during the period. Number of new guichets fonciers operating in the Zones. The 256 Plan Local d'Occupation Foncier-Local Plan of Land Occupation (PLOFs)are completed.
Finance Project	$32,445,000	Increase Competition in the Financial Sector.	$19,334,311	Volume of funds processed annually by the national payment system. The components necessary to implement the national payment system are operational: network equipment and integrator, real time gross settlement system (RTGS), retail payment clearing system, telecommunication facilities. Number of accountants and financial experts registered to become Certified Public Accountant (CPA). Percent of Micro-Finance Institution (MFI) loans recorded in the Central Bank database.
Agricultural Business Investment Project.	$17,683,000	Improve Agricultural Projection Technologies and Market Capacity in Rural Areas.	$12,563,877	Number of farmers that adopt new technologies or engage in higher value production. Number of enterprises that adopt new technologies or engage in higher value production. Number of farmers receiving technical assistance. Number of farmers employing technical assistance. Number of businesses receiving technical assistance. Number of Mnistère de l'Agriculture,de l'Elevage et de la Pêche-Ministry of Agriculture, Livestock, and Fishing (MAEP) agents trained in marketing and investment promotion. Zones identified and description of beneficiaries within each zone submitted. Number of people receiving information from Agricultural Business Center (ABCs) on business opportunities. Zonal investment strategies for the Zones are developed. Number of ABC clients who register as formal enterprises, cooperatives, or associations. Number of marketing contracts of ABC clients.

ASSISTANCE PROVIDED UNDER SECTION 605—Continued

Projects	Obligated	Objectives	Cumulative disbursements	Measures
Program Administration * and Control, Monitoring and Evaluation.	$23,617,000	.....	$16,305,969	
Pending subsequent reports **.	.....	.....	$570,944	

* Program administration funds are used to pay items such as salaries, rent, and the cost of office equipment.
** These amounts represent disbursements made that will be allocated to individual projects in the subsequent quarter(s) and reported as such in subsequent quarterly report(s).

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Honduras Year: 2009 Quarter 3 Total Obligation: $215,000,000 Entity to which the assistance is provided: MCA Honduras Total Quarterly Disbursement: $16,952,802				
Rural Development Project.	$74,557,000	Increase the productivity and business skills of farmers who operate small and medium-size farms and their employees.	$31,468,546	Number of program farmers harvesting high-value horticulture crops. Number of hectares harvesting high-value horticulture crops. Number of business plans prepared by program farmers with assistance from the implementing entity. Total value of net sales. Total number of recruited farmers receiving technical assistance. Value of loans disbursed (disaggregated by trust fund, leveraged from trust fund, and institutions receiving technical assistance from ACDI–VOCA). Number of loans disbursed (disaggregated by trust fund, leveraged from trust fund, and institutions receiving technical assistance from ACDI–VOCA). Percentage of loan portfolio at risk (disaggregated by trust fund and institutions receiving technical assistance from ACDI–VOCA). Funds lent from the trust fund to financial intermediaries through lines of credit. Number of hectares under irrigation. Number of beneficial biological control agents developed for use by program farmers or other farmers for pilot testing. Number of improved coffee hybrids available for cloning. Number of farmers connected to the community irrigation system. Number of certified deliverables across all agricultural public goods grant.
Transportation Project	$123,621,876	Reduce transportation costs between targeted production centers and national, regional and global markets.	$40,930,151	Freight shipment cost from Tegucigalpa to Puerto Cortes. Average annual daily traffic volume-CA–5. International roughness index (IRI)—CA–5. Kilometers of road upgraded—CA–5. Percent of contracted road works disbursed—CA–5. Average annual daily traffic volume—secondary roads. International roughness index (IRI)—secondary roads. Kilometers of road upgraded—secondary roads. Percent of contracted road works disbursed—secondary roads. Average annual daily traffic volume—rural roads. Average speed—rural roads. Kilometers of road upgraded—rural roads. Percent of contracted road works disbursed—rural roads. Signed contracts for feasibility and/or design studies.

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Percent of contracted studies disbursed. Kilometers (km) of roads under design. Signed contracts for roads works. Kilometers (km) of roads under works contracts.
Program Administration * and Control, Monitoring and Evaluation.	$16,821,124	.....	$6,384,464	
Pending subsequent reports **.	.....	.....	$1,496,730	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Cape Verde Year: 2009 Quarter 3 Total Obligation: $110,078,488 Entity to which the assistance is provided: MCA Cape Verde Total Quarterly Disbursement: $8,071,134				
Watershed and Agricultural Support.	$11,001,130	Increase agricultural production in three targeted watershed areas on three islands.	$6,130,849	Productivity: Horticulture, Paul watershed. Productivity: Horticulture, Faja watershed. Productivity: Horticulture, Mosteiros watershed. Number of farmers adopting drip irrigation. Area irrigated with drip irrigation. Percent of contracted irrigation works disbursed (cumulative). Reservoirs constructed. Number of farmers that have completed training in at least 3 of 5 core agricultural disciplines.
Infrastructure Improvement.	$83,160,208	Increase integration of the internal market and reduce transportation costs.	$36,182,295	Travel time ratio: percentage of beneficiary population further than 30 minutes from nearest market. Kilometers of roads rehabilitated. Percent of contracted Santiago Roads works disbursed (cumulative). Percent of contracted Santo Antao Bridge works disbursed (cumulative). Kilometers (km) of roads under design. Signed contracts for roads works. Kilometers (km) of roads under works contracts. Port of Praia: percent of contracted port works disbursed (cumulative). Cargo village: percent of works completed. Quay 2 improvements: percent of works completed. Access road: percent of works completed.
Private Sector Development.	$2,081,223	Spur private sector development on all islands through increased investment in the priority sectors and through financial sector reform.	868,134	Micro-Finance Institution (MFI) recovery rate, adjusted. MFI portfolio at risk, adjusted. Ratio of MFIs operationally self-sufficient.
Program Administration * and Control, Monitoring and Evaluation.	$13,835,927	.....	$8,100,933	
Pending subsequent reports **.	.....	.....	$337,480	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Nicaragua Year: 2009 Quarter 3 Total Obligation: $175,000,000 Entity to which the assistance is provided: MCA Nicaragua Total Quarterly Disbursement: $14,472,420				
Property Regularization Project.	$22,000,000	Increase Investment by strengthening property rights.	$7,151,432	Automated database of registry and cadastre installed in the 10 municipalities of Leon. Value of land, urban. Value of land, rural. Time to conduct a land transaction. Number of additional parcels with a registered title, urban. Number of additional parcels with a registered title, urban. Number of protected areas demarcated. Area covered by cadastral mapping. Cost to conduct a land transaction.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Transportation Project	$105,193,200	Reduce transportation costs between Leon and Chinandega and national, regional and global markets.	$28,392,362	Annual Average daily traffic volume: N1 Section R1. Annual Average daily traffic volume: N1 Section R2. Annual Average daily traffic volume: Port Sandino (S13). Annual Average daily traffic volume: Villanueva—Guasaule Annual. Average daily traffic volume: Somotillo-Cinco Pinos (S1). Annual average daily traffic volume: León-Poneloya-Las Peñitas. International Roughness Index: N–I Section R1. International Roughness Index: N–I Section R2. International Roughness Index: Port Sandino (S13. International roughness index: Villanueva—Guasaule. International roughness index: Somotillo-Cinco Pinos. International roughness index: León-Poneloya-Las Peñitas. Kilometers of NI upgraded: R1 and R2 and S13. Kilometers of NI upgraded: Villanueva—Guasaule. Kilometers of S1 road upgraded. Kilometers of S9 road upgraded. Kilometers of designed primary roads (including N–I/Puerto Sandino and V–G). Kilometers of designed secondary roads.
Rural Development Project.	$32,897,500	Increase the value added of farms and enterprises in the region.	$19,126,712	Number of beneficiaries with business plans prepared with assistance from the Rural Development Business Project. Numbers of *manzanas (1 Manzana = 1.7 hectares),* by sector, harvesting higher-value crops. Number of manzanas of beneficiaries of the program that harvest higher-value crops with irrigation or commercial reforestation under Improvement of Water Supply Activities. Number of beneficiaries implementing business plans. Average increase in income of beneficiaries due to program.
Program Administration *, Due Diligence, Monitoring and Evaluation.	$14,909,300	.....	$8,989,238	
Pending subsequent reports **.	.....	.....	$563,310	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Georgia Year: 2009 Quarter 3 Total Obligation: $395,300,000 Entity to which the assistance is provided: MCA Georgia Total Quarterly Disbursement: $12,089,670				
Regional Infrastructure Rehabilitation.	$315,600,000	Key Regional Infrastructure Rehabilitated.	$69,084,829	Household savings from Infrastructure Rehabilitation Activities. Savings in vehicle operating costs (VOC). International roughness index (IRI). Annual average daily traffic (AADT). Travel Time. Kilometers of road paved. Percent of contracted works disbursed. Signed contracts for feasibility and/or design studies. Percent of contracted studies disbursed. Kilometers of roads under design. Signed contracts for road works. Kilometers of roads under works contracts. Sites rehabilitated (phases I, II, III)—pipeline. Construction works completed (phase II)—pipeline. Savings in household expenditures for all subprojects. Population Served by all subprojects. Subprojects completed.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Regional Enterprise Development.	$47,350,000	Enterprises in Regions Developed.	$31,352,232	Value of project grant agreements signed. Value of project works and goods contracts Signed. Subprojects with works initiated. Jobs Created by Agribusiness Development Activity (ADA) and by Georgia Regional Development Fund (GRDF). Household net income—ADA and GRDF. Jobs created—ADA. Firm income ADA. Household net income—ADA. Beneficiaries (direct and indirect)—ADA. Grant agreements signed—ADA. Increase in gross revenues of portfolio companies (PC). Increase in portfolio company employees. Increase in wages paid to the portfolio company employees. Cumulative number of portfolio companies. Funds disbursed to the portfolio companies.
Program Administration *, Due Diligence, Monitoring and Evaluation.	$32,350,000	.....	$14,088,233	
Pending subsequent reports **.	.....	.....	$2,823	

* November 2008, MCC and the Georgian government signed a Compact amendment making up to $100 million of additional funds available to the Millennium Challenge Georgia Fund. These funds will be used to complete works in the Roads, Regional Infrastructure Development, and Energy Rehabilitation Projects contemplated by the original Compact. The amendment was ratified by the Georgian parliament and entered into force on January 30, 2009.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Vanuatu Year: 2009 Quarter 3 Total Obligation: $65,690,000 Entity to which the assistance is provided: MCA Vanuatu Total Quarterly Disbursement: $4,283,475				
Transportation Infrastructure Project.	$60,248,079	Facilitate transportation to increase tourism and business development.	$28,727,573	Number of international tourists—Efate. Number of international tourists—Santo. Number of room nights occupied—Efate. Number of room nights occupied—Santo. Average annual daily traffic—Efate. Average annual daily traffic—Santo. Kilometers of road upgraded—Efate. Kilometers of roads upgraded—Santo. Signed contracts for feasibility and/or design studies. Percent of contracted studies disbursed. Kilometers (km) of roads under design. Signed contracts for roads works. Kilometers (km) of roads under works contracts. Percent of contracted roads works disbursed.
Program Administration *, Due Diligence, Monitoring and Evaluation.	$5,441,921	.....	$2,561,003	
Pending subsequent reports **.	.....	.....	$241,046	
Projects	**Obligated**	**Objective**	**Cumulative disbursements**	**Measures**
Country: Armenia Year: 2009 Quarter 3 Total Obligation: $235,650,000 Entity to which the assistance is provided: MCA Armenia Total Quarterly Disbursement: $4,329,951				
Irrigated Agriculture Project (Agriculture and Water).	$145,080,000	Increase agricultural productivity Improve and Quality of Irrigation.	$19,689,654	Recovery of Water User Associations (WUA) operations and maintenance cost by water charges. Primary canals rehabilitated. Tertiary canals rehabilitated. Percent of contracted irrigation works disbursed. Value of signed contracts for irrigation works. Number of farmers using better on-farm water management. Number of farmers trained. Number of agribusinesses assisted.

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Value of agricultural loans to farmers/agri-businesses.
Rural Road Rehabilitation Project.	$67,100,000	Better access to economic and social infrastructure.	$7,355,155	Average annual daily traffic. International roughness index. Kilometers of roads rehabilitated. Percent of contracted roads works disbursed. Signed contracts for roads works. Percent of contracted studies disbursed. kilometers (km) of roads under design. Signed contracts for feasibility and/or design studies. Kilometers (km) of roads under works contracts.
Program Administration *, Due Diligence, Monitoring and Evaluation.	$23,470,000	.....	$7,131,507	
Pending subsequent reports **.	.....	.....	$1,034,750	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Benin Year: 2009 Quarter 3 Total Obligation: $307,298,040 Entity to which the assistance is provided: MCA Benin Total Quarterly Disbursement: $3,089,959				
Access to Financial Services.	$19,650,000	Expand Access to Financial Services.	$2,088,870	Volume of credits granted by the Micro-Finance Institutions (MFI). Volume of saving collected by the Micro-Finance Institutions. Average portfolio at risk >90 days of microfinance institutions at the national level. Operational self-sufficiency of MFIs at the national level. Average time required by Cellule de Surveillance des Structures Financières Décentralisées (CSSFD) in treating MFI applications. Number of institutions receiving grants through the Facility. Second call for proposal for grants launched. Number of MFIs *inspected by CSSFD*.
Access to Justice	$34,270,000	Improved Ability of Justice System to Enforce Contracts and Reconcile Claims.	$1,461,874	Average time to enforce a contract. Percent of firms reporting confidence in the judicial system. Number of cases processed at Arbitration Center per year. Number of Information, Education and Communication Campaign (IEC) sessions hosted by Chamber of Commerce (CAMeC). Passage of new legal codes. Average time required for Tribunaux de premiere instance—arbitration centers and courts of first instance (TPI) to reach a final decision on a case. Average time required for Court of Appeals to reach a final decision on a case. Percent of cases resolved in TPI per year. Percent of cases resolved in Court of Appeals per year. Number of Court inspections per year. Number of Court employees trained. Number of beneficiaries of legal aid services. Complete construction on 9 new court houses. Average time required to register a business (*société*). Average time required to register a business (sole proprietorship). Number of businesses accessing CAMEC service. Business registration center (CFE) information and outreach campaign executed throughout Benin.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Access to Land	$36,020,000	Strengthen property rights and increase investment in rural and urban land.	$8,553,893	Total value of investment in targeted urban land parcels. Total value of investment in targeted rural land parcels. Average cost required to obtain a new land title through on demand process. Average cost required to convert occupancy permit to land title through systematic process. Percentage of respondents perceiving land security in the Occupancy Permit (PH) into Land titles (TF) or Rural Land Plan Foncier Rural (PFR) areas. Number of new land disputes reported by commune heads. Seven studies complete. Land code texts adopted (laws, decrees and land code). Value ($) of equipment purchased. Number of land certificates issued within MCA-Benin implementation. Number of habitation permits converted to land titles. Number of Continuously Operating Reference (CORS) stations installed. Number of public and private surveyors trained. Number of communes with new cadastres. Land market information system established.
Access to Markets	$169,447,000	Improve Access to Markets through Improvements to the Port of Cotonou.	$5,708,455	Volume of merchandise traffic through the Port Autonome de Cotonou. Bulk ship carriers waiting times at the port. Container ship waiting times at the port. Port design-build contract awarded. Port crime levels (number of thefts). Internal port circulation time. Average time to clear customs. Execution rate of training plan. Port meets—international port security standards (ISPS). Public consultation completed (3). Environmental permits issued.
Program Administration *, Due Diligence, Monitoring and Evaluation.	$47,911,040		$14,258,372	
Pending subsequent reports **.			$728,613	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Ghana Year: 2009 Quarter 3 Total Obligation: $547,009,000 Entity to which the assistance is provided: MCA Ghana Total Quarterly Disbursement: $17,160,261				
Agriculture Project	$229,899,382	Enhance Profitability of cultivation, services to agriculture and product handling in support of the expansion of commercial agriculture among groups of smallholder farms.	$42,214,480	Number of farmers trained. Number of agribusinesses assisted. Number of hectares under production with MCC support. Value of agricultural loans to farmers/agribusinesses. Value of signed contracts for feasibility and/or design studies (irrigation). Percent of contracted (design/feasibility) studies complete (irrigation). Value of signed contracts for irrigation works (irrigation). Percent of contracted irrigation works disbursed. Percent of people aware of their land rights. Total number of parcels surveyed in the Pilot Land Registration Areas (PLRAs). Volume of products passing through post-harvest treatment.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Rural Development Project.	$87,361,539	Strengthen the rural institutions that provide services complementary to, and supportive of, agricultural and agriculture business development.	$4,628,659	Number of students enrolled in schools affected by Education Facilities Sub-Activity. Number of schools rehabilitated. Number of basic school blocks constructed to Ministry of Education (MOE) construction standards. Number of schools designed and due diligence completed. Distance to collect water. Time to collect water. Incidence of guinea worm. Average number of days lost due to guinea worm. Number of people affected by Water and Sanitation Facilities Sub-Activity. Number of stand-alone boreholes/wells/nonconventional water systems constructed/rehabilitated. Number of small-town water systems constructed. Number of pipe extension projects constructed. Number of stand-alone boreholes/wells/non-conventional water systems identified and due diligence performed for rehabilitation/construction. Number of small-town water systems designed and due diligence completed for construction. Number of pipe extension projects designed and due diligence completed for construction. Number of agricultural processing plants in target districts with electricity due to Rural Electrification Sub-Activity. Number of electricity projects identified and due diligence completed.
Transportation	$174,285,120	Reduce the transportation costs affecting agriculture commerce at sub-regional levels.	$10,317,154	International roughness index. Annualized average daily traffic. Kilometers of road completed. Percent of contracted road works disbursed. Value of signed contracts for road works. Kilometers of road designed. Percent of contracted design/feasibility studies completed. Value of signed contracts for feasibility and/or design studies. Travel time for walk-on passengers. Travel time for small vehicles. Travel time for trucks. Annual average daily traffic (vehicles). Annual average daily traffic (passengers). Landing stages rehabilitated. Ferry terminal upgraded. Rehabilitation of Akosombo Floating Dock completed. Percent of contracted work disbursed landings and terminals. Value of signed contracts for works: Ferry and floating dock. Value of signed contracts for works: Landings and terminals.
Program Administration *, Due Diligence, Monitoring and Evaluation.	$55,462,959	.....	$14,501,141	
Pending subsequent reports **.	.....	.....	$598,405	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: El Salvador Year: 2009 Quarter 3 Total Obligation: $460,940,000 Entity to which the assistance is provided: MCA El Salvador Total Quarterly Disbursement: $8,563,337				
Human Development Project.	$95,073,000	Increase human and physical capital of residents of the Northern Zone to take advantage of employment and business opportunities.	$3,518,730	Employment rate of graduates of middle technical schools. Graduation rates of middle technical schools. Middle technical schools remodeled and equipped. Scholarships granted to students of middle technical schools.

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Students of non-formal training. Cost of water. Time collecting water. Households benefiting with water solutions built. Potable water and basic sanitation systems with construction contracts signed. Cost of electricity. Electricity consumption. Households benefiting with a connection to the electricity network. Household benefiting with the installation of isolated solar systems. Kilometers of new electrical lines with construction contracts signed. Population benefiting from strategic infrastructure. Community Infrastructure Works with Construction Contracts Signed.
Productive Development Project.	$87,466,000	Increase production and employment in the Northern Zone.	$12,580,839	Number of hectares under production with MCC support. Number of farmers trained. Value of agricultural loans to farmers/agribusinesses. Number of agribusinesses assisted.
Connectivity Project	$233,560,000	Reduce travel cost and time within the Northern Zone, with the rest of the country, and within the region.	$5,740,480	Average annual daily traffic. International roughness index. Kilometers of roads rehabilitated. Kilometers of roads under works contract. Signed contracts for roads works. Percent of contracted roads works disbursed.
Program Administration * and Control, Monitoring and Evaluation.	$44,841,000	.....	$9,352,732	
Pending Subsequent Report **.	.....	.....	$0	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Mali Year: 2009 Quarter 3 Total Obligation: $460,811,164 Entity to which the assistance is provided: MCA Mali Total Quarterly Disbursement: $4,646,267				
Bamako Sénou Airport Improvement Project.	$181,254,264	Establish an independent and secure link to the regional and global economy.	$5,142,574	Total wage bill of tourism industry. Freight volume. Employment at airport. Signature of design contract. Average number of weekly flights (arrivals). Passenger traffic (annual average). Percent works complete. Airside Infrastructure Design, and Airside Infrastructure Construction Supervision, (AIR A01) and Landside Infrastructure Design (New Terminal & Associated Works) and Landside Construction Supervision is launched. Time required for passenger processing at departures and arrivals. Passenger satisfaction level. Percent works complete. Percent of airport management and maintenance plan implemented. Airport meets Federal Aviation Administration (FAA) and International Civil Aviation Organization (ICAO) security standards. Technical assistance delivered to project.
Alatona Irrigation Project	$234,884,675	Increase the agricultural production and productivity in the Alatona zone of the ON.	$8,387,971	Number of agricultural jobs created in Alatona zone. Main season rice yields. International roughness index (IRI) on the Niono-Goma Coura Route. Average daily vehicle count. Percentage works complete. Total irrigated land in the Alatona zone.

Projects	Obligated	Objective	Cumulative disbursements	Measures
				Irrigation system efficiency on Alatona Canal during the rainy season and the dry season. Kilometers of road under design/feasibility study. Value of signed contracts for road works. Kilometers of road under works contract. Percent of works completed on main system construction. Percent of contracted irrigation works disbursed for tranche 1. Value of signed contracts for irrigation works. Value of signed contracts for feasibility and/or design studies. Percent of contracted (design/feasibility) studies disbursed. Area planted by new settlers (wet season). Titles registered in the land registration office of the Alatona zone (for 5- or 10-hectare farms). Total land payments made. Total market gardens allocated in Alatona zones for the populations affected by the project (PAPs). Decree transferring legal control of the project impact area is passed. Selection criteria for new settlers approved. Contractor implementing the ''Mapping of Agricultural and Communal Land Parcels'' contract is mobilized. School enrollment rate. Percent of Alatona population with access to drinking water. Number of schools available in the Alatona. Number of health centers available in the Alatona. Number of concessions that have been compensated. Resettlement census verified. Adoption rate of improved agriculture techniques among populations affected by the project (PAPs). Number of operational mixed cooperatives. Area planted by PAPs (wet season rice). Area planted with shallots during dry season. Number of farmers completing literacy training. Number of people completing the rice and shallot production techniques module. Number of farmers completing land titling training. Water management system design and capacity building strategy implemented. Call for proposals for the applied research grants launched. Average portfolio at risk among Alatona microfinance institutions. Average loan repayment rate of Alatona clients (farmers organizations or individual farmers). Amount of credit extended to Alatona farmers. Number of farmers accessing grant assistance for first loan from financial institutions. Financial institution partners identified (report on assessment of the financial institutions in the Office du Niger-Office of Niger zone (ON zone).
Program Administration * and Control, Monitoring and Evaluation.	$42,028,793	.....	$11,786,461	
Pending Subsequent Report **.	.....	.....	$1	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Mongolia Year: 2009 Quarter 3 Total Obligation: $284,911,363 Entity to which the assistance is provided: MCA Mongolia Total Quarterly Disbursement: $1,498,883				
Property Rights Project	$23,062,286	Increase security and capitalization of land assets held by lower-income Mongolians, and increased peri-urban herder productivity and incomes.	$441,683	Number of studies completed. Legal and regulatory reforms adopted. Number of landholders reached by public outreach efforts. Personnel Trained. Number of Buildings rehabilitated/constructed. Value of equipment purchased. Rural hectares Mapped. Urban Parcels Mapped. Rural Hectares Formalized. Urban parcels formalized.
Rail Project	$188,378,000	Increase rail traffic and shipping efficiency.	$369,560	Increase in gross domestic product due to rail improvements. Freight turnover. Mine traffic. Percent of wagons leased by private firms. Railway operating ratio. Customer satisfaction. Wagon time to destination. Average locomotive availability.
Vocational Education Project.	$25,512,856	Increase employment and income among unemployed and underemployed Mongolians.	$314,518	Rate of employment. Students completing newly designed long-term programs. Percent of active teachers receiving certification training. Technical and vocational education and training (TVET) legislation passed.
Health Project	$17,027,119	Increase the adoption of behaviors that reduce non-communicable diseases (NCDIs) among target populations and improved medical treatment and control of NCDIs.	$157,136	Diabetes and hypertension controlled. Percentage of cancer cases diagnosed in early stages. Road and traffic safety activity finalized and key interventions developed.
Program Administration * and Control, Monitoring and Evaluation.	$30,931,102	.....	$3,958,008	
Pending subsequent reports **.	.....	.....	$0	
Projects	**Obligated**	**Objective**	**Cumulative disbursements**	**Measures**
Country: Mozambique Year: 2009 Quarter 3 Total Obligation: $506,924,053 Entity to which the assistance is provided: MCA Mozambique Total Quarterly Disbursement: $1,248,788				
Water and Sanitation Project.	$203,585,393	Increase access to reliable and quality water and sanitation facilities.	$190,178	Time to get to non-private water source. Percent of urban population with improved water sources. Percent of urban population with improved sanitation facilities. Number of private household water connections in urban areas. Number of private household sanitation connections in urban areas. Number of standpipes in urban areas. Final detailed design for 5 towns submitted. Final detailed design for 3 cities submitted. Percent of rural population with access to improved water sources. Number of rural water points constructed. Final design report 1 (400 WP) submitted. Final design report II (200 Water points) submitted. Implementing agreement signed with the Administration for Water and Sanitation (AIAS) Infrastructure. Change in international roughness index (IRI).

Projects	Obligated	Objective	Cumulative disbursements	Measures
Road Rehabilitation Project.	$176,307,480	Increase access to productive resources and markets.	$181,852	Average annual daily traffic volume. Kilometers of road rehabilitated. Kilometers of road under design. Percent of Namialo—Rio Lúrio Road—Metoro feasibility, design, and supervision contract disbursed. Percent of Rio Ligonha-Nampula feasibility, design, and supervision contract disbursed. Percent of Chimuara-Nicoadala feasibility, design, and supervision contract disbursed. Kilometers of roads under works contract. Percent of Namialo—Rio Lúrio Road construction contract disbursed. Percent of Rio Lúrio—Metoro Road construction contract disbursed. Percent of Rio Ligonha—Nampula Road construction contract disbursed. Percent of Chimuara—Nicoadala Road construction contract disbursed. Feasibility/Environmental and Social Assessment studies, design, supervision, and construction contract (ESA) for Namialo-Rio Lúrio-Metoro Road segment signed. Feasibility/ESA contract for Rio Ligonha—Nampula Road segment signed. Feasibility/ESA contract for Chimuara—Nicoadala Road signed. Time to get land usage rights direito de uso e aproveitamento da terra (State-granted land right) (DUAT). Cost to get land usage rights DUAT.
Land Tenure Services Project.	$39,068,307	Establish efficient, secure land access for households and investors.	$247,210	Total number of officials and residents reached with land strategy and policy awareness and outreach messages. Land strategy approved. Number of buildings rehabilitated or built. Total value of procured equipment and materials. Number of people trained. Rural hectares mapped in Site Specific Activity. Rural hectares mapped in Community Land Fund Initiative. Urban parcels mapped. Rural hectares formalized through Site Specific Activity. Rural hectares formalized through Community Land Fund Initiative. Urban parcels formalized. Number of communities delimited. Number of households having land formalized.
Farmer Income Support Project.	$17,432,211	Improve coconut productivity and diversification into cash crop.	$692,037	Income from coconuts and coconut products. Survival rate of coconut seedling. Number of diseased or dead palm trees cleared. Number of coconut seedlings planted. Hectares under production. Number of farmers trained in pest and disease control. Number of farmers trained in crop diversification technologies. Contract for project implementation signed.
Program Administration * and Control, Monitoring and Evaluation.	$70,530,662	.....	$6,026,488	
Pending Subsequent Report **.	.....	.....	$130,787	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Lesotho Year: 2009 Quarter 3 Total Obligation: $362,551,000 Entity to which the assistance is provided: MCA Lesotho Total Quarterly Disbursement: $2,594,768				
Water Project	$164,027,584	Improve the water supply for industrial and domestic needs, and enhance rural livelihoods through improved watershed management.	$3,391,065	School days lost due to water borne diseases. Diarrhea notification at health centers. Time saved due to access to water source. Rural household (HH) provided with access to improved water supply. Rural HH provided with access to improved ventilated latrines. Rural water points constructed. Number of new latrines built. Urban HH with access to potable water supply. Number of enterprises connected to water network. Households connected to improved water network. Cubic meters of treated water from metolong dam delivered through a conveyance system to Water and Sewerage Authority (WASA). Value of water treatment contract works award. Value of conveyance system contract work award. Species population. Livestock grazing per area. Area put under conservation.
Health Project	$122,398,000	Increase access to life-extending ART and essential health services by providing a sustainable delivery platform.	$1,423,797	People with HIV still alive 12 months after initiation of treatment. TB notification (per 100,000 pop.). Proportion of blood units collected annually. Deliveries conducted in the health centers. Immunization coverage rate. Number of Health Centers (H/C) constructed and fully equipped. Value of contract works for health center construction. Percentage of contract works for health center construction disbursed. Percentage of contract works for Botshalo Complex disbursed. Percentage of contract works for Out-Patient Department (OPD) Centers disbursed. Percentage of HSS Contract disbursed. Proportion of People Living With AIDS (PLWA) receiving Antiretroviral treatment (ARV) (by age and sex). Referred tests from central laboratory per year by types (number).
Private Sector Development Project.	$36,105,000	Stimulate investment by improving access to credit, reducing transaction costs and increasing the participation of women in the economy.	$1,047,351	Average time (days) required to enforce a contract. Pending commercial cases. Cases filed at the commercial court. Value of commercial cases. Judicial staff trained. Administrative and clerical staff trained. Awareness campaigns. Portfolio of loans. Loan processing time. Bank accounts. Paper-based payments. Electronic payments. Value of contract services signed. Debit/smart cards issued. Mortgage bonds registered. Value of registered mortgage bonds. New land disputes brought to the Land Tribunal and Courts of Law. Time to complete a land transaction. Time to complete transfer of land rights. Land transactions recorded. Land parcels formalized. Number of land administration personnel trained. Land Act adopted.

Projects	Obligated	Objective	Cumulative disbursements	Measures
				People trained on gender equality and economic rights. ID cards issued. Population registered in the national database.
Program Administration * and Control, Monitoring and Evaluation.	$39,898,098	.....	$7,177,944	
Pending Subsequent Report **.	.....	.....	$47,819	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Morocco Year: 2009 Quarter 3 Total Obligation: $697,500,000 Entity to which the assistance is provided: MCA Lesotho Total Quarterly Disbursement: $10,568,867				
Fruit Tree Productivity	$300,898,445	Reduce volatility of agricultural production and increase volume of fruit agricultural production.	$3,344,647	Total annual volume of production of dates and olives. Cropped area covered by olive trees. Survival rate of newly planted olive trees after 2 years project-supported establishment period. Yield of rehabilitated olive trees. Cropped area covered by date trees. Yield of rehabilitated date palms.
Small Scale Fisheries	$116,168,027	Improve quality of fish moving through domestic channels and assure the sustainable use of fishing resources.	$541,206	State of fish stock. Domestic fish consumption level. Fisherman net revenue. Average fisherman sales price at Points de Débarquement Aménagés (PDA). Volume sold at wholesale markets. Fish sale price. Average sales price. Volume of sales among mobile fish vendors.
Artisan and Fez Medina ..	$111,873,858	Increase value added to tourism and artisan sectors.	$0	Average revenue of potters receiving Artisan Production Activity. Employment and wages among project graduates. Tourist arrivals. Artisan profits (artisans engaged in product finishing and points of sale). Employment created. Small and Medium Enterprises (SME) value added.
Financial Services	$46,200,000	Increase supply and decrease costs of financial services available to microenterprises.	$6,498,275	Gross loan portfolio outstanding of microcredit associations. Portfolio at risk >30 days ratio. Operating expense ratio.
Enterprise Support	$33,850,000	Improved survival rate of new SMEs and INDH-funded income generating activities; increased revenue for new SMEs and INDH-funded income generating activities.	$493,242	Average annual sales of participating businesses. Survival rate of participating businesses.
Program Administration * and Control, Monitoring and Evaluation.	$88,511,670	.....	$3,829,103	
Pending Subsequent Report **.	$0	.....	$71,700	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Tanzania Year: 2009 Quarter 2 Total Obligation: $698,136,000 Entity to which the assistance is provided: MCA Tanzania Total Quarterly Disbursement: $1,853,390				
Energy Sector	$206,471,000	Increase value added to businesses.	$538,205	New power customers. Energy generation—Kigoma. Transmission capacity. Percentage disbursed for design and supervision contract Consulting Engineer (CE) year 1 budgeted.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Transport Sector	$372,776,000	Increase cash crop revenue and aggregate visitor spending.	$345,978	International roughness index (Tunduma, Tanga, Nantumbo, Peramiho). Average annual daily traffic (Tunduma, Tanga, Nantumbo, Peramiho). Kilometers upgraded/completed (Tunduma, Tanga, Nantumbo, Peramiho). Percent disbursed on construction works (Tunduma, Tanga, Nantumbo, Peramiho). Signed contracts for construction works (Tunduma, Tanga, Nantumbo, Peramiho). Percent disbursed for feasibility and/or design studies (Tunduma, Tanga, Nantumbo, Peramiho). Signed contracts for feasibility and/or design studies (Tunduma, Tanga, Nantumbo, Peramiho). Kilometers of roads under design (Tunduma, Tanga, Nantumbo, Peramiho). International roughness index (Zanzibar Rural Roads). Average annual daily traffic (Zanzibar Rural Roads). Kilometers upgraded/completed (Zanzibar Rural Roads). Percent disbursed on construction works (Zanzibar Rural Roads). Signed contracts for construction works (Zanzibar Rural Roads). Percent disbursed for feasibility and/or design studies (Zanzibar Rural Roads). Signed contracts for feasibility and/or design studies (Zanzibar Rural Roads). Kilometers of roads under design (Zanzibar Rural Roads). Passenger arrivals. Percentage of upgrade complete (airport). Percent disbursed on construction works (airport). Signed contracts for construction works (airport).
Water Sector Project	$66,335,000	Increase investment in human and physical capital and to reduce the prevalence of water-related disease.	$0	Prevalence of diarrhea (Dar es Salaam). Prevalence of diarrhea (Morogoro). Prevalence of cholera (Dar es Salaam). Prevalence of cholera (Morogoro). Volume of individual water consumption (Dar es Salaam). Volume of individual water consumption (Morogoro). Number of households using improved source for drinking water (Dar es Salaam). Number of households using improved source for drinking water (Morogoro). Number of businesses using improved water source (Dar es Salaam). Number of businesses using improved water source (Morogoro). Volume of water produced (Lower Ruvu). Volume of water produced (Morogoro). Volume of non-revenue water (Dar es Salaam). Operations and maintenance cost recovery ratio (Dar es Salaam). Operations and maintenance cost recovery ratio (Morogoro). Percent disbursed on construction works. Signed contracts for construction works.
Program Administration * and Control, Monitoring and Evaluation.	$52,554,000	.....	$1,865,055	
Pending Subsequent Report **.	.....	.....	$206,197	

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Burkina Faso (Compact Implementation Funding (CIF) only) Year: 2009 Quarter 3 Total Obligation: $16,101,065 Entity to which the assistance is provided: MCA Burkina Faso Total Quarterly Disbursement: $1,378,981				
Roads Project	$337,983	Enhance access to markets through investments in the road network.	$0	To Be Determined (TBD).
Rural Land Governance Project.	$1,105,412	Increase investment in land and rural productivity through improved land tenure security and land management.	$0	TBD.
Agriculture Development Project.	$4,771,602	Expand the productive use of land in order to increase the volume and value of agricultural production in project zones.	$5,505	TBD.
Bright 2 Schools Project	$3,000,000	Increase primary school completion rates.	$1,000,000	TBD.
Program Administration * and Control, Monitoring and Evaluation.	$6,886,068	.....	$2,645,356	
Pending Subsequent Report **.	.....	.....	$65,145	

For quarterly disbursements, the Bright 2 Schools Project has a negative value due to new OMB guidance to transfer this amount to USAID. This adjustment resulted in a $2 million decrease in cumulative disbursements for this country.

MCC has concluded a Compact with Burkina Faso providing up to $480,943,569 in development assistance which includes Compact implementation funding. When the Compact enters into force, the balance of the funds will be obligated and become available to Burkina Faso.

Projects	Obligated	Objective	Cumulative disbursements	Measures
Country: Namibia (Compact Implementation Funding (CIF) only) Year: 2009 Quarter 3 Total Obligation: $19,543,175 Entity to which the assistance is provided: MCA Namibia Total Quarterly Disbursement: $446,961				
Education Project	$8,976,296	Improve the education sector's effectiveness, efficiency and quality.	$0	To Be Determined (TBD).
Tourism Project	$2,475,145	Increase incomes and create employment opportunities by improving the marketing, management and infrastructure of Etosha National Park.	$0	TBD.
Agriculture Project	$1,369,139	Sustainably improve the economic performance and profitability of the livestock sector and increase the volume of the indigenous natural products for export.	$0	TBD.
Program Administration * and Control, Monitoring and Evaluation.	$6,722,595	.....	$446,961	
Pending Subsequent Report **.	.....	.....	$0	

MCC has concluded a Compact with Namibia providing up to $304,477,816 in development assistance which includes Compact implementation funding. When the Compact enters into force, the balance of the funds will be obligated and become available to Namibia.

* Program administration funds are used to pay items such as salaries, rent, and the cost of office equipment.

** These amounts represent disbursements made that will be allocated to individual projects in the subsequent quarter(s) and reported as such in subsequent quarterly report(s).

619(b) Transfer or Allocation of Funds

U.S. Agency To Which Funds Were Transferred or Allocated	Amount	Description of Program or Project
None	$0	None.

Dated: September 25, 2009.

James Mazzarella,

Vice President (Acting), Congressional and Public Affairs, Millennium Challenge Corporation.

[FR Doc. E9–23652 Filed 9–30–09; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Request Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: Notice is hereby given that the National Science Foundation (NSF) has received a request to modify a permit issued to conduct activities regulated under the Antarctic Conservation Act of 1978 (Pub. L. 95–541; Code of Federal Regulations Title 45, Part 670).

DATES: Interested parties are invited to submit written data, comments, or views with respect to the permit modification by November 2, 2009. The permit modification request may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Polly A. Penhale or Nadene G. Kennedy at the above address or (703) 292–8030.

Description of Permit Modification Requested

On October 26, 2006, the National Science Foundation issued a waste management permit (2007 WM–001) to Rennie S. Holt, Director, Antarctic Marine Living Resources (AMLR) Program, Southwest Fisheries Service after posting a notice in the May 19, 2006 **Federal Register**. Public comments were not received. The issued permit was for the operation and maintenance of a remote science field camp at Cape Shirreff. Dr. Rennie Holt has subsequently retired and a new Director for the AMLR Program, Dr. George Watters, is now the permit holder. He has requested modifications to his waste permit to cover the use of an all-terrain vehicle (ATV) and construction of a small storage facility. The ATV is to replace the one originally provided by the Chilean Program to help move supplies and field cargo. In addition the AMLR Program plans to use an unmanned aerial vehicle (VTOL–UAV) for conducting census surveys of animal colonies. Finally the Program wishes up to release at sea up to 150 XBT's (expendable bathythermographs) and 55 drifters per annum to collect hydrographic data within the study survey grid to better understand the relationship between the target species and their environment.

The duration of the requested modifications is coincident with the current permit which expires on April 15, 2011.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. E9–23732 Filed 9–30–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the Subcommittee on Digital Instrumentation and Control Systems; Notice of Meeting

The ACRS Subcommittee on Digital Instrumentation and Control Systems (DI&C) will hold a meeting on October 23, 2009, Room T2–B3, 11545 Rockville Pike, Rockville, Maryland.

A portion of this meeting may be closed to discuss and protect information classified as National Security Information as well as Safeguards Information pursuant to 5 U.S.C. 552b(c)(1) and (3).

The agenda for the subject meeting shall be as follows:

Friday, October 23, 2009, 8:30 a.m.–5:30 p.m.

The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff and the industry regarding Regulatory Guide 5.71, ''Cyber Security Programs for Nuclear Facilities,'' and Cyber Security Plans. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Ms. Christina Antonescu (telephone: 301–415–6792, e-mail: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the Designated Federal Official 30 minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the Designated Federal Official 1 day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Designated Federal Official with a CD containing each presentation at least 30 minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 6, 2008, (73 FR 58268–58269).

Further information regarding this meeting can be obtained by contacting the Designated Federal Official (DFO) between 8:45 a.m. and 5:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the DFO at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: September 25, 2009.

Cayetano Santos,

Chief, Reactor Safety Branch A, Advisory Committee on Reactor Safeguards.

[FR Doc. E9–23684 Filed 9–30–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0365]

Notice of Extension of Comment Period for Proposed Generic Communication; NRC Regulatory Issue Summary 2005–02, Revision 1, Clarifying the Process for Making Emergency Plan Changes

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of extension of comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) published a notice of opportunity for public comment in the **Federal Register** (74 FR 42699) on August 24, 2009, proposing to issue a regulatory issue summary (RIS) to clarify the process for making emergency plan changes. This FRN version of the draft Regulatory Issue Summary (RIS) does not include the Attachments and Enclosures as described in the body of the RIS. To view these attachments and enclosures, refer to the NRC's Agencywide Documents Access and Management System (ADAMS), document number

ML080710029. The NRC's internal non-concurrence process ''Draft Management Directive 10.158, 'NRC Non-Concurrence Process','' has been invoked by a member of the NRC staff regarding draft RIS 2005–01, Revision 1. The non-concurrence and supporting information is publically available through ADAMS Accession No. ML092250622.

DATES: The public comment period ends on October 8, 2009. This notice announces a fifteen-day extension of the public comment period until October 23, 2009. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: You may submit comments by any one of the following methods. Please include Docket ID NRC–2009–0365 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal Rulemaking Web Site: Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2009–0365. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov*.

Mail comments to: Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RDB at (301) 492–3446.

FOR FURTHER INFORMATION CONTACT: Don A. Johnson at 301–415–4040 or by e-mail at *don.johnson@nrc.gov*.

SUPPLEMENTARY INFORMATION:

NRC Regulatory Issue Summary 2005–02, Revision 1; Clarifying the Process for Making Emergency Plan Changes

Addressees

All holders of licenses for nuclear power reactors under the provisions of Title 10 of the Code of Federal Regulations (10 CFR) Part 50, ''Domestic Licensing of Production and Utilization Facilities,'' including those that have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

All holders of licenses for research and test reactors under Part 50.

All holders of and applicants for nuclear power plant construction permits, early site permits and limited work authorizations under Part 50.

All holders of a combined license for a nuclear power plant under the provisions of 10 CFR Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

All holders of licenses for fuel facilities under the provisions of 10 CFR Part 40 ''Domestic Licensing of Source Material'' required to have an emergency plan under § 40.31(j)(1)(ii).

All holders of licenses for fuel facilities under the provisions of 10 CFR Part 70 ''Domestic Licensing of Special Nuclear Material'' required to have an emergency plan under § 70.22(i)(1)(ii).

All holders of certifications for gaseous diffusion plants under the provisions of 10 CFR Part 76 ''Certification of Gaseous Diffusion Plants'' required to have an emergency plan under § 76.35(f).

All holders of site-specific licenses for Independent Spent Fuel Storage Installations under 10 CFR Part 72 ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste.''

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) revision to inform stakeholders that reactor emergency plan changes that require prior NRC approval, in accordance with 10 CFR 50.54(q), will need to be submitted as license amendment requests in accordance with 10 CFR 50.90, ''Application for Amendment of License, Construction Permit, or Early Site Permit.'' In addition, this revision will (1) clarify the meaning of ''decrease in effectiveness'', as stated in 10 CFR 50.54(q); (2) clarify the process for evaluating proposed changes to emergency plans; (3) provide a method for evaluating proposed changes to emergency plans; (4) provide clarifying guidance on the appropriate content and format of applications submitted to the NRC for approval prior to implementation; and (5) clarify what constitutes a report of emergency plan changes to be submitted to the NRC in accordance with 10 CFR 50.54(q). This revision supersedes RIS 2005–02, dated February 14, 2005, in its entirety due to the extent of changes.

(1) For non-reactor facilities, the regulations in 10 CFR 40.35(f), 70.32(i), and 76.91(o) provide direction to licensees seeking to revise their emergency plan. An emergency plan includes the plan as originally approved by the NRC and all subsequent changes made by the licensee with, and without, prior NRC review and approval under these regulations. The current practice for non-reactor facilities concerning emergency plan changes that require prior NRC approval is to submit the changes as a license amendment request. Current regulatory guidance for non-reactor emergency plans is contained within Regulatory Guide 3.67, ''Standard Format and Content for Emergency Plans for Fuel Cycle and Materials Facilities.'' The NRC staff is working on updating Regulatory Guide 3.67 to include applicable elements of this RIS for fuel cycle facilities. The NRC will publish a **Federal Register** Notice of the issuance for public comment and availability of the draft updated Regulatory Guide.

(2) For Independent Spent Fuel Storage Installations (ISFSI), the emergency plan change process should be followed in accordance with 10 CFR 72.44(f). The information in this RIS provides useful examples of the type of evaluations NRC expects ISFSI licensees to conduct in reviewing changes to their Part 72 approved emergency plans (refer to § 72.24(k) and § 72.32) and determining if the changes may be made without prior NRC approval as required by § 72.44(f). The current practice for non-reactor facilities concerning emergency plan changes that require prior NRC approval is to submit the changes as a license amendment request. Additional guidance on emergency planning for ISFSI licensees is provided in Spent Fuel Storage and Transportation Interim Staff Guidance–16, ''Emergency Planning.''

This RIS revision requires no action or written response on the part of addressees.

Background Information

The regulation in 10 CFR 50.54(q) provides direction to licensees seeking to revise their emergency plan. The

requirements related to nuclear power plant emergency plans are given in the standards in 10 CFR 50.47, ''Emergency Plans,'' and the requirements of Appendix E, ''Emergency Planning and Preparedness for Production and Utilization Facilities'' to 10 CFR Part 50. The standards in § 50.54(q) and Appendix E to Part 50 also establish the requirements related to emergency plans for research and test reactors. Based upon feedback from the nuclear power industry, the research and test reactor community, and experience gained by the NRC staff after reviewing emergency plan changes, the NRC staff has identified a need to clarify the process for making changes to an emergency plan and to provide licensees with a consistent method for evaluating proposed emergency plan changes.

In addition, the NRC staff clarifies herein that the license amendment process is the correct process to use when reviewing decrease (reduction) in effectiveness submittals. Courts have found that Commission actions that expand licensees' authority under their licenses without formally amending the licenses constitute license amendments and should be processed through the Commission's license amendment procedures. *See Citizens Awareness Network, Inc.* v. *NRC,* 59 F.3d 284 (1st Cir. 1995); *Sholly* v. *NRC,* 651 F.2d 780 (DC Cir. 1980) (*per curiam*), vacated on other grounds, 459 U.S. 1194 (1983); and In re Three Mile Island Alert, 771 F.2d 720, 729 (3rd Cir. 1985), cert. denied, 475 U.S. 1082 (1986). *See also* Cleveland Electric Illuminating Co. (Perry Nuclear Power Plant, Unit 1), CLI–96–13, 44 NRC 315 (1996). A proposed emergency plan change that would reduce the effectiveness of the plan would give the licensee a capability to operate at a level of effectiveness that was not previously authorized by the NRC. In this situation, the licensee's operating authority would be expanded beyond the authority granted by the NRC as reflected in the emergency plan without the proposed change. Thus, an emergency plan change that would reduce the effectiveness of the plan would expand the licensee's operating authority under its license. A change expanding the licensee's operating authority is, according to the courts, a license amendment and must be accomplished through a license amendment process.

The staff also stated in SECY–08–0024, ''Delegation of Commission Authority to Staff to Approve or Deny Emergency Plan Changes that Represent a Decrease in Effectiveness,'' dated February 25, 2008, ''To make the process by which the NRC will address proposed 10 CFR 50.54(q) changes that represent a decrease in effectiveness clearer, the staff intends to incorporate language similar to that which currently exists in 10 CFR 50.54(p)(1), as part of the planned rulemaking.'' The current schedule for the staff's emergency preparedness (EP) rulemaking calls for the final rule to be issued no earlier than the summer of 2010. Because of the timeframe associated with the rulemaking, the staff has determined that the prudent action is to issue a RIS to clarify that licensees must submit proposed emergency plan changes which represent a decrease in effectiveness for NRC approval as specified in § 50.54(q), and the license amendment process is the correct process for the staff to use in reviewing the proposed change. For purposes of discussion and to incorporate the possibility of future regulatory changes, the term ''decrease in effectiveness'' is considered synonymous with ''reduction in effectiveness (RIE).''

Summary of Issue

Licensees routinely evaluate proposed revisions to their emergency plan, to determine if these changes reduce the effectiveness of their current approved emergency plan or adversely affect their ability to implement the emergency plan. Clarification is needed of an acceptable method for licensees to use in consistently evaluating proposed changes to the emergency plan to ensure the licensee's ability to maintain and implement the approved emergency plan. Additionally, licensees should understand the process for submitting proposed emergency plan changes to the NRC for approval prior to implementation when there is a determination of a decrease (reduction) in effectiveness.

The change process is described below and clarified by providing a screening criterion that would ensure consistency of emergency plan change determinations of a decrease (reduction) in effectiveness. Enclosure 1, ''10 CFR 50.54(q) Evaluation Procedure,'' presents a suggested outline for applying the screening criteria for the evaluation of a proposed emergency plan change, which is graphically depicted in Attachment 1 to Enclosure 1, ''10 CFR 50.54(q) Flowchart.'' In addition, Enclosure 2, ''Guidance for Content of Emergency Plan Submittals to NRC Requiring Prior NRC Approval,'' provides guidance to licensees in the development of their application for NRC prior approval of proposed emergency plan changes. The information in this RIS revision clarifies the process for changing emergency plans to ensure that licensees maintain effective emergency plans thereby maintaining reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. This RIS revision also provides a consistent methodology for licensees to evaluate changes to their emergency plans and provides clarifying guidance for the development of applications for NRC prior approval. This will help ensure that NRC review activities and decisions are effective, efficient, predictable, and consistent.

The regulations require licensees to submit a report of each change within a specified period of time after the change is made. The NRC Inspectors use this report to evaluate the effectiveness of a licensee's emergency plan change management program in accordance with NRC Inspection Procedures, and although not required, the inclusion of the applicable licensee evaluation and justification for the change as part of this report would be beneficial to the staff.

Regulation

In part, 10 CFR 50.54(q) states the following:

The nuclear power reactor licensee may make changes to these plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of § 50.47(b) and the requirements of appendix E to this part. The research reactor and/or the fuel facility licensee may make changes to these plans without Commission approval only if these changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of appendix E to this part * * *. Proposed changes that decrease the effectiveness of the approved emergency plans may not be implemented without application to and approval by the Commission.

Definitions

(1) Decrease (Reduction) in Effectiveness (RIE).

(a) A change in an emergency plan that results in reducing the licensee's capability to perform an emergency planning function in the event of a radiological emergency.

(i) Note that other licensee activities could affect the ability to implement the emergency plan effectively. Licensees must maintain the effectiveness of their NRC approved emergency plans, up to and including ensuring that changes made to other programs, structures,

systems or components do not adversely impact the licensee's ability to effectively implement its emergency plan. *See* Information Notice 2005–19, ''Effect of Plant Configuration Changes on the Emergency Plan,'' dated July 18, 2005, for additional information.

(1) An RIE will occur if there is a change or reduction in an emergency planning function without a commensurate reduction or change in the bases for that emergency planning function or without measures put in place to reduce the impact of the proposed change to the emergency plan. The overall impact of proposed changes on the effectiveness of the emergency plan or its implementation is to be determined, not just the effect that individual changes have on a specific part of the emergency plan.

(2) The following provides some examples of RIEs that would require prior NRC approval without a commensurate reduction or change in the bases for that emergency planning function or without measures put in place to reduce the impact of the proposed change to the emergency plan. These examples should not be viewed as being all-inclusive or exclusive; rather, licensees should use them to inform decisions involving various changes being considered. It is also possible that site-specific situations may make a particular example inapplicable to a site. Even if a particular example completely encompasses the change being considered, the licensee's emergency plan change evaluation should explain why the site-specific implementation of the change would not be an RIE for that particular site. It is not sufficient for such an analysis to simply cross-reference an example in this RIS revision.

(a) A change that would cause any of the major functional areas or major tasks identified in the emergency plans to be unassigned. An example of this would be a technical specification change eliminating on-shift radiation technician coverage without making an alternative arrangement for providing the requisite technical expertise in a timely manner.

(b) A change that would impede site access for offsite assistance relied on in the plan without viable alternate arrangements being made. An example would be the closure or planned closure of a major river bridge in a case where the route via the nearest available crossing would incur a substantial increase in response time.

(c) A change to the emergency response organization (ERO) callout procedures or hardware that would delay ERO notification such that the augmentation times in the emergency plans can no longer be achieved. A change to communications hardware that would reduce the capability to initiate and complete required emergency notifications within 15 minutes of the emergency declaration.

(d) A change to the onsite meteorological measurements program such that meteorological data currently readily available in emergency response facilities in accordance with the emergency plan would no longer be readily available.

(e) A change to hazard assessment and radiation protection assignments in re-entry and recovery procedures that would not provide an adequate level of personal protection in uncertain reentry conditions.

(f) A change that reduces the availability of site familiarization training currently presented to offsite assistance groups (*e.g.,* firefighters, local law enforcement, and medical services, including mutual aid companies that would support these groups).

(g) A change that delegates the responsibility for performance of various aspects of emergency plan maintenance to contractors or other external groups without adequate supervisory oversight to ensure that program elements continue to be met (*e.g.,* a change delegating testing and maintenance of the Alert and Notification System to an external group not subject to typical nuclear facility work process and configuration controls).

(3) For proposed changes to individual emergency action levels (EALs) (*i.e.,* not an entire EAL scheme change), an RIE will occur in the following cases:

(a) The proposed change to the EAL would potentially cause an underclassification, (*e.g.,* what was considered an Alert in the approved emergency plan would now be considered an Unusual Event or not classified at all).

(b) The proposed change to the EAL would potentially cause an overclassification, (*e.g.,* what was considered a Site Area Emergency in the approved emergency plan would now be considered a General Emergency with potential consequences for public health and safety).

(c) If the proposed change to the EAL is to change an Initiating Condition setpoint (or threshold) without a commensurate change in the regulatory basis for the EAL Initiating Condition setpoint (or threshold).

(d) The actual numerical setpoint of a given EAL may be revised without prior NRC approval under the following conditions via the 10 CFR 50.54(q) emergency plan change process:

(i) The regulatory basis for the EAL setpoint has been revised and is approved via a letter to the licensee or a Safety Evaluation (SE). For example, a site receives NRC approval (via a SE) for power up-rate. Power up-rate implementation causes the ''normal'' radiation levels to increase, thus necessitating an increase in EAL setpoints based on ''normal'' radiation levels. The regulatory basis for the setpoint has been changed, thus this change can be processed via the emergency plan change process because the effectiveness of the emergency plan has not been reduced.

(ii) The regulatory basis for the EAL setpoint has not been changed but the method for detection of the setpoint has been changed. For example, a given EAL setpoint is based upon exceeding 1 Rem total effective dose equivalent (TEDE). The radiation monitor reading setpoint is based upon a reading that would give the equivalent of exceeding 1 Rem TEDE. The radiation monitor is replaced and operates differently. The actual numerical value of the EAL needs to be revised to that which is equivalent to 1 Rem TEDE. The regulatory basis for the setpoint has not been changed, thus this change can be processed via the emergency plan change process as the effectiveness of the emergency plan has not been reduced.

(2) Emergency plan.

(a) The document(s) prepared and maintained by the licensee that identify and describe the licensee's methods for maintaining and performing emergency planning functions. An emergency plan includes the plans as originally approved by the NRC and all subsequent changes made by the licensee with, and without, prior NRC review and approval under 10 CFR 50.54(q).

(i) The licensee's emergency plan consists of:

(1) The emergency plan as approved by the NRC via a Safety Evaluation Report, SE, or license amendment (LA) from the Office of Nuclear Reactor Regulation (NRR) or the Office of Federal and State Materials and Environmental Management Programs (FSME).

(2) Changes to the emergency plan explicitly reviewed by the NRC through an SE, or LA from NRR or FSME, and found to meet the applicable regulations.

(3) Changes to the emergency plan explicitly reviewed by the NRC through an SE, or LA, and found to be an approved amendment to the licensee's emergency plan.

(4) Changes made by the licensee without NRC review and approval after the licensee concluded that the change(s) do not constitute a RIE.

Emergency Plan Change Process

1. Process Overview

Reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency is based on the licensee's emergency plan, and the successful implementation of that emergency plan. The body of an emergency plan contains statements that describe how a licensee will meet regulatory requirements. The standards of 10 CFR 50.47(b) and the requirements of Appendix E to 10 CFR Part 50 establish the contents of the nuclear power reactor emergency plan. The standards in § 50.54(q) and Appendix E to Part 50 establish the requirements related to emergency plans for research and test reactors. Subsequent changes to the emergency plan must comply with § 50.54(q). Enclosure 1 outlines the emergency plan change process, and Attachment 1 to Enclosure 1 graphically depicts the process in a flowchart.

2. Emergency Plan Review

Changes to an emergency plan may result from advances in technology, new or revised rules, site-specific needs, processes, guidance (such as Nuclear Energy Institute guidance endorsed by the NRC), technical specification changes, or modifications to instrumentation. Changes that the licensee has identified as RIEs must be submitted to the NRC for review and prior approval. The NRC staff will review the emergency plan change against the standards, regulations, guidance documents and the approved emergency plan. The NRC will review and approve submittals on a case-by-case basis. An emergency plan change approved for one licensee does not mean that the same or similar change would be approved for another licensee.

For the purposes of determining whether a change to a licensee's emergency plan constitutes an RIE, the licensee should use the last emergency plan reviewed and approved by the NRC. If the emergency plan change process has been properly implemented over the years, comparing a proposed emergency plan change to either the latest emergency plan reviewed and approved by the NRC or the emergency plan as changed by the licensee should result in the same RIE determination. For example, if a licensee made a series of changes over time to the same specific provision of the emergency plan, where each change was separately determined not to constitute an RIE, then there should be no RIE. Therefore, there should be no RIE when comparing the latest emergency plan to the emergency plan reviewed and approved by the NRC. If a licensee or the NRC concludes that there is a RIE due to a series of changes over time, then the provisions of the emergency plan change process have not been correctly followed.

The EP requirements are a framework for how the licensee will meet the applicable standards and requirements of the regulations. If a licensee has determined that an EP requirement should be increased in order to meet the planning standards or Appendix E to Part 50 requirements, these changes must follow the emergency plan change process and revise the emergency plan to reflect this increase to the EP requirement. Nevertheless, whether or not an emergency plan change results in a RIE is not determined by assessing whether NRC regulatory requirements continue to be met after the EP requirement has been changed. The licensee's emergency plan may include EP requirements that exceed the baseline standards and requirements as set forth in § 50.47(b) and Appendix E to Part 50. For the RIE determination, the change or changes should be evaluated against the capability to perform the functions and the associated time requirement of performing the function, if applicable. The evaluation should document whether the capability or timeliness to perform a function is lost and/or degraded. In addition to the RIE determination, the change or changes should also be evaluated to verify that they continue to meet the standards and requirements as set forth in § 50.47(b) and Appendix E to Part 50.

The current Commission requirements for document retention in § 50.54(q), specify that changes that do not warrant NRC approval must be retained for 3 years. The licensee must retain changes that reduce the effectiveness of the emergency plan until the Commission terminates the license. It may be prudent to save emergency plan change documentation to show the historical progression of changes, since the Commission, through its staff, may review at any time, the emergency plan changes that have been made.

Related Topics Regarding Emergency Plan Changes

1. Regulatory Process for Evaluating Licensee Requests for NRC Prior Approval of Emergency Plan Changes Determined To Be a RIE in Accordance With 10 CFR 50.54(q)

Similar to security plan changes submitted via 10 CFR 50.54(p)(1), emergency plan changes that result in the reduction in the effectiveness of the approved emergency plan require prior NRC approval, under § 50.54(q), and should be submitted as license amendment requests under § 50.90.

2. Emergency Action Level Changes

A revision to an entire EAL scheme, from NUREG–0654, ''Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants,'' to another NRC-endorsed EAL scheme, must be submitted for prior NRC approval as specified in Section IV.B. of Appendix E to 10 CFR Part 50. The Statement of Considerations for the final rule amending the NRC's regulations relating to NRC approval of EAL changes, dated January 26, 2005, stated in part, ''The Commission believes a licensee's proposal to convert from one EAL scheme (*e.g.,* NUREG–0654-based) to another EAL Scheme (NUMARC/NESP–007 or NEI 99–01 based) * * * is of sufficient significance to require prior NRC review and approval. NRC review and approval for such major changes in EAL methodology is necessary to ensure that there is reasonable assurance that the final EAL change will provide an acceptable level of safety.'' Regulatory Guide 1.101, Revisions 3 and 4, ''Emergency Planning and Preparedness for Nuclear Power Reactor,'' endorsed NUMARC/NESP–007 and NEI 99–01 EAL guidance, respectively, as acceptable alternatives to the guidance provided in NUREG–0654 for development of EALs to comply with § 50.47 and Appendix E to Part 50. A change in an EAL scheme to incorporate the improvements provided in NUMARC/NESP–007 or NEI 99–01 would not decrease the overall effectiveness of the emergency plan and would not expand a licensee's operating authority beyond that previously authorized by NRC, but due to the potential safety significance of the change, the change needs prior NRC review and approval. This approval is given via SE and letter.

Revisions of an individual EAL that results in a decrease in effectiveness must be submitted for NRC approval as specified in § 50.54(q), and the license

amendment process is the correct process for the staff to use in reviewing the proposed change. As discussed previously, an emergency plan change that would reduce the effectiveness of the plan would expand the licensee's operating authority under its license. A change expanding the licensee's authority is, according to the courts, a license amendment and must be accomplished through a license amendment process. For research and test reactors, NUREG–0849, ''Standard Review Plan for the Review and Evaluation of Emergency Plans for Research and Test Reactors,'' issued October 1983, provides guidance on EALs and how changes should be made on a case-by-case basis with consideration of the provisions of § 50.54(q).

3. Inspection Activities

For power reactors, the NRC inspectors use Inspection Procedure (IP) 71114.04 to conduct a review of the effectiveness of the licensee's implementation of the 10 CFR 50.54(q) change process. For research and test reactors, the NRC inspectors use IP 69011, ''Class I Research and Test Reactor Emergency Preparedness,'' and IP 69001, ''Class II Research and Test Reactors.'' The inspector will perform a screening review of the change relative to the emergency plan; however, this will not constitute NRC approval of the plan as changed.

The documentation of the change reviewed by the inspectors will be the report provided by the licensee as stated in § 50.54(q). Although not required, the inclusion of the applicable licensee evaluation and justification for the change as part of this report would assist the staff in the review.

4. Lower Tier Documents

If a licensee has incorporated a lower tier document into the emergency plan or the emergency plan explicitly references a lower tier document as a method to implement a specific requirement in the emergency plan, then, it is considered part of the plan and subject to § 50.54(q) review. Historically, some licensees have developed emergency plan implementing procedures that included the necessary information needed for activities that are required to meet the regulations, for example, procedures for notifications, dose assessment, protective action recommendations, emergency classifications and emergency action levels. The staff is not making the use of § 50.54(q) to review all changes to lower tier documents a requirement, but acknowledges that using § 50.54(q) as the regulation to provide revision control of these lower tier documents has been in place and supported by the NRC through the inspection and licensing process.

Backfit Discussion

This RIS revision does not require any action or written response. This RIS revision provides non-regulatory review guidance for licensees and clarifies existing regulatory requirements licensees must follow when proposing changes to their emergency plans. The NRC's Backfit Rule, 10 CFR 50.109, applies to, among other things, the procedures necessary to operate a nuclear power plant. To the extent that using a license amendment process for making modifications to emergency plans that reduce the effectiveness of the plans is considered a change, it would be a change to the NRC's regulatory process for addressing modifications to the emergency plan. The NRC's regulatory review process is not a licensee procedure required for operating a plant that would be subject to backfit limitations.

Further, the Backfit Rule protects licensees from Commission actions that arbitrarily change license terms and conditions. In 10 CFR 50.54(q), a licensee requests Commission authority to do what is not currently permitted under its license. The licensee has no valid expectations protected by the Backfit Rule regarding the means for obtaining the new authority that is not permitted under the current license. For these reasons, this RIS revision does not constitute a backfit under 10 CFR 50.109, and the staff did not perform a backfit analysis.

Federal Register Notification

To be done after the public comments periods.

Paperwork Reduction Act Statement

This RIS revision does not contain information collections and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

Contact

Please direct any questions about this matter to Don A. Johnson at (301) 415–4040, or by e-mail: *don.johnson@nrc.gov*.

End of Draft Regulatory Issue Summary

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if you have problems in accessing the documents in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 24th day of September 2009.

For the Nuclear Regulatory Commission.

Martin C. Murphy,

Chief, Generic Communications Branch, Division of Policy and Rulemaking, Office of Nuclear Reactor Regulation.

[FR Doc. E9–23683 Filed 9–30–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Federal Long Term Care Insurance Program Special Decision Period for Current Enrollees

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of Federal Long Term Care Insurance Program special decision period for current enrollees.

SUMMARY: The U.S. Office of Personnel Management (OPM) is announcing rules for current enrollees in the Federal Long Term Care Insurance Program (FLTCIP) who will be eligible to change coverage during a limited Special Decision Period to be held this year. These rules pertain only to current eligible enrollees who may make changes because of new plan features and premium rate increases for some enrollees. Eligible enrollees in the standard plan as of October 1, 2009, and those individuals whose application for the standard plan was received on or before September 30, 2009, and whose enrollment was approved may make changes during the Special Decision Period, provided they are not in benefit eligible status.

DATES: The Special Decision Period will be from October 1 through December 14, 2009.

FOR FURTHER INFORMATION CONTACT: Enrollees may call 1–800–LTC–FEDS (1–800–582–3337) (TTY: 1–800–843–3557) or visit *http://www.ltcfeds.com.* For purposes of this **Federal Register** notice only, the contact at OPM is John Cutler, Senior Policy Analyst, Strategic Human Resources Policy Division, at *john.cutler@opm.gov* or (202) 606–0735.

SUPPLEMENTARY INFORMATION: The Long-Term Care Security Act (Pub. L. 106–265) directs OPM to provide periodic opportunities for eligible persons to apply for coverage in the FLTCIP. OPM has issued regulations (5 CFR 875.402–875.404) which set forth procedures for FLTCIP open seasons. This notice is issued under the provisions of § 875.402(b). The Special Decision Period described in this Notice is solely for current enrollees to make coverage changes. Eligible enrollees will be notified directly about the Special Decision Period by Long Term Care Partners, the program administrator.

Enrollees who have plan options subject to a rate increase beginning in January 2010 will be offered a specified ''landing spot'' to allow them to reduce their coverage in order to keep their premium approximately the same amount as it is today. Eligible enrollees will also be given an opportunity to change to the new FLTCIP plan design which offers some features different than those currently available. Enrollees who make coverage changes outside of this Special Decision Period may be subject to full underwriting, as specified in § 875.403, and different premium calculation rules.

Qualified enrollees under these special rules: Persons enrolled in the FLTCIP standard plan as of October 1, 2009, and those individuals whose application for the standard plan was received on or before September 30, 2009, and whose enrollment was approved are eligible to make changes during the Special Decision Period, provided they are not in benefit eligible status.

Underwriting requirements: Eligible enrollees who wish to reduce their coverage or keep their current coverage (subject to any applicable rate increases) will be able to do so without underwriting. They may also change to the specified ''landing spot'' without underwriting. No enrollee's coverage will change unless he or she voluntarily chooses to change it. Other coverage changes may require underwriting.

If underwriting is required, eligible enrollees who are active workforce members or spouses of active workforce members will be subject to the abbreviated underwriting standards in effect for the FLTCIP as of October 1, 2009. In accordance with § 875.404(b)(2), active workforce members who seek to make changes that require underwriting must be actively at work in order for coverage changes to become effective. For decision period changes with a January 1, 2010, effective date, actively at work requirements are modified. For a coverage change to become effective January 1, 2010, the active workforce member must be actively at work one day during the month of December 2009. If underwriting is required for any other eligible enrollees, they will be subject to the full underwriting standards in effect for the FLTCIP as of October 1, 2009.

Billing age: For enrollees who retain their current benefits, premiums are based on the enrollee's age at purchase. For enrollees who choose to change their benefits, premiums will be determined on a blended rate basis, taking into account the enrollee's age at purchase and the enrollee's attained age as of January 1, 2010.

Premiums: Certain current enrollees in the FLTCIP will experience a premium increase, effective January 1, 2010. The premium increase affects current enrollees who applied to the FLTCIP on or before September 30, 2009, who have the Automatic Compound Inflation Option (ACIO) and whose age at purchase was under 70. Enrollees affected by the premium increase will receive detailed written information about the specific amount of the increase from Long Term Care Partners. Long Term Care Partners will also provide information on how enrollees may reduce their benefits in order to avoid the premium increase and keep their new premium approximately the same as their current premium. All eligible enrollees will also be given an opportunity to change to the new FLTCIP plan design. Premiums for coverage changes will vary according to the enrollee's age and the coverage options selected.

Effective date: The effective date of coverage changes that do not require underwriting will be January 1, 2010, regardless of when the Special Decision Period request is received. Coverage changes requiring underwriting will be effective January 1, 2010, or the first day of the month following approval of the request, whichever is later.

Enrollees who make coverage changes under these provisions will receive a revised Benefit Booklet and Schedule of Benefits. Enrollees will have 30 days after the date these items are mailed to cancel their Special Decision Period coverage changes and revert to their original coverage or to make another Special Decision Period choice. Enrollees will receive a refund of any difference in premiums paid for a coverage change that is cancelled within those 30 days. If enrollees cancel the coverage change after 30 days, they will not receive a refund of any difference in premiums paid for the changed coverage, unless those premiums are for a period after the effective date of the cancellation.

OPM expects to hold a FLTCIP Open Season for all individuals eligible to apply in late 2010. We will issue a separate Notice in the **Federal Register** describing the procedures for that Open Season at a later time.

Authority: 5 U.S.C. 9008; 5 CFR 875.402.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–23727 Filed 9–30–09; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28930]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

September 25, 2009.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of September, 2009. A copy of each application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 20, 2009, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

Keystone Tax Exempt Trust [File No. 811–4334]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about March 1, 1996, applicant transferred its assets to Keystone Tax Free Fund, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on September 3, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone Hartwell Growth Fund [File No. 811–1380]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about July 31, 1997, applicant transferred its assets Keystone Omega Fund, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on September 3, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Eagle Growth Shares, Inc. [File No. 811–1935]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 17, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $82,682 incurred in connection with the liquidation were paid by applicant. Applicant has retained approximately $36,384 in cash to pay certain remaining liabilities.

Filing Date: The application was filed on September 10, 2009.

Applicant's Address: 1200 North Federal Hwy., Suite 424, Boca Raton, FL 33432.

Surgeons Diversified Investment Fund [File No. 811–21868]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On April 20, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $53,816 incurred in connection with the liquidation were paid by Surgeons Asset Management, LLC, applicant's investment adviser.

Filing Date: The application was filed on August 20, 2009.

Applicant's Address: Surgeons Asset Management, LLC, 633 North St. Clair St., Chicago, IL 60611.

Keystone Precious Metals Holdings, Inc. [File No. 811–2303]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to Evergreen Precious Metals Fund, a series of Evergreen International Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on August 20, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone Omega Fund [File No. 811–1600]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to Evergreen Omega Fund, a series of Evergreen Equity Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on August 20, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Ralph Parks Portfolios Trust [File No. 811–21845]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 29, 2009, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of $12,764 incurred in connection with the liquidation were paid by applicant and Ralph Parks Investment Group, applicant's investment adviser.

Filing Date: The application was filed on August 18, 2009.

Applicant's Address: Meadowgate Office Park, 101 Sully's Trail, Bldg. 10, Pittsford, NY 14534.

Pioneer Independence Plans [File No. 811–8551]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On June 22, 2007, applicant made a liquidating distribution to its planholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Date: The application was filed on September 9, 2009.

Applicant's Address: 60 State St., Boston, MA 02109.

Pioneer Growth Shares [File No. 811–1604]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 7, 2007, applicant transferred its assets to Pioneer Independence Fund, based on net asset value. Expenses of approximately $221,761 incurred in connection with the reorganization were paid by applicant, the acquiring fund, and Pioneer Investment Management, Inc., applicant's investment adviser.

Filing Date: The application was filed on September 9, 2009.

Applicant's Address: 60 State St., Boston, MA 02109.

Keystone Strategic Development Fund [File No. 811–8694]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to Evergreen Natural Resources Fund, a series of Evergreen International Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on September 1, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone World Bond Fund [File No. 811–4830]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about July 31, 1997, applicant transferred its assets to Keystone Strategic Income Fund, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on September 1, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone Strategic Growth Fund (K–2) [File No. 811–97]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to Evergreen Strategic Growth Fund, a series of Evergreen Equity Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on August 31, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone International Fund Inc. [File No. 811–1231]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to Evergreen International Growth Fund, a series of Evergreen International Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on August 17, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Western Asset/Claymore U.S. Treasury Inflation Protected Securities Fund 3 [File No. 811–21559]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on August 14, 2009.

Applicant's Address: 385 East Colorado Blvd., Pasadena, CA 91101.

Keystone Liquid Trust [File No. 811–2521]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about July 31, 1997, applicant transferred its assets to Evergreen Money Market Fund, a series of Evergreen Money Market Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on August 19, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone Strategic Income Fund [File No. 811–4947]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about December 22, 1997, applicant transferred its assets to Evergreen Strategic Income Fund, a series of Evergreen Fixed Income Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on August 20, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Waddell & Reed Advisors Vanguard Fund, Inc. [File No. 811–1806]

Waddell & Reed Advisors International Growth Fund, Inc. [File No. 811–2004]

Waddell & Reed Advisors Continental Income Fund, Inc. [File No. 811–2008]

Waddell & Reed Advisors Retirement Shares, Inc. [File No. 811–2263]

Waddell & Reed Advisors Funds, Inc. [File No. 811–2552]

Waddell & Reed Advisors New Concepts Fund, Inc. [File No. 811–3695]

Waddell & Reed Advisors Asset Strategy Fund, Inc. [File No. 811–7217]

Waddell & Reed Advisors Tax-Managed Equity Fund, Inc. [File No. 811–9789]

Waddell & Reed Advisors Select Funds, Inc. [File No. 811–10135]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On January 30, 2009, each applicant transferred its assets to Waddell & Reed Advisors Funds, based on net asset value. Expenses of approximately $120,269, $62,712, $29,428, $34,751, $584,038, $117,640, $192,396, $14,266 and $135,564, respectively, incurred in connection with the reorganizations were paid by each applicant.

Filing Date: The applications were filed on August 27, 2009.

Applicants' Address: 6300 Lamar Ave., Shawnee Mission, KS 66202–4200.

Kayne Anderson Canadian Energy Income Fund, Inc. [File No. 811–21945]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 17, 2009, and amended on September 2, 2009.

Applicant's Address: 717 Texas Ave., Suite 3100, Houston, TX 77002.

Keystone Emerging Markets Fund [File No. 811–7551]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on July 28, 2009, and amended on September 2, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

Keystone Balanced Fund II [File No. 811–7679]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On or about July 17, 1997, applicant transferred its assets to Evergreen Foundation Trust, based on net asset value. Expenses incurred in connection with the reorganization were paid by applicant.

Filing Dates: The application was filed on July 27, 2009, and amended on August 31, 2009.

Applicant's Address: 200 Berkeley St., Boston, MA 02116.

AIM Core Allocation Portfolio Series [File No. 811–21792]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Each series of applicant was liquidated at net asset value through a series of shareholder redemptions that was completed on February 26, 2009. Expenses of approximately $422 incurred in connection with the liquidation were paid by Invesco Aim Advisors, Inc., applicant's investment adviser.

Filing Dates: The application was filed on August 14, 2009, and amended on September 17, 2009.

Applicant's Address: 11 Greenway Plaza, Suite 100, Houston, TX 77046–1173.

E*TRADE Funds [File No. 811–9093]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 30, 2009 and April 27, 2009, applicant made liquidating distributions to its shareholders, based on net asset value. Expenses of $50,000 incurred in connection with the liquidation were paid by E*TRADE Asset Management, Inc., applicant's investment adviser.

Filing Date: The application was filed on August 20, 2009.

Applicant's Address: 4500 Bohannon Dr., Menlo Park, CA 94025.

Servus Life Insurance Company Separate Account One [File No. 811–9031]

Servus Life Insurance Company Separate Account Two [File No. 811–9043]

Summary: Applicants seeks an order declaring that they have ceased to be investment companies. Applicants request deregistration based on abandonment of registration. Applicants have not commenced operations and are not now engaged, or intending to engage, in any business activities other than those necessary for winding up their affairs.

Filing Date: The applications were filed on July 23, 2009.

Applicants' Address: Seaview House, 70 Seaview Avenue, Stamford, CT 06902–6040.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23669 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28931; File No. 812–13569]

Ridgewood Capital Energy Growth Fund, LLC, et al.; Notice of Application

September 25, 2009.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 57(a)(4) of the Act and under section 17(d) of the Act and rule 17d–1 under the Act authorizing certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit a business development company (''BDC'') to co-invest with certain affiliated investment funds in portfolio companies.

APPLICANTS: Ridgewood Capital Energy Growth Fund, LLC (the ''Company''), Ridgewood Capital Fund IV, LLC, Ridgewood Capital Fund IV–B, LLC, Ridgewood Capital Fund IV–C, LLC, Ridgewood Capital QP Fund IV, LLC, Ridgewood Capital QP Fund IV–B, LLC, Ridgewood Capital QP Fund IV–C, LLC, Ridgewood QP Fund III LLC, and Ridgewood Venture Fund III LLC (each individually, a ''Fund'' and collectively, the ''Funds''), and Ridgewood Capital Management, LLC (the ''Adviser'').

FILING DATES: The application was filed on August 25, 2008 and amended on February 6, 2009, June 4, 2009, and September 24, 2009.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on October 20, 2009, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St., NE., Washington, DC 20549–1090. Applicants: c/o Daniel V. Gulino, Esq., Ridgewood Capital Energy Growth Fund, LLC, 947 Linwood Avenue, Ridgewood, New Jersey 07450.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Attorney Advisor, at (202) 551–6819, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Company is an externally managed, non-diversified, closed-end management investment company that intends to elect to be regulated as a BDC under the Act.[1] The Company intends to operate as a specialty investment company focused on providing customized financing to a limited number of energy or renewable energy, technology, and growth-based companies from the early stages of development to the expansion and later stages of development. The Company's investment objective is to generate long-term capital appreciation from these equity-related investments. The Company will have a five-member board of directors (the ''Board'') of which three members are not ''interested persons'' of the Company within the meaning of section 2(a)(19) of the Act (the ''Independent Directors''). The Adviser is an investment adviser registered under the Investment Advisers Act of 1940 and will manage the investment activities of the Company pursuant to an investment advisory agreement.

2. Each of the Funds is a Delaware limited liability company of which the Adviser is the managing member and is a separate and distinct legal entity. Each is excluded from the definition of investment company by either section 3(c)(1) or 3(c)(7) of the Act. The Funds' investment objectives are essentially the same as those of the Company. Each Fund is operated in accordance with a limited liability company agreement (collectively, the ''Agreements''). The Agreements also serve effectively as the advisory contracts between the Adviser and each Fund and provide the Adviser with full, exclusive and complete discretion in the management and control of the Funds. The Adviser may in the future advise other entities that are affiliated persons of the Company as defined in section 2(a)(3)(C) of the Act (the ''Future Co-Investment Affiliates'').[2]

3. Applicants request relief permitting the Company, the Funds and any Future Co-Investment Affiliate to co-invest in portfolio companies (the ''Co-Investment Program'' and each investment, a ''Co-Investment Transaction'').[3] Each Co-Investment Transaction would be allocated among the Company, on the one hand, and the Funds, on the other hand. In selecting investments for the Company, the Adviser will consider only the investment objective, investment policies, investment position, capital available for investment, and other pertinent factors applicable to the Company. While co-investment would be the norm, each transaction and the proposed allocation of each investment opportunity would be approved prior to the actual investment by the required majority (within the meaning of section 57(o)) (the ''Required Majority'').[4]

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in a joint transaction with the BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by or under common control with a BDC is subject to section 57(a)(4).

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] Sections 2(a)(3)(C) defines an ''affiliated person'' of another person as any person directly or indirectly controlling, controlled by, or under common control with, such other person.

[3] All existing entities that currently intend to rely on the order have been named as applicants and any future entities that may rely on the order in the future will comply with its terms and conditions.

[4] The term ''Required Majority,'' when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a BDC's directors or general partners who have no financial interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.

Applicants state that each of the Funds could be deemed to be a person related to the Company in a manner described by section 57(b) by virtue of their being under common control with the Company. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply. Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 applies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. Rule 17d–1, as made applicable to BDCs by section 57(i), prohibits any person who is related to a BDC in a manner described in section 57(b), acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the BDC is a participant, absent an order from the Commission. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that they expect that co-investment in portfolio companies by the Company and the Funds will increase favorable investment opportunities for the Company. The Co-Investment Program will be effected only if it is approved by the Required Majority on the basis that it would be advantageous for the Company to have the additional capital from the Funds available to meet the funding requirements of attractive investments in portfolio companies.

4. Applicants submit that the fact that the Required Majority will approve each Co-Investment Transaction before investment, and other protective conditions set forth in the application, will ensure that the Company will be treated fairly. Applicants state that the Company's participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the 1940 Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each time the Adviser considers an investment for the Funds and/or the Company, it will make an independent determination of the appropriateness of the investment for the Company in light of the Company's then-current circumstances.

2. (a) If the Adviser deems the Company's participation in any such investment opportunity to be appropriate for the Company, it will then determine an appropriate level of investment for the Company.

(b) If the aggregate amount recommended by the Adviser to be invested in such Co-Investment Transaction by the Company, together with the amount proposed to be invested by the Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on the ratio of the Company's total assets, on one hand, and the total assets of the Funds to be co-investing, on the other hand, to the aggregated total assets of the parties, up to the amount proposed to be invested by each. The Adviser will provide the Required Majority with information concerning the Funds' total assets to assist the Required Majority with their review of the Company's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the Adviser will distribute written information concerning the Co-Investment Transaction, including the amount proposed to be invested by the Funds, to the Independent Directors for their consideration. The Company will co-invest with the Funds only if, prior to the Company's and the Funds' participation in the Co-Investment Transaction, a Required Majority concludes that:

(i) the terms of the transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching of the Company or its unit-holders on the part of any person concerned;

(ii) the transaction is consistent with

(A) the interests of the unit-holders of the Company; and

(B) the Company's investment objectives and strategies (as described in the Company's Form 10 and other filings made with the Commission by the Company under the Securities Act of 1933 (the ''1933 Act''), any reports filed by the Company with the Commission under the Securities Exchange Act of 1934 and the Company's reports to unit-holders);

(iii) the investment by the Funds would not disadvantage the Company, and participation by the Company is not on a basis different from or less advantageous than that of the Funds; provided, that if the Funds, but not the Company, gain the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if

(A) the Required Majority shall have the right to ratify the selection of such director or board observer, if any, and

(B) the Adviser agrees to, and does, provide, periodic reports to the Company's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(iv) the proposed investment by the Company will not benefit the Adviser or the Funds or any affiliated person of either of them (other than the Company and the Funds), except to the extent permitted under sections 17(e) and 57(k) of the Act.

3. The Company has the right to decline to participate in any Co-Investment Transaction or to invest less than the amount proposed.

4. The Adviser will present to the Board, on a quarterly basis, a record of all investments made by the Funds during the preceding quarter that fell within the Company's then-current investment objectives that were not made available to the Company, and an explanation of why the investment opportunities were not offered to the Company. All information presented to the Board pursuant to this condition will be kept for the life of the Company and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for follow-on investments made pursuant to condition 8 below, the Company and the Funds will not invest in any portfolio company in which the Funds or any affiliated persons of the Funds are existing investors.

6. The Company will not participate in any Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement

date, and registration rights will be the same for the Company as for the Funds. The grant to the Funds, but not the Company, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A) and (B) are met.

7. If any of the Funds elects to sell, exchange or otherwise dispose of an interest in a security that was acquired by the Company and the Funds in a Co-Investment Transaction, the Adviser will:

(a) notify the Company of the proposed disposition at the earliest practical time; and

(b) formulate a recommendation as to participation by the Company in any such disposition and provide a written recommendation to the Independent Directors. The Company will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the Funds. The Company will participate in such disposition to the extent that a Required Majority determines that it is in the Company's best interests to do so. The Company and each of the Funds will bear its own expenses in connection with any such disposition.

8. If any of the Funds desires to make a ''follow-on investment'' (i.e., an additional investment in the same entity) in a portfolio company whose securities were acquired by the Company and the Funds in a Co-Investment Transaction or to exercise warrants or other rights to purchase securities of the issuer, the Adviser will:

(a) notify the Company of the proposed disposition at the earliest practical time; and

(b) formulate a recommendation as to the proposed participation, including the amount of the proposed follow-on investment, by the Company and provide a written recommendation to the Independent Directors.

The Independent Directors will make their own determination with respect to follow-on investments. To the extent that:

(i) the amount of a follow-on investment is not based on the Company's and the Funds' initial investments; and

(ii) the aggregate amount recommended by the Adviser to be invested by the Company in such follow-on investment, together with the amount proposed to be invested by the Funds in the same transaction, exceeds the amount of the follow-on investment opportunity, the amount invested by each such party will be allocated among them pro rata based on the ratio of each party's total assets to the aggregated total assets of both parties, up to the maximum amount to be invested by each. The Company will participate in such investment to the extent that the Required Majority determines that it is in the Company's best interest. The acquisition of follow-on investments as permitted by this condition will be subject to the other conditions set forth in the application.

9. The Independent Directors will be provided quarterly for review all information concerning Co-Investment Transactions, including investments made by the Funds that the Company considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments which the Company considered but declined to participate, comply with the conditions of the order. In addition, the Independent Directors will consider at least annually the continued appropriateness of the standards established for co-investments by the Company, including whether the use of the standards continues to be in the best interests of the Company and its unit-holders and does not involve overreaching on the part of any person concerned.

10. The Company will maintain the records required by section 57(f)(3) of the Act as if each of the investments permitted under these conditions were approved by the Independent Directors under section 57(f).

11. No Independent Directors will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of any of the Funds.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) shall, to the extent not payable by the Adviser under the Funds' Agreements, be shared by the Company and the Funds in proportion to the relative amounts of their securities to be acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e)(2) of the Act) received in connection with a Co-Investment Transaction will be distributed to the Company and the Funds on a pro rata basis based on the amount they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata between the Company and the Funds based on the amount they invest in such Co-Investment Transaction. None of the Funds, nor any affiliated person of the Company will receive additional compensation or remuneration of any kind (other than (i) the pro rata transaction fees described above and (ii) investment advisory fees paid in accordance with the Funds' Agreements) as a result of or in connection with a Co-Investment Transaction.

For the Commission, by the Division of Investment Management, under delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23730 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Consumers Financial Corporation; Order of Suspension of Trading

September 29, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Consumers Financial Corporation because it has not filed any periodic reports since the period ended December 31, 2005.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT, on September 29, 2009, through 11:59 p.m. EDT, on October 12, 2009.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23805 Filed 9–29–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60704; File No. SR–DTC–2009–15]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Payment Order System for Premium Payment Orders

September 22, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 28, 2009, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by DTC. DTC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[2] and Rule 19b–4(f)(4)[3] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes technical changes which are non-substantive in nature and are to support the industry wide Options Symbology Initiative.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Today, many organizations that support trading in listed options are restricted in their ability to identify and process exchange listed option contracts. These organizations typically use a three to five alpha character representation. The first one to three characters identify the option root symbol and the remaining two alpha characters identify the expiration month, call/put indicator, and strike price.

In an effort to standardize option symbols and overhaul the existing method of identifying exchange-listed options contracts, The Options Clearing Corporation (''OCC'') is spearheading the industry-wide adoption of the Options Symbology Initiative (''OSI''). The OSI supports the elimination of alpha codes that are currently used to denote expiration month, call/put code, and strike price.[5] As a result of the OSI, DTC has to modify its record layouts for its Payment Order system[6] in order to comply with the symbology defined by the OSI. This includes the expansion of field sizes and the addition of new fields. These changes will increase efficiency and improve the mechanism for Participants to perform under the OSI initiative. The proposed modifications in reference to Participant input and output formats will include the expansion of field sizes for OCC related fields that currently exist in the ''comments field'' and the addition of new fields to DTC's PBS screens MQ/NDM/CF2 record layouts and ISO message formats.[7]

OCC has requested that DTC implement these changes on October 30, 2009, so that OCC members can begin to migrate to the new formats. OCC has mandated that OCC members be ready to use the new formats by February 12, 2010.

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder. It will promote the prompt and accurate clearance and settlement of securities transactions because the modification in record layouts to conform to the new symbology series key as defined by the OSI will increase efficiency and improve the mechanism for DTC Participants to perform under the OSI initiative.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact or impose any burden on competition as it merely makes changes to the record layouts for DTC's Payment Order System.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(4)[9] thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency that: (i) Does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(f)(4).

[4] The Commission has modified the text of the summaries prepared by DTC.

[5] For more information about The Options Clearing Corporation's Options Symbology Initiative see the most recent plan at *http://www.theocc.com/initiatives/symbology/implementation_plan.jsp.*

[6] DTC's Payment Order service provides participants with a method for settling amounts of money related to securities transactions that are effected separately through DTC earlier on the same day or on a previous day. Payment orders can be used to collect option contract premiums and mark-to-market open contracts such as stock loans.

[7] For more information regarding the record layout changes, see DTC Important Notice B#5422 which is attached to Filing No. SR–DTC–2009–15 as Exhibit 2.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(4).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–DTC–2009–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–DTC–2009–15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://www.dtcc.com/legal/rule_filings/dtc/2009–15.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2009–15 and should be submitted on or before October 22, 2009.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23623 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60710; File No. SR–CBOE–2009–057]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change Related to Market-Maker and Specialist Orders

September 23, 2009.

On August 10, 2009, the Chicago Board Options Exchange, Incorporated (''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to eliminate Rule 6.73(d) and its requirement to orally identify a Market-Maker or a Specialist order in open outcry before requesting a quote. The proposed rule change was published for comment in the **Federal Register** on August 19, 2009.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission finds that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act,[5] which requires, among other things, that the CBOE rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

According to the CBOE, it adopted Rule 6.73(d) to ensure that Market-Maker and Specialist orders were not inadvertently represented as public customer orders, which receive preferential treatment in certain instances under CBOE rules.[6] The CBOE proposes to eliminate the requirement in Rule 6.73(d) to orally identify the Market-Maker and Specialist orders in open outcry and represents that the requirement is superfluous and unnecessary because the preferential treatment afforded to public customer orders was system-enforced through the order marking requirement. In addition, the CBOE represents that it no longer utilizes the RAES trading platform for which the order identification procedure was introduced.

In approving the proposed rule change, the Commission notes that it received no comments on the proposed rule change and bases its approval, in part, on the CBOE's representations that public customer orders will continue to receive appropriate preferential treatment under its Hybrid Trading System and existing rules.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–CBOE–2009–057) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23624 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 60491 (August 12, 2009), 74 FR 41953.

[4] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] *See* Securities Exchange Act Release No. 46102 (June 21, 2002), 67 FR 43692 (June 28, 2002) (SR–CBOE–2002–33) (immediately effective rule change relating to the identification of Market-Maker and Specialist orders).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60717; File No. SR–NYSEArca–2009–74]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating To Listing Four Grail Advisors RP Exchange-Traded Funds

September 24, 2009.

On August 12, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the following Grail Advisors actively-managed exchange-traded funds: RP Growth ETF, RP Focused Large Cap Growth ETF, RP Technology ETF and the RP Financials

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

ETF (each an ''ETF'' or ''Fund'' and collectively the ''ETFs or ''Funds''). The proposed rule change was published in the **Federal Register** on August 28, 2009.[3] The Commission received no comments on the proposal. On September 21, 2009, the Exchange filed Amendment No. 1.[4] This order provides notice of the filing of Amendment No. 1, and approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

I. Description of the Proposal

The Exchange proposes to list and trade the Shares pursuant to NYSE Arca Equities Rule 8.600, which governs the listing of Managed Fund Shares. The Shares will be offered by Grail Advisors ETF Trust (''Trust''),[5] a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company. The investment objective of each of the Funds is long-term capital appreciation. The ETFs expect to invest primarily in the securities of US companies, and may also invest in US securities tied economically to foreign investments, such as American Depositary Receipts. None of the Funds will invest in non-U.S. equity securities.

The Exchange states that the Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600, and that the Funds will comply with Rule 10A–3 under the Act,[6] as provided by NYSE Arca Equities Rule 5.3.

Additional information regarding the Funds, the Shares, the Funds' investment objectives, strategies, policies, and restrictions, risks, fees and expenses, creations and redemptions of Shares, availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Registration Statement and in the Notice, as applicable.[7]

II. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2009–74 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–74. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–74 and should be submitted on or before October 22, 2009.

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act[8] and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[11] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line, and the Exchange will disseminate the Portfolio Indicative Value (''PIV'') at least every 15 seconds during the Core Trading Session through the facilities of the CTA. In addition, the Fund will make available on its Web site on each business day the Disclosed Portfolio that will form the basis for its calculation of the net asset value (''NAV''), which will be determined as of the close of the regular trading session on the New York Stock Exchange (ordinarily 4 p.m. Eastern Time) on each business day. The Fund's Web site will also include additional quantitative information updated on a daily basis relating to trading volume, prices, and NAV. Information regarding the market price and volume of the Shares will be continually available on a real-time basis throughout the day via electronic services, and the previous day's closing price and trading volume information for the Shares will be published daily in the financial sections of newspapers.

The Commission further believes that the proposal is reasonably designed to

[3] *See* Securities Exchange Act Release No. 60552 (August 20, 2009), 74 FR 44417 (''Notice'').

[4] Amendment No. 1 reflects the issuer's decision that the creation and redemption unit size for each Fund would be 50,000 Shares, not 25,000 shares as was stated in the Notice.

[5] The Trust is registered under the Investment Company Act of 1940 (15 U.S.C. 80a) (''1940 Act''). On June 8, 2009, the Trust filed with the Commission post-effective Amendment No. 1 to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a), and under the 1940 Act relating to the Funds (File Nos. 333–148082 and 811–22154) (''Registration Statement''). The description of the operation of the Trust and the Funds herein is based on the Registration Statement.

[6] 17 CFR 240.10A–3.

[7] *See, supra,* notes 3 and 5.

[8] 15 U.S.C. 78f.

[9] In approving this proposed rule change the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 17 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1(a)(1)(C)(iii).

promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the Fund that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[12] Additionally, if it becomes aware that the NAV or the Disclosed Portfolio is not disseminated daily to all market participants at the same time, the Exchange will halt trading in the Shares until such information is available to all market participants.[13] Further, if the PIV is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[14] The Exchange represents that the Manager has implemented a ''fire wall'' between it and its broker-dealer affiliate with respect to access to information concerning the composition and/or changes to the Fund's portfolio. Similarly, one of the sub-advisors, Wedgewood, a registered broker-dealer, also has implemented such a ''fire wall.'' [15] Any additional Fund subadvisers affiliated with a broker-dealer will be required to implement a firewall to prevent its broker-dealer affiliate from accessing information concerning the composition and/or changes to the Fund's portfolio.[16] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.[17]

The Exchange has represented that the Shares are equity securities subject to the Exchange's rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange's surveillance procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable Federal securities laws.

(3) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares and that Shares are not individually redeemable; (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV is disseminated; (e) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(4) The Funds will be in compliance with Rule 10A–3 under the Act.

(5) The Funds will not invest in non-U.S. equity securities.

This approval order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[18] for approving the proposal prior to the thirtieth day after the date of publication of the Notice in the **Federal Register**. The Commission notes that it has approved the listing and trading on the Exchange of shares of other actively managed exchange-traded funds based on a portfolio of securities, the characteristics of which are similar to those to be invested by the Fund.[19] The Commission also notes that it has received no comments regarding the proposed rule change. Further, the Commission believes that the increased creation and redemption unit sizes for the Funds described in Amendment No. 1 [20] do not raise any regulatory concerns. The Commission finds that the proposed rule change does not raise any novel regulatory issues and believes that accelerating approval of this proposal should benefit investors by creating, without undue delay, additional competition in the market for Managed Fund Shares.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–NYSEArca–2009–74), as modified by Amendment No. 1 thereto, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23626 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

[12] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[13] *See* NYSE Arca Equities Rule 8.600(d)(2)(D).

[14] Trading in the Shares may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities comprising the Disclosed Portfolio and/or the financial instruments of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[15] The Exchange also represents that RP, the Fund's primary sub-adviser, is not affiliated with a broker-dealer, and that any additional Fund sub-advisers that are affiliated with a broker-dealer will be required to implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the portfolio.

[16] *See* Notice, 74 FR at 44420.

[17] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[18] 15 U.S.C. 78s(b)(2).

[19] *See, e.g.,* Securities Exchange Act Release Nos. 58512 (September 11, 2008), 73 FR 53915 (September 17, 2008) (SR–NYSEArca–2008–85) (approving the listing and trading of shares of the PowerShares Active U.S. Real Estate Fund); and 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25) (approving the listing and trading of shares of the PowerShares Active AlphaQ Fund, PowerShares Active Alpha Multi-Cap Fund, and PowerShares Active Mega-Cap Portfolio, among other funds).

[20] *See supra* note 4.

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60725, File No. SR–MSRB–2009–12]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change Relating to Amendments to Rule G–11(i) (Settlement of Syndicate or Similar Account), Rule G–11(j) (Payment of Designations), and Rule G–12(i) (Settlement of Joint or Similar Account)

September 28, 2009.

On August 6, 2009, the Municipal Securities Rulemaking Board (''MSRB''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule G–11(i) (settlement of syndicate or similar account), Rule G–11(j) (payment of designations), and Rule G–12(i) (settlement of joint or similar account). The proposed rule change was published for comment in the **Federal Register** on August 18, 2009.[3] The Commission received one comment letter about the proposed rule change.[4] On September 22, 2009, the MSRB filed a response to the comment letter.[5] This order approves the proposed rule change.

The proposed rule change would accelerate the settlement of syndicate accounts and secondary market trading accounts, and the payment of designations, by shortening certain time periods within the rules. These proposals are designed to reduce the exposure of syndicate and secondary market trading account members to the risk of potential deterioration in the credit of the syndicate or account manager during the pendency of account settlements. For the proposed amendments to Rule G–11, the MSRB requested that the amendments become effective for new issues of municipal securities for which the Time of Formal Award (as defined in Rule G–34(a)(ii)(C)(1)(a)) is more than 30 calendar days after the date the amendments are approved by the SEC. For the proposed amendments to Rule G–12, the MSRB requested that the amendments become effective for secondary market trading accounts formed more than 30 days after the date the amendments are approved by the SEC. A full description of the proposal is contained in the Commission's Notice.

As previously noted, the Commission received one comment letter relating to the proposed rule change.[6] The RBDA generally supported the spirit of the MSRB's proposal and applauded the MSRB for acting to reduce risks faced by syndicate members, but expressed concern about the proposed amendments to Rule G–11(j). The RBDA supported the proposal to amend Rule G–11(i) to reduce the time period for closing syndicate accounts to 30 calendar days following the date the issuer delivers the securities to the syndicate and also supported the proposed amendment to Rule G–12(i) to reduce the time to close joint or similar accounts—secondary market trading accounts—to 30 calendar days following the date all securities have been delivered by the account manager to the account members. However, the RBDA believes that the proposed amendments to Rule G–11(j) related to payments of designations imposing a deadline of two business days for submissions of designations and 10 calendar days for payments of designations is too short and would create undue burdens for both syndicate members and managers. The RBDA recommended that the MSRB maintain the current 30-day deadline for the payments of designations.

The MSRB stated in its Response Letter that the proposed amendments to Rule G–11(j) are intended to reduce the exposure of co-managers to the credit risk of the senior manager. The MSRB noted that in most underwriting syndicates, a large percentage of the syndicate profits are distributed as payments for designations. The MSRB believes that the shorter time periods are reasonable and that any administrative burdens associated with the changes are more than outweighed by the significant reduction in credit risk to co-managers, especially in the case of smaller firms. Accordingly, the MSRB did not propose to modify the proposal.

The Commission has carefully considered the proposed rule change, the comment letter received, and the MSRB's response to the comment letter and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB[7] and, in particular, the requirements of Section 15B(b)(2)(C) of the Act[8] and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Act requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[9] In particular, the Commission finds that the proposed rule change is consistent with the Act because it will further the free and open market in municipal securities by reducing the exposure of dealers to the potential deterioration of the credit of syndicate managers during the period prior to settlement of syndicate accounts and by providing a comparable rule for the settlement of secondary market trading accounts. The proposed amendments will become effective on the dates requested by the MSRB.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–MSRB–2009–12), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23701 Filed 9–30–09; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 60487 (Aug. 12, 2009), 74 FR 41771 (August 18, 2009) (''Commission's Notice'').

[4] *See* letter from Michael Decker and Mike Nicholas, Co-Chief Executive Officers, Regional Bond Dealers Association (''RBDA''), dated September 8, 2009.

[5] *See* letter from Margaret C. Henry, Associate General Counsel, MSRB, to Elizabeth M. Murphy, Secretary, SEC, dated September 22, 2009 (''Response Letter'').

[6] *See supra* note 4.

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78o–4(b)(2)(C).

[9] *Id.*

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60722; File No. SR–FINRA–2009–063]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend to November 30, 2010, the Implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps)

September 25, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 21, 2009, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to extend to November 30, 2010, the implementation of FINRA Rule 4240 (Margin Requirements for Credit Default Swaps) on an interim pilot program basis, and to make minor technical changes. FINRA Rule 4240, as approved by the SEC on May 22, 2009, will expire on September 25, 2009. The rule implements an interim pilot program with respect to margin requirements for transactions in credit default swaps executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions are effected by the member in credit default swap contracts that are cleared through the central counterparty clearing services of the Chicago Mercantile Exchange.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 2009, the Commission approved FINRA Rule 4240,[4] which implements an interim pilot program (the ''Interim Pilot Program'') with respect to margin requirements for transactions in credit default swaps (''CDS'') executed by a member (regardless of the type of account in which the transaction is booked), including those in which the offsetting matching hedging transactions are effected by the member in credit default swap contracts that are cleared through the central counterparty clearing services of the Chicago Mercantile Exchange (''CME''). As originally approved by the Commission, the rule will expire on September 25, 2009.

As explained in the Approval Order, FINRA Rule 4240 is intended to be coterminous with certain Commission actions intended to address concerns arising from systemic risk posed by CDS, including, among others, risks to the financial system arising from the lack of a central clearing counterparty to clear and settle CDS.[5] Recently, the Commission has determined to extend the period for which certain of these actions are in effect.[6] FINRA believes it is appropriate to extend the implementation of the Interim Pilot Program accordingly, to November 30, 2010. In addition, FINRA is proposing a minor technical correction to FINRA Rule 4240.01(a).[7]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, such that FINRA can implement the proposed rule change immediately. The proposed rule change will expire on November 30, 2010.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will further the purposes of the Act because, consistent with the goals set forth by the Commission when it adopted the interim final temporary rules with respect to the operation of central counterparties to clear and settle CDS, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Commission, in approving the Interim Pilot Program on an accelerated basis, solicited comment on the original proposed rule change that established the program.[9] That comment period ended on June 18, 2009. The Commission received one comment.[10] The commenter raised concerns regarding Federal agency action with respect to regulation of CDS. FINRA declines to respond to those comments as beyond the scope of the proposed rule change.

In addition, FINRA received one letter in response to the *Regulatory Notice*[11] announcing the Commission's approval of the original rule change establishing the Interim Pilot Program.[12] SIFMA suggested that, while the adoption of a margin rule for CDS addresses an important regulatory issue, there are certain other obstacles to broker-dealers engaging in transactions in CDS, among other derivative instruments. While FINRA views this comment as generally beyond the scope of the proposed rule change, FINRA welcomes further substantive dialogue on this issue. SIFMA also sought clarification as to

[4] *See* Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Approval of Proposed Rule Change; File No. SR–FINRA–2009–012) (''Approval Order'').

[5] *See* 74 FR 25588 through 25589. In early 2009 the Commission enacted interim final temporary rules (the ''interim final temporary rules'') providing enumerated exemptions under the Federal securities laws for certain CDS to facilitate the operation of one or more central clearing counterparties in such CDS. *See* Securities Act Release No. 8999 (January 14, 2009), 74 FR 3967 (January 22, 2009) (Temporary Exemptions for Eligible Credit Default Swaps to Facilitate Operation of Central Counterparties to Clear and Settle Credit Default Swaps). *See also* Securities Exchange Act Release No. 59578 (March 13, 2009), 74 FR 11781 (March 19, 2009) (Order Granting Temporary Exemptions in Connection with Request of Chicago Mercantile Exchange Inc. and Citadel Investment Group, LLC Related to Central Clearing of Credit Default Swaps); Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009) (Order Granting Temporary Exemptions for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps).

[6] *See* Securities Act Release No. 9063 (September 14, 2009) (Extension of Temporary Exemptions for Eligible Credit Default Swaps).

[7] *See* Exhibit 5.

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] *See* Approval Order, *supra* note 4.

[10] Letter from Gary De Waal, Senior Managing Director and Group General Counsel, Newedge USA, LLC, to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated June 18, 2009, available at: *http://www.sec.gov/rules/sro/finra.shtml.*

[11] *See Regulatory Notice* 09–30 (June 2009) (Credit Default Swaps).

[12] Letter from Daniel McIsaac, Chair, Capital Steering Committee, Securities Industry and Financial Markets Association, to Marcia E. Asquith, Office of the Corporate Secretary, FINRA, dated August 3, 2009 (''SIFMA''), available at: *http://www.sifma.org/comments/index.aspx.*

why FINRA Rule 4240 addresses in particular CDS transactions that are cleared using the central counterparty clearing facilities of the CME. In response, FINRA notes that, as explained in the Approval Order, the CME requested that FINRA adopt customer margin rules for CDS and suggested a specific customer margin methodology that could be employed.[13] FINRA performed an analysis of the margin methodology suggested by CME, as well as the alternative methodology set forth in Rule 4240(c)(2), prior to proposing Rule 4240. The Approval Order further noted that FINRA will consider proposals it receives from CDS central clearing counterparties in addition to the CME to amend the customer margin rules for CDS and, if appropriate, will propose changes to such rules.

SIFMA suggested certain changes to the margin requirements set forth in FINRA Rule 4240. FINRA believes these suggestions are premature and that additional time is needed to make a meaningful determination about whether Rule 4240 should be made permanent and whether certain provisions should be modified and, if so, to what extent. Consequently, at this time, FINRA is only seeking to extend the Interim Pilot Program and make minor technical changes. Lastly, SIFMA requested clarification as to certain net capital requirements and implementation issues, as well as documentation issues discussed in *Regulatory Notice* 09–30. FINRA notes that it will provide further guidance working with the SEC regarding implementation of Rule 4240, as appropriate.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and Rule 19b–(f)(6) thereunder.[15]

Normally, a proposed rule change filed under 19b–4(f)(6) may not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA requested that the Commission waive the 30-day operative delay, so that the proposed rule change may become operative upon filing. The Commission believes that the earlier operative date is consistent with the protection of investors and the public interest because the proposed rule change permits the Exchange to implement without further delay the extension of its pilot program.[16] This will prevent FINRA Rule 4240 from lapsing. Additionally, the Commission extended the temporary exemptions for eligible credit default swaps and therefore agrees with FINRA that it is appropriate to extend the implementation of the Interim Pilot Program to November 30, 2010.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2009–063 on the subject line.

Paper Comments

- Send paper comments in triplicate to Florence E. Harmon, Deputy Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2009–063. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2009–063 and should be submitted on or before October 22, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

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[13] *See* 74 FR 25589.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

[16] For the purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation.

[17] *See supra* note 6 and accompanying text.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60721; File No. SR–NYSEArca–2009–85]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Commentary .04 to Rule 6.4 Series of Options Open for Trading

September 25, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 23, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .04 to Rule 6.4 Series of Options Open for Trading in order to establish strike price intervals of $0.50, beginning at $1, for certain options classes whose underlying security closed at or below $3 in its primary market on the previous trading day. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change is based on a filing submitted by NASDAQ OMX PHLX Inc (''Phlx'') that was recently noticed for comment and approved by the Commission.[3]

The purpose of the proposed rule change is to expand the ability of investors to hedge risks associated with stocks trading at or under $3. Currently, the interval of strike prices of series of options on individual stocks is $2.50 where the strike price is $25 or less. Commentary .04 to NYSE Arca Rule 6.4 allows the Exchange to establish $1 strike price intervals (the ''$1 Strike Program'') on options classes overlying no more than fifty-five individual stocks designated by the Exchange. In order to be eligible for selection into the $1 Strike Program, the underlying stock must close below $50 in its primary market on the previous trading day. If selected for the $1 Strike Program, the Exchange may list strike prices at $1 intervals from $1 to $50, but no $1 strike price may be listed that is greater than $5 from the underlying stock's closing price in its primary market on the previous day. The Exchange may also list $1 strikes on any other option class designated by another securities exchange that employs a similar $1 Strike Program its own rules.[4] The Exchange is restricted from listing any series that would result in strike prices being within $0.50 of a strike price set pursuant to Rule 6.4, Commentary .04.

The Exchange is now proposing to establish strike prices of $1, $1.50, $ 2, $2.50, $3, and $3.50 for certain stocks that trade at or under $3.00.[5] The listing of these strike prices will be limited to options classes whose underlying security closed at or below $3 in its primary market on the previous trading day, and which have national average daily volume that equals or exceeds 1000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months. The listing of $0.50 strike prices would be limited to options classes overlying no more than 5 individual stocks (the ''$0.50 Strike Program'') as specifically designated by the Exchange. The Exchange would also be able to list $0.50 strike prices on any other option classes if those classes were specifically designated by other securities exchanges that employed a similar $0.50 Strike Program under their respective rules.

Currently, the Exchange may list options on stocks trading at $3 at strike prices of $1, $2, $3, $4, $5, $6, $7, and $8 if they are designated to participate in the $1 Strike Program.[6] If these stocks have not been selected for the Exchange's $1 Strike Program, the Exchange may list strike prices of $2.50, $5, $7.50, and so forth, but not strike prices of $1, $2, $3, $4, $6, $7, and $8.[7] The Exchange is now proposing to amend Commentary .04 to Rule 6.4 by adding new sub-paragraph (b) to list strike prices on options on a number of qualifying stocks that trade at or under $3.00, not simply those stocks also participating in the $1 Strike Program, in finer intervals of $0.50, beginning at $1 up to $3.50. Thus, a qualifying stock trading at $3 would have option strike prices established not just at $2.50, $5.00, $7.50, and so forth (for stocks not in the Exchange's $1 Strike Program) or just at $1, $2, $3, $4, $5, $6, $7, and $8 (for stocks designated to participate in the $1 Strike Program), but rather at strike prices established at $1, $1.50, $2, $2.50, $3, and $3.50.[8]

The Exchange believes that current market conditions demonstrate the appropriateness of the new strike prices. Recently the number of securities trading below $3.00 has increased dramatically.[9] Unless the underlying stock has been selected for the $1 Strike Program, there is only one possible in-the-money call (at $2.50) to be traded if an underlying stock trades at $3.00. Similarly, unless the underlying stock has been selected for the $1 Strike Program, only one out-of-the-money strike price choice within 100% of a stock price of $3 is available if an investor wants to purchase out-of-the-money calls. Stated otherwise, a purchaser would need over a 100% move in the underlying stock price in order to have a call option at any strike price other than the $5 strike price become in-the-money. If the stock is selected for the $1 Strike Program, the available strike price choices are somewhat broader, but are still greatly limited by the proximity of the $3 stock

[3] *See* Exchange Act Release No. 60466 (August 10, 2009), 74 FR 41475 (August 17, 2009) (SR–Phlx–2009–65). Approved in Exchange Act Release No. 60694 (September 18, 2009).

[4] The Exchange may not list long-term option series (''LEAPS'') at $1 strike price intervals for any class selected for the Program.

[5] The Exchange recently amended NYSE Arca Rule 5.4, Withdrawal of Approval of Underlying Securities or Options, to eliminate the $3 market price per share requirement for continued approval for an underlying security. The amendment eliminated the prohibition against listing additional series or options on an underlying security at any time when the price per share of such underlying security is less than $3. The Exchange explained in that proposed rule change that the market price for a large number of securities has fallen below $3 in the current volatile market environment. *See* Securities Exchange Act Release No. 59349, SR–NYSEArca–2009–07 (February 3, 2009), 74 FR 6939 (February 11, 2009).

[6] Additionally, market participants may be able to trade $2.50 strikes on the same option at another exchange, if that exchange has elected not to select the stock for participation in its own similar $1 Strike Program.

[7] Again, market participants may also be able to trade the option at $1 strike price intervals on other exchanges, if those exchanges have selected the stock for participation in their own similar $1 Strike Program.

[8] The option on the qualifying stock could also have strike prices set at $5, $7.50, and so forth at $2.50 intervals or, if it has been selected for the $1 Strike Program, at $4, $5, $6, $7, and $8.

[9] As of July 31, 2009, stocks trading at or below $3 include E*Trade Financial Corporation, Ambac Financial Group, Inc., Alcatel-Lucent, Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae). A number of these stocks are widely held and actively traded equities, and the options overlying these stocks also trade actively on NYSE Arca.

price to zero, and the very large percent gain or loss in the underlying stock price, relative to a higher priced stock, that would be required in order for strikes set at $1 or away from the stock price to become in-the-money and serve their intended hedging purpose.

As a practical matter, a low-priced stock by its very nature requires narrow strike price intervals in order for investors to have any real ability to hedge the risks associated with such a security or execute other related options trading strategies. The current restriction on strike price intervals, which prohibits intervals of less than $2.50 (or $1 for stocks in the $1 Strike Program) for options on stocks trading at or below $3, could have a negative affect on investors. The Exchange believes that the proposed $0.50 strike price intervals would provide investors with greater flexibility in the trading of equity options that overlie lower priced stocks by allowing investors to establish equity option positions that are better tailored to meet their investment objectives. The proposed new strike prices would enable investors to more closely tailor their investment strategies and decisions to the movement of the underlying security. As the price of stocks decline below $3 or even $2, the availability of options with strike prices at intervals of $0.50 could provide investors with opportunities and strategies to minimize losses associated with owning a stock declining in price.

With regard to the impact on system capacity, NYSE Arca has analyzed its capacity and represents that it and the Options Price Reporting Authority have the necessary systems capacity to handle the additional traffic associated with the listing and trading of an expanded number of series as proposed by this filing.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) [10] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5) [11] in particular in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest, by expanding the ability of investors to hedge risks associated with stocks trading at or below $3. The proposal should create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor investment strategies to the price movement of the underlying stocks, trading in many of which is highly liquid.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

The Exchange has requested that the Commission waive the 30-day operative delay to permit the Exchange to compete effectively with Phlx by being able to list the same strike prices as Phlx. The Commission recently approved SR–Phlx–2009–65,[14] and therefore finds that waiver of the operative delay is consistent with the protection of investors and the public interest because such waiver will encourage fair competition among the exchanges. Therefore, the Commission designates the proposal operative upon filing.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2009–85 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–85. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange is deemed to have satisfied this requirement.

[14] *See* Securities Exchange Act Release No. 60694 (September 18, 2009) (SR–Phlx–2009–65) (order approving a $0.50 strike program substantially the same as the $0.50 Strike Program proposed by NYSEArca).

[15] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–85 and should be submitted on or before October 22, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23698 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60716; File No. SR–NYSEArca–2009–70]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change Amending Rule 10.12 (Minor Rule Plan)

September 24, 2009.

On July 29, 2009, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change amending NYSE Arca Rule 10.12 (Minor Rule Plan) (''MRP'') to incorporate additional violations into the MRP, and to increase the fine levels for certain MRP violations. The proposed rule change was published for comment in the **Federal Register** on August 24, 2009.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

The Exchange proposes to amend its MRP to incorporate violations for trading in restricted classes, and failure to report position and account information. Specifically, the Exchange proposes to implement a fine schedule for Options Trading Permit (''OTP'') Holders that affect opening transactions in restricted series of options, inconsistent with the terms of any such restriction, in violation of Rule 5.4(a). This fine will consist of $1,000 for the first violation during a rolling 24-month period, $2,500 for a second violation within the same period, and $5,000 for a third violation during the same period. The Exchange also proposes to incorporate violations for failing to accurately report position and account information to the Exchange on a Large Option Position Report (''LOPR'') pursuant to Rule 6.6(a). This fine will consist of $1,000 for the first violation in a rolling 24-month period, $2,500 for a second violation within the same period, and $5,000 for a third violation within the same period. The Exchange believes that, in most cases, violations of trading in restricted classes and violations of LOPR reporting may be handled efficiently through the MRP. However, any egregious activity or activity that is believed to be manipulative will continue to be subject to formal disciplinary proceedings.[4]

The Exchange also proposes to increase fines for violations of NYSE Arca Rules 6.46(a),[5] 6.47A,[6] and 6.75[7] to $1,000 for the first violation in a rolling 24-month period, $2,500 for a second violation within the same period, and $5,000 for a third violation within the same period. The MRP currently provides for fines of $1,000 for the first violation of Rule 6.46(a) in a rolling 24-month period, $2,500 for a second violation within the same period, and $3,500 for a third violation within the same period. The MRP currently provides for fines of $500 for the first violation of Rule 6.47A in a rolling 24-month period, $1,000 for a second violation within the same period, and $2,500 for a third violation within the same period. The MRP currently provides for a fine of $500 for the first violation of Rule 6.75 in a rolling 24-month period, $1,000 for a second violation within the same period, and $2,000 for a third violation within the same period. The Exchange believes that, given the nature of these violations, the current fine levels are inadequate, and that increased fines for these violations are needed to deter future violations.[8]

The Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act,[10] which requires that the rules of an exchange be designed to, among other things, protect investors and the public interest. The Commission also believes that the proposal is consistent with Sections 6(b)(1) and 6(b)(6) of the Act,[11] which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and exchange rules. Furthermore, the Commission believes that the proposed changes to the MRP should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation. Therefore, the Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[12] which governs minor rule violation plans.

In approving this proposed rule change, the Commission in no way minimizes the importance of compliance with NYSE Arca rules and all other rules subject to the imposition of fines under the MRP. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, the MRP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects that NYSE Arca will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRP or whether a violation requires formal disciplinary

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 60518 (August 18, 2009), 74 FR 42725 (''Notice'').

[4] *See* Notice, *supra* note 3, 74 FR at 42725–26.

[5] NYSE Arca Rule 6.46(a) requires that a Floor Broker handling an order use due diligence to execute the order at the best price or prices available to him, in accordance with the Rules of the Exchange.

[6] NYSE Arca Rule 6.47A states that users may not execute as principal orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one second or (ii) the user has been bidding or offering on the Exchange for at least one second prior to receiving an agency order that is executable against such bid or offer.

[7] NYSE Arca Rule 6.75 states that the highest bid/lowest offer shall have priority over all other orders. In the event there are two or more bids/offers for the same option contract representing the best price and one such bid/offer is displayed in the Consolidated Book, such bid shall have priority over any other bid at the post. In addition, if two or more bids/offers represent the best price and a bid/offer displayed in the Consolidated Book is not involved, priority shall be afforded to such bids in the sequence in which they are made. Rule 6.75 also contains certain provisions related to split-price priority and priority of complex orders.

[8] *See* Notice, *supra* note 3, 74 FR at 42726.

[9] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f(b)(1) and 78f(b)(6).

[12] 17 CFR 240.19d–1(c)(2).

action under NYSE Arca Rules 10.4–10.11.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[13] and Rule 19d–1(c)(2) under the Act,[14] that the proposed rule change (SR–NYSEArca–2009–70) be, and it hereby is, approved and declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23625 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 240.19d–1(c)(2).

[15] 17 CFR 200.30–3(a)(12); 17 CFR 200.30–3(a)(44).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60718; File No. S7–35–08]

Order Pursuant to Section 36 of the Securities Exchange Act of 1934 Extending Temporary Exemptions from Sections 5 and 6 of the Exchange Act for Broker-Dealers and Exchanges Effecting Transactions in Credit Default Swaps

September 25, 2009.

On December 24, 2008, in connection with its efforts to facilitate the establishment of one or more central counterparties for clearing credit default swap (''CDS'') transactions,[1] the Securities and Exchange Commission (''Commission'') granted temporary, conditional exemptions from the registration requirements under Sections 5 and 6 of the Securities Exchange Act of 1934 (''Exchange Act'') to certain exchanges and broker-dealers (''December Order'').[2] Subject to conditions specified in the December Order, any exchange that effects or reports transactions in CDS that are not swap agreements (''non-excluded CDS'')[3] and is not otherwise subject to the requirements under Sections 5 and 6 of the Exchange Act,[4] and the rules and regulations thereunder, is exempt from the requirement to register as a national securities exchange.[5] In addition, any broker or dealer that effects or reports transactions in non-excluded CDS on such an exchange is exempt from the prohibition on trading activity in Section 5 of the Exchange Act. The December Order expires on September 25, 2009. Pursuant to its authority under Section 36 of the Exchange Act,[6] for the reasons described herein, the Commission is today extending the exemption granted in the December Order until March 24, 2010.

Section 5 of the Exchange Act states that ''[i]t shall be unlawful for any broker, dealer, or exchange, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of using any facility of an exchange * * * to effect any transaction in a security, or to report any such transactions, unless such exchange (1) is registered as a national securities exchange under section 6 of [the Exchange Act], or (2) is exempted from such registration * * * by reason of the limited volume of transactions effected on such exchange * * *.'' Section 6 of the Exchange Act sets forth a procedure whereby an exchange[7] may register as a national securities exchange.[8]

Section 36 of the Exchange Act provides that the Commission, ''by rule, regulation, or order, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.''[9] To facilitate the establishment of one or more exchanges for non-excluded CDS, the Commission in the December Order exercised its authority under Section 36 to temporarily exempt any exchange, broker, or dealer that effects transactions in non-excluded CDS from the prohibition in Section 5 of the Exchange Act and (in the case of exchanges) the requirements in Section 6 of the Exchange Act and the rules and regulations thereunder.

The exemptions were conditioned on an exchange providing notice to the Commission of its reliance on the December Order, and certain other requirements that generally mirror those applicable to alternative trading systems under Regulation ATS.[10] As we noted at the time, the temporary exemptions from Sections 5 and 6 of the Exchange Act in the December Order were designed to allow brokers, dealers, and exchanges to effect transactions in non-excluded CDS on exchanges, while providing an opportunity for the Commission to gain experience with the

[1] A CDS is a bilateral contract between two parties, known as counterparties. The value of this financial contract is based on underlying obligations (''reference obligations'') of a single entity (a ''reference entity'') or on a particular security or other debt obligation (''reference security''), or an index of several such entities, securities, or obligations. The obligation of a seller under a CDS to make payments under a CDS contract is triggered by a default or other credit event as to such entity or entities or such security or securities. Investors may use CDS for a variety of reasons, including to offset or insure against risk in their fixed-income portfolios, to take positions in bonds or in segments of the debt market as represented by an index, or to capitalize on the volatility in credit spreads during times of economic uncertainty. The over-the-counter (''OTC'') market for CDS poses systemic risk to the financial system as well as operational risks, risks relating to manipulation and fraud, and regulatory arbitrage risks.

[2] Securities Exchange Act Release No. 59165 (December 24, 2008), 74 FR 133 (January 2, 2009).

[3] Section 3A of the Exchange Act limits the Commission's authority over swap agreements, as defined in Section 206A of the Gramm-Leach-Bliley Act. 15 U.S.C. 78c–1. Section 3A excludes both a non-security-based and a security-based swap agreement from the definition of ''security'' under Section 3(a)(10) of the Exchange Act, 15 U.S.C. 78c(a)(10). Section 206A of the Gramm-Leach-Bliley Act defines a ''swap agreement'' as ''any agreement, contract, or transaction between eligible contract participants (as defined in section 1a(12) of the Commodity Exchange Act * * *) * * * the material terms of which (other than price and quantity) are subject to individual negotiation.'' 15 U.S.C. 78c note.

[4] 15 U.S.C. 78e and 78f.

[5] A national securities exchange that effects transactions in CDS would continue to be required to comply with all requirements under the Exchange Act applicable to such transactions. A national securities exchange could form subsidiaries or affiliates that operate exchanges exempt under this order. Any subsidiary or affiliate of a registered exchange could not integrate, or otherwise link, the exempt CDS exchange with the registered exchange, including the premises or property of such exchange for effecting or reporting a transaction, without being considered a ''facility of the exchange.'' *See* Section 3(a)(2) of the Exchange Act, 15 U.S.C. 78c(a)(2).

[6] 15 U.S.C. 78mm.

[7] Section 3(a)(1) of the Exchange Act, 15 U.S.C. 78c(a)(1), defines ''exchange.'' Rule 3b–16 under the Exchange Act, 17 CFR 240.3b–16, defines certain terms used in the statutory definition of exchange. *See* Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998) (''Regulation ATS Adopting Release'') (adopting Rule 3b–16 in addition to Regulation ATS).

[8] 15 U.S.C. 78f. Section 6 of the Exchange Act also sets forth various requirements to which a national securities exchange is subject.

[9] 15 U.S.C. 78mm(a)(1).

[10] *See* Regulation ATS, 17 CFR 242.300 *et seq.* In 1998, the Commission exercised its exemptive authority under Section 36 of the Exchange Act and its general authority under Section 11A of the Exchange Act, 15 U.S.C. 78k–1, to establish a regulatory framework for ''alternative trading systems,'' which perform many of the same functions as exchanges. Under this framework, an entity that, like an exchange, matches the orders in securities of multiple buyers and sellers according to established, non-discretionary methods is exempt from the definition of ''exchange'' if it instead registers as a broker-dealer and complies with Regulation ATS. Regulation ATS is designed, among other things, ''to adopt a regulatory framework that addresses [the Commission's] concerns without jeopardizing the commercial viability of these markets.'' Regulation ATS Adopting Release, *supra* note 7, 63 FR at 70846.

CDS marketplace and consider public input regarding appropriate regulation and oversight.

During the ensuing period, the Commission has reviewed the CDS marketplace and been in contact with various market participants. Our effort has been to understand the operation of the CDS marketplace, evaluate the application of the exemptions in the December Order, and consider whether the conditions we imposed should be modified. In particular, consistent with our December Order, we have considered whether Regulation ATS, with or without modifications, should apply to systems that match orders in non-excluded CDS of multiple buyers and sellers.

Based on its review of the CDS marketplace, the Commission preliminarily believes that an exchange effecting transactions in non-excluded CDS should register under Sections 5 and 6 of the Exchange Act or structure itself as an alternative trading system and comply with the requirements of Regulation ATS. Among other things, Regulation ATS requires that the operator of an alternative trading system be registered as a broker-dealer. The Commission preliminarily believes that broker-dealer registration for exchanges that trade non-excluded CDS, as for other alternative trading systems, provides important regulatory benefits, is in the public interest, and is consistent with the protection of investors. In particular, regulated broker-dealers that operate alternative trading systems are also required to be FINRA members.[11] Membership in FINRA would allow FINRA to integrate trading of CDS on alternative trading systems into its surveillance of trading in economically similar investments, such as debt securities.

As noted, the conditions set out in the December Order under which CDS exchanges must operate are otherwise substantially similar to the requirements established under Regulation ATS.[12] '' Like the December Order, Regulation ATS would require a CDS exchange to keep records about its operations, its subscribers, and their orders;[13] provide the Commission with trading information on a quarterly basis;[14] establish procedures to ensure the confidential treatment of trading information;[15] permit the Commission to examine its premises, systems, and records; and cooperate with the examination of its subscribers.[16] In addition, the CDS exchange could not: (a) Set rules governing the conduct of subscribers other than the conduct of such subscribers trading on such exchange; or (b) discipline subscribers under the Exchange Act other than by exclusion from trading.[17] Thus, with regard to these requirements, compliance with Regulation ATS should not create any significant additional regulatory burden for a CDS exchange now relying on the December Order.

The Commission is sensitive not to disrupt existing CDS markets unnecessarily or impose unreasonable burdens on market participants providing or using CDS exchanges. We recognize that restructuring current business activity and registration as a national securities exchange or alternative trading system may reasonably be expected to take some time. Accordingly, the Commission has determined to extend the December Order through March 24, 2010 to permit exchanges facilitating transactions in non-excluded CDS sufficient time to register pursuant to Sections 5 and 6 of the Exchange Act, or comply with the requirements of Regulation ATS, which include registration as a broker-dealer. The conditions specified in the December Order will continue to apply.[18]

Likewise, the Commission is extending the exemption it granted in the December Order to brokers and dealers effecting transactions in non-excluded CDS on an exchange that is not a national securities exchange because of that exchange's reliance on the December Order. Absent an exemption, Section 5 of the Exchange Act would prohibit brokers and dealers from effecting transactions in non-excluded CDS on such an exchange. As we found in the December Order, the temporary exemption for brokers and dealers is necessary and appropriate in the public interest and is consistent with the protection of investors because it will facilitate brokers' and dealers' use of CDS exchanges, which, for reasons noted in the December Order, the Commission believes would be beneficial. This exemption also provides legal certainty to broker-dealers effecting transactions in CDS. Without also exempting brokers and dealers from this Section 5 requirement, the Commission's temporary exemption of CDS exchanges would be ineffective, because brokers and dealers would not be permitted to effect transactions on those exchanges.

Section 5 of the Exchange Act recognizes that there are situations where brokers and dealers should be permitted to trade on an exchange that is not registered as a national securities exchange. Section 5 provides in relevant part that brokers and dealers may effect transactions on an exchange that the Commission, by reason of the limited volume of transactions effected on such exchange, has exempted from registration under Section 6. Brokers and dealers are also permitted to effect transactions on alternative trading systems, which are exempted from the definition of ''exchange'' and thus do not fall within the restriction of Section 5. Therefore, the Commission finds that it is consistent with the public interest and the protection of investors to extend the December Order, which granted a temporary exemption from Section 5 of the Exchange Act to any broker or dealer that effects transactions in non-excluded CDS, or reports such transactions, on an exchange that is exempted pursuant to the December Order.

Finally, the Commission notes that, absent comments that articulate a substantial need for further relief, the Commission is unlikely to further extend the December Order beyond March 24, 2010.

Accordingly,

It is ordered, pursuant to Section 36 of the Exchange Act,[19] that any exchange that effects transactions in non-excluded CDS and is not otherwise subject to the requirements under

[11] The Financial Industry Regulatory Authority (''FINRA'') is a national securities association registered with the Commission under Section 15A of the Exchange Act, 15 U.S.C. 78o–3, and thus is a self-regulatory organization (''SRO''), as defined in Section 3(a)(26) of the Exchange Act, 15 U.S.C. 78c(a)(26). As an SRO, FINRA has authority to regulate and supervise its members for compliance with FINRA rules and the federal securities laws generally.

[12] *See* December Order, *supra* note 2, 74 FR at 136; Regulation ATS, 17 CFR 242.300 *et seq.* Generally, these requirements are designed to allow the Commission to monitor market developments, to ascertain how new entrants are affecting the national market system, and to promote compliance with the federal securities laws generally.

[13] *See* 17 CFR 242.301(b)(8), 242.302, and 242.303.

[14] *See* 17 CFR 242.301(b)(9).

[15] *See* 17 CFR 242.301(b)(10).

[16] *See* 17 CFR 242.301(b)(7).

[17] These prohibitions are based on the Commission's belief that an organization, association, or group of persons that could exercise self-regulatory authority over its subscribers should be registered as an SRO and subject to the full responsibilities and supervision that registration entails. The Comission continues to believe that rules governing exchange subscriber conduct may be imposed and enforced only by SROs because of the potential that they may be applied for anti-competitive purposes. However, like any alternative trading system, a CDS exchange could apply credit standards to its subscribers or require subscribers to provide financial information relevant to their activity on the system. *See* Regulation ATS Adopting Release, *supra* note 7, 63 FR at 70859.

[18] *See* December Order, *supra* note 2, 74 FR at 138–39.

[19] 15 U.S.C. 78mm.

Sections 5 and 6 of the Exchange Act,[20] and the rules and regulations thereunder, will continue to be exempt from the requirement to register as a national securities exchange under Section 6 of the Exchange Act, and from the prohibition in Section 5 of the Exchange Act against effecting transactions as an exchange unless it is registered as a national securities exchange or exempt from registration due to the limited volume of its transactions through March 24, 2010, subject to the following conditions:

(1) The exchange must not: (a) Set rules governing the conduct of subscribers other than the conduct of such subscribers trading on such exchange; or (b) discipline subscribers other than by exclusion from trading;

(2) The exchange must make and keep for a period of not less than three years, the first two years in an easily accessible place, the following records:

- A record of subscribers in the exchange (identifying any affiliations between the exchange and subscribers in the exchange, including common directors, officers, or owners);
- Daily summaries of trading, including (a) information identifying CDS in which transactions are effected; and (b) transaction volume, expressed in terms of number of trades and total U.S. dollar notional value; and
- Time-sequenced records of order information, including: (a) Identity of the party entering an order; (b) identification of non-excluded CDS contract (including the reference entity, security, or index, and notional value); (c) date and time that order was received; (d) price (whether expressed as credit spread, rate, strike, or coupon); (e) whether the order is to buy or sell and any order conditions; (f) any subsequent modification or cancellation of the order; (g) date and time the order was executed, the size (*e.g.*, notional value amount) executed, and the price; and (h) identity of the parties to the transaction;

(3) The exchange must preserve the following records:

- For a period of not less than three years, the first two years in an easily accessible place, all notices provided by such exchange to subscribers generally, whether written or communicated through automated means, including, but not limited to, notices addressing hours of system operations, system malfunctions, changes to system procedures, maintenance of hardware and software, instructions pertaining to access to the market and denials of, or limitations on, access to the exchange; and
- During the life of the enterprise and of any successor enterprise, the exchange's organizational documents and copies of reports filed with the Commission pursuant to this exemption;

(4) An exchange must, within five days of commencing operation, submit a notice to the Commission that includes the following information:

- Full legal name of the exchange;
- A description of the exchange's ownership structure;
- Contact person and contact information;
- A general description of what CDS contracts trade on the exchange; and
- A description of how the exchange operates;

(5) An exchange must report the following information to the Commission within 30 days of the end of each quarter:

- The total dollar volume of transactions executed during the quarter, broken down by reference entity, security, or index;
- The total unit volume and/or notional amount executed during the quarter, broken down by reference entity, security, or index; and
- A list of all subscribers that effected transactions on the exchange during the quarter;

(6) The exchange must establish adequate safeguards and procedures to protect subscribers' confidential trading information. Such safeguards and procedures shall include: (a) Limiting access to the confidential trading information of subscribers to those employees of the exchange who are operating the system or responsible for its compliance with this exemption or any other applicable rules; and (b) implementing standards controlling employees of the exchange trading for their own accounts. The exchange must adopt and implement adequate oversight procedures to ensure that the safeguards and procedures established pursuant to this condition are followed; and

(7) The exchange must provide access to the Commission to conduct on-site inspections of its facilities (including automated systems and systems environment), records, and personnel related to exchange activities. The exchange must cooperate with the Commission in connection with the investigation of any exchange subscribers.

It is further ordered, pursuant to Section 36 of the Exchange Act,[21] that until March 24, 2010, a broker or dealer that effects transactions in non-excluded CDS, or reports such transactions, on an exchange that is exempted pursuant to this Order will also continue to be exempt from the prohibition on trading activity in Section 5 of the Exchange Act.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–23622 Filed 9–30–09; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78e and 78f.

[21] 15 U.S.C. 78mm.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before November 2, 2009.

Address Comments To: Record Center, Pipeline and Hazardous, Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, SE., Washington DC or at *http://regulations.gov*.

This notice of receipt of applications for special permit is published in

accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on September 24, 2009.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
14902–N		Federal Aviation Administration.	49 CFR 171.2(k)	To authorize the transportation in commerce of packagings identified as hazardous material which are actually non-hazardous for purposes of shipping and packaging drills conducted by FAA for air carriers. (modes 4,5)

[FR Doc. E9–23535 Filed 9–30–09; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program, Destin-Ft. Walton Beach Airport, Destin, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by the Oklaloosa County under the provisions of 49 U.S.C. (the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 CFR Part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On January 14, 2009, the FAA determined that the noise exposure maps submitted by Okaloosa County under Part 150 were in compliance with applicable requirements. On July 7, 209, the FAA approved the Destin-Ft. Walton Beach Airport noise compatibility program. All of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operators.

DATES: *Effective Date:* The effective date of the FAA's approval of the Destin-Ft. Walton Beach Airport Noise Compatibility Program is July 7, 2009.

FOR FURTHER INFORMATION CONTACT: Lindy McDowell, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822, phone number; 407–812–6331. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Destin-Ft. Walton Beach Airport, effective July 7, 2009.

Under Section 47504 of the Act, an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Title 14 Code of Federal Regulations (CFR) Part 150 is a local program, not a Federal Program. The FAA does not substitute its judgment for that of the airport operator with respect to which measure should be recommended for action. The FAA's approval or disapproval of 14 CFR Part 150 program recommendations is measured according to the standards expressed in 14 CFR Part 150 and the Act, and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of 14 CFR Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in 14 CFR Part 150, Section 1505. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for program grants must be submitted to the FAA Airports District Office in Orlando, Florida.

Okaloosa County submitted to the FAA on September 5, 2008, the Noise Exposure Maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from June, 2004, through July, 2008. The Destin-Ft. Walton Beach Airport Noise Exposure Maps were determined by FAA to be in compliance with applicable requirements on January 14, 2009. Notice of this determination was published in the Federal Register on January 14, 2009.

The Destin-Ft. Walton Beach Airport study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the year

2008 to the year 2013. It was requested that FAA evaluate and approve this material as a Noise Compatibility Program as described in Section 47504 of the Act. The FAA began its review of the Program on January 14, 2009, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program;

The submitted program contained eight (8) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and 14 CFR Part 150 have been satisfied. The overall program, therefore, was approved by the FAA effective July 7, 2009.

Outright approval was granted for all of the specific program elements. These elements include:

Operational Measures

1. OP–1 Install ''Fly Friendly'' Signage.

2. Op–2 Avoid Touch-and-Go's, Maintenance Run-ups, and Extended APU Operations during Nighttime Hours.

3. OP–3 Avoid Excessive Engine Idling on Ramps near Residential Homes.

4. OP–4 Publish ''Fly Friendly'' Brochure.

Land Use Measures

1. LU–1 Voluntary Land Acquisition and Relocation of Residents within 70 DNL.

2. LU–2 Voluntary Sound Attenuation of Homes within 65 DNL.

3. LU–3 Implement Airport Compatibility Overlay District.

4. LU–4 Monitor Development within 2013 NEM.

These determinations are set forth in detail in a Record of Approval signed by the FAA on July 7, 2009. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of the Oklaoosa County. The Record of Approval also will be available on-line at: *http://www.faa.gov/airports_airtraffic/airports/environmental/airport_noise/Part150/states/*

Dated: Issued in Orlando, Florida on September 8, 2009.

W. Dean Stringer,

Manager, Orlando Airports District Office.

[FR Doc. E9–23468 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for the California High Speed Train Project From Fresno to Bakersfield, CA

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The FRA issued a Notice of Intent on March 13, 2009 for the preparation of an Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) with the California High-Speed Rail (Authority) for the Merced-to-Bakersfield section of the Authority's proposed California High-Speed Train (HST) System in compliance with relevant State and Federal laws, in particular the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). In that Notice, alternatives involving the alignments and stations located between Merced and Bakersfield were identified. FRA is issuing this Notice to amend the project environmental process for the Merced to Bakersfield section into two separate project EISs.

FRA and the Authority have determined that the environmental effects of the HST System from Merced to Bakersfield are more appropriately assessed in two separate documents; one for Merced to Fresno and another for Fresno to Bakersfield. This Notice amends the environmental process started on March 13, 2009 to instead prepare a Project EIR/EIS for the Fresno to Bakersfield section of the HST System. The decision to complete two separate EIR/EISs was made because the project sections are of sufficient length, with logical termini, allowing for an analysis of environmental matters on a broad scope to ensure that the project will function properly without requiring additional improvements elsewhere; and the assessment of HST alternatives in the Fresno to Bakersfield section will not restrict consideration of alternatives for other transportation improvements.

In 2001, the Authority and FRA started a tiered environmental review process for the HST System and in 2005, completed the first tier California High Speed Train Program EIR/EIS (Statewide Program EIR/EIS) and approved the statewide HST System for intercity travel in California between the major metropolitan centers of Sacramento and the San Francisco Bay Area in the north, through the Central Valley, to Los Angeles and San Diego in the south. The approved HST System would be about 800-miles long, with electric propulsion and steel-wheel-on-steel-rail trains capable of operating speeds of 220 miles per hour (mph) on a dedicated system of fully grade-separated, access-controlled steel tracks with state-of-the-art safety, signaling, communication, and automated train control systems. In approving the HST System, the Authority and FRA also selected corridors/general alignments and station location options throughout most of the system. The Statewide Program EIR/EIS generally selected the Burlington Northern Santa Fe Railroad (BNSF) corridor for the high-speed train route from Fresno to Bakersfield and the Union Pacific Railroad Company (UPRR) corridor was selected through the urban area of Fresno, with stations in downtown Fresno and Bakersfield. The Statewide Program EIR/EIS also stated that the project EIR/EIS for the HST in this portion of the Central Valley would evaluate an alignment around Hanford and a potential station location in the Visalia/Hanford/Tulare area.

The preparation of the Fresno to Bakersfield HST Project EIR/EIS will involve the development of preliminary engineering designs and the assessment of potential environmental effects associated with the construction, operation, and maintenance of the HST System, including track, ancillary facilities and stations, along the preferred alternative corridor from Fresno to Bakersfield with alternative alignments to the east of Hanford.

DATES: FRA and the Authority invite the general public, other government agencies, and all other interested parties to comment on the amended scope and content of the Fresno to Bakersfield HST Project EIR/EIS. FRA and the Authority are soliciting additional oral and written comments, suggestions, and requests for information, and request for public meetings no later than October 30, 2009. These comments will receive equal consideration as comments presented during the March 2009 scoping period for the former Merced to Bakersfield HST Project EIR/EIS.

ADDRESSES: Written comments on the scope should be sent to Ms. Carrie Bowen, Regional Director, ATTN. Fresno to Bakersfield, California High-Speed Rail Authority, 925 L Street,

Suite 1425, Sacramento, CA 95814, or via e-mail with subject line ''Fresno to Bakersfield HST'' to: *comments@hsr.ca.gov.* Comments may also be provided orally at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. David Valenstein, Environmental Program Manager, Office of Railroad Development, Federal Railroad Administration, 1200 New Jersey Avenue, SE (Mail Stop 20), Washington, DC 20590 (telephone: 202–493–6368); or Ms. Carrie Bowen, Regional Director, ATTN. Fresno to Bakersfield, California High-Speed Rail Authority, 925 L Street, Suite 1425, Sacramento, CA 95814 (telephone: 559–221–2636).

SUPPLEMENTARY INFORMATION: The Authority was established in 1996 and is authorized and directed by statute to undertake the planning and development of a proposed Statewide HST network that is fully coordinated with other public transportation services. The Authority adopted a Final Business Plan in June 2000, which reviewed the economic feasibility of an 800-mile-long HST System capable of operating speeds in excess of 200 miles per hour on a dedicated, fully grade-separated state-of-the-art track. The Authority released an updated Business Plan in November 2008.

The FRA has responsibility for overseeing the safety of railroad operations, including the safety of any proposed high-speed ground transportation system. FRA is also authorized to provide Federal funding for intercity passenger rail capital investments including high-speed rail. For the proposed HST, it is anticipated that FRA would need to take certain regulatory actions prior to operation and may provide financial assistance for the project including grant funds.

In 2005, the Authority and FRA completed a Statewide Program EIR/EIS for the Proposed California High Speed Train System, as the first phase of a tiered environmental review process. The Authority certified the Statewide Program EIR under CEQA and approved the proposed HST System, and FRA issued a Record of Decision under NEPA for the Program EIS. This Statewide Program EIR/EIS established the purpose and need for the HST System, analyzed an HST System, and compared it with a No Project/No Action Alternative and a Modal Alternative. In approving the Statewide Program EIR/EIS, the Authority and FRA selected the HST Alternative, selected certain corridors/general alignments and general station locations for further study, incorporated mitigation strategies and design practices, and specified further measures to guide the development of the HST System during the site-specific project level environmental review to avoid and minimize potential adverse environmental impacts. The Fresno to Bakersfield HST Project EIR/EIS will tier from the Statewide Program EIR/EIS in accordance with Council on Environmental Quality (CEQ) regulations, (40 CFR 1508.28) and State CEQA Guidelines (14 California Code of Regulations 15168(b)). Tiering will ensure that the Fresno to Bakersfield HST Project EIR/EIS builds upon all previous work prepared for, and incorporated in, the Statewide Program EIR/EIS.

The Fresno to Bakersfield HST Project EIR/EIS will describe site-specific environmental impacts, identify specific mitigation measures to address those impacts and incorporate design features to avoid and minimize potential adverse environmental impacts. The FRA and the Authority will assess the site characteristics, size, nature, and timing of the proposed project to determine whether the impacts are potentially significant and whether impacts can be avoided or mitigated. This project EIR/EIS will identify and evaluate reasonable and feasible site specific alternatives, and evaluate the impacts of construction, operation, and maintenance of the HST System. Information and documents regarding this HST environmental review process will be made available through the Authority's Internet site: *http://www.cahighspeedrail.gov/.*

Purpose and Need: The purpose of the proposed HST System is to provide a new mode of high-speed intercity travel that would link major metropolitan areas of the state; interface with airports, mass transit, and highways; and provide added capacity to meet increases in intercity travel demand in California in a manner sensitive to and protective of California's unique natural resources. The need for a HST System is directly related to the expected growth in population, and increases in intercity travel demand in California over the next twenty years and beyond. With the growth in travel demand, there will be an increase in travel delays arising from the growing congestion on California's highways and at airports. In addition, there will be negative effects on the economy, quality of life, and air quality in and around California's metropolitan areas from an increasingly congested transportation system that will become less reliable as travel demand increases. The intercity highway system, commercial airports, and conventional passenger rail serving the intercity travel market are currently operating at or near capacity, and will require large public investments for maintenance and expansion to meet existing demand and future growth. The proposed HST system is designed to address some of the social, economic and environmental problems associated with transportation congestion in California.

Alternatives: The Fresno to Bakersfield HST Project EIR/EIS will consider a No Action or No Project Alternative and an HST Alternative for the Fresno to Bakersfield section.

No Action Alternative: The No Action Alternative (No Project or No Build) represents the conditions in the corridor as it existed in 2009, and as it would exist based on programmed and funded improvements to the intercity transportation system and other reasonably foreseeable projects through 2035, taking into account the following sources of information: the State Transportation Improvement Program (STIP), Regional Transportation Plans (RTPs) for all modes of travel, airport plans, intercity passenger rail plans, and city and county plans.

HST Alternative: The Authority proposes to construct, operate, and maintain an electric-powered steel-wheel-on-steel-rail HST System, about 800 miles long, capable of operating speeds of 220 mph on dedicated, fully grad-separated tracks, with state-of-the-art safety, signaling, and automated train control systems. The BNSF alignment from Fresno to Bakersfield was selected with the Statewide Program EIR/EIS. As defined in the Statewide Program EIR/EIS, this alignment would utilize the UPRR corridor through the urban area of Fresno, and would require a new high-speed alignment around the city of Hanford. Alignment alternatives will also be evaluated to serve a potential station in the Visalia/Hanford/Tulare area. The HST would operate in this area at speeds up to 220 mph on tracks separate from the existing BNSF tracks. Engineering studies to be undertaken as part of this EIR/EIS process will examine and refine alignments in the BNSF corridor. The entire alignment would be grade separated from existing roadways. In addition, alternative sites for right-of-way maintenance, train storage facilities, and a light or heavy maintenance and repair facility will be evaluated in the Fresno to Bakersfield HST project area.

The two preferred station locations selected by the Authority and FRA through the Statewide Program EIR/EIS will be evaluated in the Fresno to Bakersfield HST Project EIR/EIS. These

stations are downtown Fresno and downtown Bakersfield. Alternative station sites at or near the selected station locations may be identified and evaluated. A potential station in the Visalia/Hanford/Tulare area will also be evaluated in this Project EIR/EIS.

Probable Effects: The purpose of the EIR/EIS process is to explore, in a public setting, the effects of the proposed project on the physical, human, and natural environment. The FRA and the Authority will continue the tiered evaluation of all significant environmental, social, and economic impacts of the construction and operation of the HST System. Impact areas to be addressed include transportation impacts; safety and security; land use and zoning; land acquisition, displacements, and relocations; agricultural land impacts; cumulative and secondary impacts; cultural resource impacts, including impacts on historical and archaeological resources and parklands/recreation areas; neighborhood compatibility and environmental justice; and natural resource impacts including air quality, wetlands, water resources, noise, vibration, energy, wildlife and ecosystems, including endangered species. Measures to avoid, minimize, and mitigate adverse impacts will be identified and evaluated.

The Fresno to Bakersfield HST Project EIR/EIS will be prepared in accordance with FRA's Procedures for Considering Environmental Impacts (64 FR 28545 May 26, 1999) and will address not only NEPA and CEQA but will also address as necessary other applicable statutes, regulations, and executive orders, including the Clean Air Act, section 404 of the Clean Water Act, section 106 of the National Historic Preservation Act of 1966, section 4(f) of the Department of Transportation Act, the Endangered Species Act, and Executive Order 12898 on Environmental Justice. This EIR/EIS process will also continue the NEPA/Clean Water Act section 404 integration process established through the Statewide Program EIR/EIS process. The EIR/EIS will evaluate project alignment alternatives, and station and maintenance facility locations to support a determination of the Least Environmentally Damaging Practicable Alternative (LEDPA) by the U.S. Army Corps of Engineers.

Comments: FRA encourages broad participation in the EIS process and review of the resulting environmental documents. Comments are invited from all interested agencies and the public to ensure the full range of issues related to the proposed action and reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in learning whether there are areas of environmental concern where there might be a potential for significant site-specific impacts from the Fresno-Bakersfield section of the HST system. Public agencies with jurisdiction are requested to advise FRA and the Authority of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed project and if they wish to cooperate in the preparation of the Project EIR/EIS.

Public scoping meetings were held in March 2009 for the Merced to Bakersfield HST Project EIR/EIS and are an important component of the scoping process for the Fresno to Bakersfield HST Project EIR/EIS for both the State and Federal environmental review. FRA is seeking participation and input of all interested Federal, State, and local agencies, Native American groups, and other concerned private organizations or individuals on the scope of the EIR/EIS. Implementation of the Fresno to Bakersfield section of the HST System is a Federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f). In accordance with regulations issued by the Advisory Council on Historic Preservation, 36 CFR part 800, FRA intends to coordinate compliance with section 106 of this Act with the preparation of the EIR/EIS, beginning with the identification of consulting parties in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC, on September 25, 2009.

Mark E. Yachmetz,

Associate Administrator for Railroad Development, Federal Railroad Administration.

[FR Doc. E9–23749 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for the California High-Speed Train Project from Merced to Fresno, CA

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The FRA issued a Notice of Intent on March 13, 2009 for the preparation of an Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) with the California High-Speed Rail Authority (Authority) for the Merced to Bakersfield section of the Authority's proposed California High-Speed Train (HST) System in compliance with relevant state and federal laws, in particular the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). In that Notice, alternatives involving the alignments and stations located between Merced and Bakersfield were identified. This notice amends the project environmental process for the Merced to Bakersfield section and announces the preparation of two separate EIR/EISs.

FRA and the Authority have determined that the environmental effects of the HST System from Merced to Bakersfield are more appropriately assessed in two separate documents; one for Merced to Fresno and another for Fresno to Bakersfield. This Notice amends the environmental process started on March 13, 2009 to instead a Project EIR/EIS for the Merced to Fresno section of the HST System. The decision to complete two separate EIR/EISs was made because the project sections are of sufficient length, with logical termini allowing for an analysis of environmental matters on a broad scope to ensure that the project will function properly without requiring additional improvements elsewhere; and the assessment of HST alternatives in the Merced to Fresno section will not restrict consideration of alternatives for other transportation improvements.

In 2001, the Authority and FRA started a tiered environmental review process for the HST System and in 2005, completed the first tier California High Speed Train Program EIR/EIS (Statewide Program EIR/EIS) and approved the statewide HST System for intercity travel in California between the major metropolitan centers of Sacramento and the San Francisco Bay Area in the north, through the Central

Valley, to Los Angeles and San Diego in the south. The approved HST System would be about 800-miles long, with electric propulsion and steel-wheel-on-steel-rail trains capable of operating speeds of 220 miles per hour (mph) on a dedicated system of fully grade-separated, access-controlled steel tracks with state-of-the-art safety, signaling, communication, and automated train control systems. In approving the HST System, the Authority and FRA also selected corridors/general alignments and station location options throughout most of the system. The Statewide Program EIR/EIS generally selected the Burlington Northern Santa Fe Railroad (BNSF) corridor for the high-speed train route from Merced to Fresno with stations at Merced and in Fresno.

In 2008, the Authority and FRA completed a second program EIR/EIS to evaluate and select general alignments and station locations within the broad corridor between, and including, the Altamont Pass and the Pacheco Pass to connect the Bay Area and Central Valley portions of the HST System. The Authority and FRA selected the Pacheco Pass with San Francisco and San Jose termini network alternative, as well as preferred corridor alignments and station location options. The Union Pacific Railroad Company (UPRR) corridor was selected as the preferred alignment through the portion of the Central Valley from south of Stockton to north of Madera and the BNSF railroad corridor from Madera to Fresno was selected by the Statewide Program EIR/EIS.

The preparation of the Merced to Fresno HST Project EIR/EIS will involve the development of preliminary engineering designs and the assessment of potential environmental effects associated with the construction, operation, and maintenance of the HST System, including track, ancillary facilities and stations, along the preferred alternative corridors from Merced to Fresno. The Merced to Fresno HST Project also includes the connection from the San Jose to Merced HST Project.

DATES: FRA and the Authority invite the general public, other government agencies, and all other interested parties to comment on the amended scope and content of the Merced to Fresno HST Project EIR/EIS. FRA and the Authority are soliciting additional oral and written comments, suggestions, requests for information, and requests for public meetings no later than October 30, 2009. These comments will receive equal consideration as comments presented during the March 2009 scoping period for the former Merced to Bakersfield HST Project EIR/EIS.

ADDRESSES: Written comments on the scope should be sent to Ms. Carrie Bowen, Regional Director, ATTN. Merced to Fresno, California High-Speed Rail Authority, 925 L Street, Suite 1425, Sacramento, CA 95814, or via e-mail with subject line ''Merced to Fresno HST'' to: *comments@hsr.ca.gov*. Comments may also be provided orally at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. David Valenstein, Environmental Program Manager, Office of Railroad Development, Federal Railroad Administration, 1200 New Jersey Avenue, SE (Mail Stop 20), Washington, DC 20590 (telephone: 202–493–6368); or Ms. Carrie Bowen, Regional Director, ATTN. Merced to Fresno, California High-Speed Rail Authority, 925 L Street, Suite 1425, Sacramento, CA 95814 (telephone: 559–221–2636).

SUPPLEMENTARY INFORMATION: The Authority was established in 1996 and is authorized and directed by statute to undertake the planning and development of a proposed statewide HST network that is fully coordinated with other public transportation services. The Authority adopted a Final Business Plan in June 2000, which reviewed the economic feasibility of an 800-mile-long HST System capable of operating speeds in excess of 200 miles per hour on a dedicated, fully grade-separated state-of-the-art track. The Authority released an updated Business Plan in November 2008.

The FRA has responsibility for overseeing the safety of railroad operations, including the safety of any proposed high-speed ground transportation system. FRA is also authorized to provide Federal funding for intercity passenger rail capital investments including high-speed rail. For the proposed HST, it is anticipated that FRA would need to take certain regulatory actions prior to operation and may provide financial assistance for the project including grant funds.

In 2005, the Authority and FRA completed a Statewide Program EIR/EIS for the Proposed California High Speed Train System, as the first phase of a tiered environmental review process. The Authority certified the Program EIR under CEQA and approved the proposed HST System, and FRA issued a Record of Decision under NEPA for the Program EIS. This Statewide Program EIR/EIS established the purpose and need for the HST System, analyzed an HST System, and compared it with a No Project/No Action Alternative and a Modal Alternative. In approving the Statewide Program EIR/EIS, the Authority and FRA selected the HST Alternative, selected certain corridors/general alignments and general station locations for further study, incorporated mitigation strategies and design practices, and specified further measures to guide the development of the HST System during the site-specific project level environmental review to avoid and minimize potential adverse environmental impacts. In the subsequent Bay Area to Central Valley HST Final Program EIR/EIS, the Authority and FRA selected the Pacheco Pass alternative, via Henry Miller Road, to connect the Bay Area to the Central Valley.

The Merced to Fresno HST Project EIR/EIS will tier from the Statewide Program EIR/EIS and the Bay Area to Central Valley HST Program EIR/EIS in accordance with Council on Environmental Quality (CEQ) regulations, (40 CFR 1508.28) and State CEQA Guidelines (14 California Code of Regulations 15168(b)). Tiering will ensure that the Merced to Fresno HST Project EIR/EIS builds upon all previous work prepared for and incorporated in the Statewide Program EIR/EIS and the Bay Area to Central Valley HST Program EIR/EIS.

The Merced to Fresno HST Project EIR/EIS will describe site-specific environmental impacts, identify specific mitigation measures to address those impacts and incorporate design features to avoid and minimize potential adverse environmental impacts. The FRA and the Authority will assess the site characteristics, size, nature, and timing of the proposed project to determine whether the impacts are potentially significant and whether impacts can be avoided or mitigated. This Project EIR/EIS will identify and evaluate reasonable and feasible site specific alignment alternatives, and evaluate the impacts of construction, operation, and maintenance of the HST System. Information and documents regarding this HST environmental review process will be made available through the Authority's Internet site: *http://www.cahighspeedrail.gov/*.

Purpose and Need: The purpose of the proposed HST System is to provide a new mode of high-speed intercity travel that would link major metropolitan areas of the state; interface with airports, mass transit, and highways; and provide added capacity to meet increases in intercity travel demand in California in a manner sensitive to and protective of California's unique natural resources. The need for a HST System is directly related to the expected growth in

population, and increases in intercity travel demand in California over the next twenty years and beyond. With the growth in travel demand, there will be an increase in travel delays arising from the growing congestion on California's highways and at airports. In addition, there will be negative effects on the economy, quality of life, and air quality in and around California's metropolitan areas from an increasingly congested transportation system that will become less reliable as travel demand increases. The intercity highway system, commercial airports, and conventional passenger rail serving the intercity travel market are currently operating at or near capacity, and will require large public investments for maintenance and expansion to meet existing demand and future growth. The proposed HST system is designed to address some of the social, economic and environmental problems associated with transportation congestion in California.

Alternatives: The Merced to Fresno HST Project EIR/EIS will consider a No Action or No Project Alternative and an HST Alternative for the Merced to Fresno section.

No Action Alternative: The No Action Alternative (No Project or No Build) represents the conditions in the corridor as it existed in 2009, and as it would exist based on programmed and funded improvements to the intercity transportation system and other reasonably foreseeable projects through 2035, taking into account the following sources of information: the State Transportation Improvement Program (STIP), Regional Transportation Plans (RTPs) for all modes of travel, airport plans, intercity passenger rail plans, and city and county plans.

HST Alternative: The Authority proposes to construct, operate and maintain an electric-powered steel-wheel-on-steel-rail HST System, about 800 miles long, capable of operating speeds of 220 mph on dedicated, fully grade-separated tracks, with state-of-the-art safety, signaling, and automated train control systems. As part of the Bay Area to Central Valley HST Program EIR/EIS, the Authority and FRA selected the UPRR railroad alignment through the portion of the Central Valley from north of Madera to south of Stockton as the preferred alternative. This Project EIR/EIS will also evaluate the BNSF railroad alignment in this part of the Central Valley because of the uncertainty of negotiating with the UPRR for some of their right-of-way and will continue investigation of alignments/linkages to a potential maintenance facility at Castle AFB.

The BNSF alignment from Madera to Fresno was selected with the Statewide Program EIR/EIS. As defined in the Statewide Program EIR/EIS, this alignment would utilize the UPRR corridor through the urban area of Fresno. The HST would operate in this area at speeds up to 220 mph on tracks separate from the existing BNSF and UPRR tracks. Engineering studies to be undertaken as part of this EIR/EIS process will examine and refine alignments in the BNSF and UPRR corridors. The entire alignment would be grade separated from existing roadways. In addition, alternative sites for right-of-way maintenance, train storage facilities, and a light or heavy maintenance and repair facility will be evaluated in the Merced to Fresno HST project area. The preferred station locations selected by the Authority and FRA through the Statewide Program EIR/EIS and the Bay Area to Central Valley HST Program EIR/EIS in Merced will be evaluated in the Merced to Fresno HST Project EIR/EIS. The station in Fresno will be analyzed in the EIR/EIS for the Fresno-Bakersfield section of the HST System. Alternative station sites at or near the selected station locations may be identified and evaluated.

Probable Effects: The purpose of the EIR/EIS process is to explore, in a public setting, the effects of the proposed project on the physical, human, and natural environment. The FRA and the Authority will continue the tiered evaluation of all significant environmental, social, and economic impacts of the construction and operation of the HST System. Impact areas to be addressed include transportation impacts; safety and security; land use and zoning; land acquisition, displacements, and relocations; agricultural land impacts; cumulative and secondary impacts; cultural resource impacts, including impacts on historical and archaeological resources and parklands/recreation areas; neighborhood compatibility and environmental justice; and natural resource impacts including air quality, wetlands, water resources, noise, vibration, energy, wildlife and ecosystems, including endangered species. Measures to avoid, minimize, and mitigate adverse impacts will be identified and evaluated.

The Merced to Fresno HST Project EIR/EIS will be prepared in accordance with FRA's Procedures for Considering Environmental Impacts (64 FR 28545, May 26, 1999) and will address not only NEPA and CEQA but will also address, as necessary, other applicable statutes, regulations, and executive orders, including the Clean Air Act, Section 404 of the Clean Water Act, Section 106 of the National Historic Preservation Act of 1966, Section 4(f) of the Department of Transportation Act, the Endangered Species Act, and Executive Order 12898 on Environmental Justice. This EIR/EIS process will also continue the NEPA/Clean Water Act Section 404 integration process established through the Statewide Program EIR/EIS process. The EIR/EIS will evaluate project alignment alternatives, and station and maintenance facility locations to support a determination of the Least Environmentally Damaging Practicable Alternative (LEDPA) by the U.S. Army Corps of Engineers.

Comments: FRA encourages broad participation in the EIS process and review of the resulting environmental documents. Comments are invited from all interested agencies and the public to ensure the full range of issues related to the proposed action and reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in learning whether there are areas of environmental concern where there might be a potential for significant site-specific impacts from the Merced-Fresno section of the HST system. Public agencies with jurisdiction are requested to advise FRA and the Authority of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed project and if they wish to cooperate in the preparation of the Project EIR/EIS.

Public scoping meetings were held in March 2009 for the Merced to Bakersfield HST Project EIR/EIS and are an important component of the scoping process for the Merced to Fresno HST Project EIR/EIS for both the State and Federal environmental review. FRA is seeking participation and input of all interested federal, state, and local agencies, Native American groups, and other concerned private organizations or individuals on the scope of the EIR/EIS. Implementation of the Merced to Fresno section of the HST System is a federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f). In accordance with regulations issued by the Advisory Council on Historic Preservation, 36 CFR part 800, FRA intends to coordinate

compliance with Section 106 of this Act with the preparation of the EIR/EIS, beginning with the identification of consulting parties in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC, on September 25, 2009.

Mark E. Yachmetz,

Associate Administrator for Railroad Development, Federal Railroad Administration.

[FR Doc. E9–23728 Filed 9–30–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (collectively, the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

On June 25, 2009, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), published a notice in the **Federal Register** (74 FR 30358) requesting public comment for 60 days on the extension, without revision, of the Foreign Branch Report of Condition (FFIEC 030 and FFIEC 030S), which is a currently approved information collection for each agency. The comment period for this notice expired on August 24, 2009. No comments were received. The agencies are now submitting requests to OMB for approval of the extension, without revision, of the FFIEC 030 and FFIEC 030S.

DATES: Comments must be submitted on or before November 2, 2009.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number, will be shared among the agencies.

OCC: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2–3, Attention: 1557–0099, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to 202–874–5274, or by electronic mail to *regs.comments@occ.treas.gov*. You may personally inspect and photocopy the comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, identified by FFIEC 030 or FFIEC 030S, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the OMB control number in the subject line of the message.
- *Fax:* 202–452–3819 or 202–452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to ''Foreign Branch Report of Condition, 3064–0011,'' by any of the following methods:

- *Agency Web Site: http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *E-mail: comments@FDIC.gov.* Include ''Foreign Branch Report of Condition, 3064–0011'' in the subject line of the message.
- *Mail:* Gary Kuiper (202–898–3877), Counsel, Attn: Comments, Room F–1072, 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.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/notices/html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3502 North Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: For further information or a copy of the collection, please contact any of the agency clearance officers whose names appear below.

OCC: Mary H. Gottlieb, OCC Clearance Officer, 202–874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Michelle Shore, Federal Reserve Board Clearance Officer, 202–452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call 202–263–4869.

FDIC: Gary Kuiper, Counsel, 202–898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal To Request Approval From OMB of the Extension for Three Years, Without Revision, of the Following Currently Approved Collection of Information

Report Title: Foreign Branch Report of Condition.

Form Numbers: FFIEC 030 and FFIEC 030S.

Frequency of Response: Annually, and quarterly for significant branches.

Affected Public: Business or other for profit.

OCC

OMB Number: 1557–0099.

Estimated Number of Respondents: 101 annual branch respondents (FFIEC 030), 289 quarterly branch respondents (FFIEC 030), 30 annual branch respondents (FFIEC 030S).

Estimated Average Time per Response: 3.4 burden hours (FFIEC 030), 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 4,288 burden hours.

Board

OMB Number: 7100–0071.

Estimated Number of Respondents: 23 annual branch respondents (FFIEC 030), 20 quarterly branch respondents (FFIEC 030), 14 annual branch respondents (FFIEC 030S).

Estimated Average Time per Response: 3.4 burden hours (FFIEC 030), 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 357 burden hours.

FDIC

OMB Number: 3064–0011.

Estimated Number of Respondents: 7 annual respondents (FFIEC 030), 3 quarterly respondents (FFIEC 030), 9 annual respondents (FFIEC 030S).

Estimated Average Time per Response: 3.4 burden hours (FFIEC 030), 0.5 burden hours (FFIEC 030S).

Estimated Total Annual Burden: 70 burden hours.

General Description of Reports

This information collection is mandatory: 12 U.S.C. 321, 324, and 602 (Board); 12 U.S.C. 602 (OCC); and 12 U.S.C. 1828 (FDIC). This information collection is given confidential treatment (5 U.S.C. 552(b)(8)).

Abstract

The FFIEC 030 contains asset and liability information for foreign branches of insured U.S. commercial banks and State-chartered savings banks and is required for regulatory and supervisory purposes. The information is used by the agencies to analyze the foreign operations of U.S. banks. All foreign branches of U.S. banks regardless of charter type file this report with the appropriate Federal Reserve District Bank. The Federal Reserve collects this information on behalf of the U.S. bank's primary Federal bank regulatory agency. The FFIEC 030S contains five data items that branches with total assets between $50 million and $250 million file on an annual basis in lieu of the FFIEC 030 reporting form. No changes are proposed to the FFIEC 030 or FFIEC 030S reporting forms or instructions.

Request for Comment

Comments are invited on:

a. Whether the information collection is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of the information collections 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 the requested information.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden, including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: September 8, 2009.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, September 25, 2009.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 24th day of September, 2009.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. E9–23677 Filed 9–30–09; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

AGENCY: United States Institute of Peace.

Date/Time: Thursday, October 13, 2009. 9:15 a.m.–3:15 p.m.

Location: 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: October 13, 2009 Board Meeting; Approval of Minutes of the One Hundred Thirty-Fourth Meeting (July 23–24, 2009) of the Board of Directors; Chairmans Report; Presidents Report; Finalizing the strategic plan; Selection of National Peace Essay contest topics; Updates on Afghanistan/Pakistan, Sudan and Prevention Work; Other General Issues.

Contact: Tessie F. Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: September 25, 2009.

Michael B. Graham,

Vice President for Management, United States Institute of Peace.

[FR Doc. E9–23599 Filed 9–30–09; 8:45 am]

BILLING CODE 6820–AR–M

Federal Register

Thursday,
October 1, 2009

Part II

Department of Labor

Employment and Training Administration

Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice, Training and Employment Guidance Letter (TEGL).

SUMMARY: The Employment and Training Administration of the U.S. Department of Labor is publishing, for public information, notice of the issuance and availability of Training and Employment Guidance Letter (TEGL) number 22–08 entitled, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009,* signed on May 15, 2009 by Douglas F. Small Deputy Assistant Secretary for Employment and Training.

FOR FURTHER INFORMATION CONTACT: Terry Clark, 202–693–3707.

SUPPLEMENTARY INFORMATION: The complete text of this guidance document is provided in this notice. In addition, it is available on the ETA Advisory Web site at *http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2756.*

Subject: Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009 (TEGL 22–08).

Purpose: To assist the State Workforce Agencies designated by the Governor as ''cooperating state agencies'' in implementing the provisions of the Trade and Globalization Adjustment Assistance Act of 2009 that amend the Trade Adjustment Assistance program, and creates or expands programs for Workers, Firms, Communities, and Farmers.

References: The Trade and Globalization Adjustment Assistance Act of 2009 (Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, Public Law (Pub. L.) 111–5 (enacted on February 17, 2009); Trade Adjustment Assistance Reform Act of 2002 (Pub. L. 107–210); the Trade Act of 1974, as amended (Pub. L. 93–618, as amended); 20 CFR part 617; 29 CFR part 90; Training and Employment Guidance Letter (TEGL) No. 11–02 with Changes 1, 2, and 3; TEGL No. 2–03; Unemployment Insurance Program Letter (UIPL) No. 02–03, and Change 1 and Change 3; UIPL No. 05–03; UIPL No. 33–03.

Definitions: For purposes of these operating instructions, the following definitions will apply:

1. *2002 Act* means the Trade Act of 1974, Public Law 93–618, as amended through the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210.
2. *2002 Amendments* means the amendments made to the Trade Act of 1974 by the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210.
3. *2009 Act* means the Trade Act as it stands in 2009, including the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA) amendments.
4. *2009 Amendments* means the TGAAA, Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, Public Law 111–5.
5. *Trade Act of 1974,* means the Trade Act of 1974, Public Law 93–618, as amended (through Pub. L. 106–113).
6. *Recovery Act* means the American Recovery and Reinvestment Act of 2009, Public Law 111–5.
7. *ATAA* means the Demonstration Project for Alternative Trade Adjustment Assistance for Older Workers, under section 246 of the 2002 Act, as in effect on May 17, 2009, the day before the effective date of the 2009 Act.
8. *CSA* means Cooperating State Agency.
9. *Department* or *DOL* means the U.S. Department of Labor.
10. *DOC* means U.S. Department of Commerce.
11. *Secretary* means the Secretary of Labor.
12. *TAA program* means the Trade Adjustment Assistance for Workers program.
13. *TRA* means Trade Readjustment Allowances.
14. *RTAA* means Reemployment Trade Adjustment Assistance, under Section 246 of the 2009 Act.
15. *HCTC* means Health Coverage Tax Credit. (Section 35, Internal Revenue Code (I.R.C.) of 1986) (26 U.S.C. 35)
16. *WIA* means the Workforce Investment Act of 1998, Public Law 105–220, as amended. (29 U.S.C. 2801 *et seq.*)
17. *Trade Affected Worker* means workers who are members of a certified worker group and have been separated or threatened with separation.

Background: The TAA program for workers was first established at the DOL by the Trade Act of 1974, and has been amended several times over the past thirty-five years. The latest amendments are contained in the 2009 Act, which is part of the Recovery Act. The 2009 Act overhauls the TAA program and expands TAA coverage to more workers and firms, including workers and firms in the service sector, and improves workers' opportunities for training, health insurance coverage, and reemployment.

Section 1856 of the 2009 Amendments contains the sense of Congress as it applies the TAA programs: ''the Secretaries of Labor, Commerce, and Agriculture should apply the provisions of [their respective trade adjustment assistance programs] with the utmost regard for the interests of workers, firms, communities, and farmers petitioning for benefits.'' These operating instructions reflect this intent. DOL expects the CSAs to implement these instructions in accordance with that intent.

Many aspects of the process for determining group and individual eligibility for TAA have been reformed by the 2009 Amendments. These amendments, as addressed in these operating instructions, apply to workers covered by petitions for adjustment assistance filed on or after May 18, 2009. Workers covered by petitions filed on or before May 17, 2009, are subject to the provisions of the 2002 Act as described in the Operating Instructions provided in TEGL No. 11–02 and its changes, and TEGL No. 2–03 and its changes. These provisions remain in full force and effect as participants who are certified under the 2002 Act continue to seek and receive services and benefits under those provisions. This is true for all workers separated from adversely affected employment before the expiration of a certification based on a petition filed on or before May 17, 2009.

Under the provisions of the 2002 Act, DOL receives petitions for TAA filed by an employer, a one-stop operator or one-stop partner (as defined in section 101 of the WIA), 29 U.S.C. 2801, a State dislocated worker unit established under title I of WIA, a group of workers, or their authorized representative. DOL conducts fact-finding investigations of these petitions to determine whether increased imports have contributed importantly to the workers' displacement, or if the workers have been affected by certain shifts in production. States make available rapid response and appropriate core and intensive services under WIA and assist DOL in reviewing the petitions. If the findings of an investigation show that the workers have been adversely affected by increased imports or a shift in production of articles, the Secretary

of Labor issues a certification of eligibility to apply for adjustment assistance. Once a certification is issued, notice of the certification, including the reason for certification, is transmitted to the State and the petitioner, published in the **Federal Register**, and posted on the DOL Web site.

Under an agreement executed by the Secretary of Labor and the State, the CSA acts as the agent of the Secretary to notify certified workers of potential TAA benefits and services, make eligibility determinations for individuals, and deliver benefits and services. Individual workers who are members of the certified worker group apply for benefits and services at a One-Stop Career Center or other local office of the CSA. Individual workers who meet the qualifying criteria may receive job training, income support in the form of TRA, job search allowances, HCTC, a wage supplement in the form of ATAA (now RTAA), and relocation allowances. In addition, all workers covered by a certification are eligible for reemployment services including job referrals, job clubs, and resume-writing assistance.

The 2009 Amendments amend the provisions of the 2002 Act in several substantial ways:

Group Eligibility Extended to Include

- Workers in firms that supply services;
- Workers whose firm has shifted production to *any* foreign country;
- Workers in public agencies;
- Workers whose firm produces component parts based on increased imports of finished products;
- Workers in firms that supply testing, packaging, maintenance and transportation services to companies with TAA-certified workers; and
- Workers whose firm is identified in an International Trade Commission ''injury'' determination listed in the Act.

Program Administration and Service Delivery

- Provides workers with a new entitlement to employment and case management services, and designates funds for that purpose;
- Permits CSAs to waive requirements as necessary to ensure the eligibility for program benefits of returning service members in the same manner and to the same extent as if the service member had not served a period of duty;
- Provides protections for workers covered under certifications delayed by judicial and administrative appeals;
- Applies State UI ''good cause'' waiver provisions to all TAA time limitations; and
- Provides minimum requirements for CSA reviews of waivers of the training requirement.

Training

- Raises the statutory cap on funds that may be allocated to the States for training from $220 million to $575 million per year, and amends how DOL apportions those funds;
- Allows TAA-funded training prior to separation from employment;
- Allows for part-time training, but without TRA; and
- Extends the deadline for enrolling in training in order to qualify for TRA to 26 weeks from the later of the worker's most recent total qualifying separation, or 26 weeks from the issuance of the certification. States may grant an extension of the training deadline for up to 45 days for extenuating circumstances. Workers may also receive a waiver of the training requirement within the same 26-week plus 45-day periods.

Income Support

- Increases the maximum amount of additional TRA from 52 to 78 weeks for workers in long-term training;
- Permits the payment of 78 weeks of additional TRA over a period of 91 weeks, thereby allowing breaks in training and temporary periods of employment where additional TRA is not paid;
- Allows payment of up to 26 more consecutive weeks of additional TRA if the worker must undertake prerequisite education or remedial education in order to complete a program of TAA training;
- Allows trade-affected workers to elect to receive TRA instead of Unemployment Insurance (UI) based upon a second UI benefit year resulting from part-time or short-term work with a lower weekly benefit amount (WBA);
- Creates a new standard for the waiver of recovery of TAA overpayments; and
- Eliminates the 210-day requirement for making an application for training as a condition for the receipt of additional TRA.

Wage Supplement (RTAA)

- Eliminates the requirement for a group certification specifically for RTAA;
- Eliminates the requirement under ATAA that a worker must find reemployment within 26 weeks of layoff;
- Workers who choose and are eligible to receive RTAA may also receive regular TAA benefits and services: Employment and case management services, training, TRA (with limitations), relocation, HCTC, and job search allowances;
- Increases the limit on wages in eligible reemployment to $55,000 a year;
- Increases the individual's benefit cap to $12,000; and
- Allows a worker to qualify for RTAA when working part-time.

Health Coverage Tax Credit

- Expands the HCTC program, which is available to ''eligible TAA recipients.''
- Modifies the definition of an ''eligible TAA recipient'' to permit a worker to receive the HCTC even though s/he is in a break in training of a duration that renders the worker ineligible for TRA.
- Modifies the definition of an ''eligible TAA recipient'' to not apply the training enrollment requirements to an individual who is receiving unemployment insurance compensation.
- Increases the HCTC tax credit from 65 percent to 80 percent of the amount a worker paid for coverage under qualifying health insurance; and
- Provides for the continuation of HCTC eligibility for family members after receipt of Medicare, Death, or Divorce of the principle recipient.

Job Search and Relocation

- Amends the percentage of job search expenses that may be paid on behalf of a qualified participant to 100 percent of the total expenses, capped at $1,500; and
- Amends the percentage of relocation expenses that may be paid on behalf of a qualified participant to 100 percent of the total expenses, plus a payment up to $1,500.

Operating Instructions: The operating instructions contained in the attachment are issued to the States and the CSAs as guidance provided by DOL in its role as the principal in the TAA program. As agents of the Secretary of Labor, the States and CSAs may not vary from the operating instructions in this document without prior approval from DOL.

Pending the issuance of regulations implementing the provisions of the 2009 Act, the operating instructions in this document constitute the controlling guidance for the States and the CSAs in implementing and administering the 2009 Act, as provided in the agreements between the States and the Secretary of Labor under Section 239 of the 2009 Act.

These Operating Instructions only address changes to the TAA program

made by the 2009 Amendments. For issues that are not addressed by these operating instructions, States must continue to comply with Training and Employment Guidance Letter (TEGL) 11–02, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, and Changes, 1, 2, and 3; and TEGL 2–03, Interim Operating Instructions for Implementing the Alternative Trade Adjustment Assistance (ATAA) for Older Workers Program Established by the Trade Adjustment Assistance Reform Act of 2002, and Change 1; and other such program letters issued by the Department applicable to the TAA benefits and assistance for adversely affected workers covered under TAA certifications resulting from petitions filed before May 18, 2009.

Unless otherwise noted, the 2009 Act takes effect for petitions filed on or after May 18, 2009, which is 90 days after the date the President signed the Recovery Act into law. This effective date includes amendments to the petitioning process and to the individual eligibility requirements and levels of TAA benefits and services. For convenience and emphasis, the effective date is repeated in several sections of these instructions. Petitions filed on and after May 18, 2009, and certifications issued under those petitions, will be identified by a numbering sequence starting at 70,001.

Action Required: CSAs are required to implement the 2009 amendments as set forth in these Operating Instructions for workers covered under petitions filed on or after May 18, 2009. Additionally, CSAs will continue to administer the 2002 Act for workers covered under petitions filed before the effective date of the 2009 Act until all of those workers have exited the program. CSAs will inform all appropriate staff of the contents of these instructions.

Inquiries: CSAs should direct all inquiries to the appropriate ETA Regional office.

Attachment A: Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009.

Attachment B: Trade Act of 1974, as amended, can be accessed at *http://wdr.doleta.gov/directives/attach/tegl/TEGL22–08aB.pdf.*

Attachment A

Table of Contents

Introduction

Definitions

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B. Group Eligibility Requirements
C. Trade Readjustment Allowances
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F. Relocatioin Allowances
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H. Reemployment Trade Adjustment Assistance
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J. Health Coverage Tax Credit

Introduction

These Operating Instructions only address changes to the TAA program made by the 2009 Amendments. For issues that are not addressed by these operating instructions, States must continue to comply with Training and Employment Guidance Letter (TEGL) 11–02, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, and Changes, 1, 2, and 3; and TEGL 2–03, Interim Operating Instructions for Implementing the Alternative Trade Adjustment Assistance (ATAA) for Older Workers Program Established by the Trade Adjustment Assistance Reform Act of 2002, and Change 1; and other such program letters issued by the Department applicable to the TAA benefits and assistance for adversely affected workers covered under TAA certifications resulting from petitions filed before May 18, 2009.

Definitions

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- *2002 Amendments* means the amendments made to the Trade Act of 1974 by the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210.
- *2009 Act* means the Trade Act as it stands in 2009, including the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA) amendments.
- *2009 Amendments* means the TGAAA, Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, Public Law 111–5.
- *Trade Act of 1974,* means the Trade Act of 1974, Public Law 93–618, as amended (through Pub. L. 106–113).
- *Recovery Act* means the American Recovery and Reinvestment Act of 2009, Public Law 111–5.
- *ATAA* means the Demonstration Project for Alternative Trade Adjustment Assistance for Older Workers, under section 246 of the 2002 Act, as in effect on May 17, 2009, the day before the effective date of the 2009 Act.
- *CSA* means Cooperating State Agency.
- *Department* or *DOL* means the U.S. Department of Labor.
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- *TRA* means Trade Readjustment Allowances.
- *RTAA* means Reemployment Trade Adjustment Assistance, under Section 246 of the 2009 Act.
- *HCTC* means Health Coverage Tax Credit. (Section 35, Internal Revenue Code (I.R.C.) of 1986) (26 U.S.C. 35).
- *WIA* means the Workforce Investment Act of 1998, Public Law 105–220, as amended. (29 U.S.C. 2801 *et seq.*).
- *Trade Affected Worker* means workers who are members of a certified worker group and have been separated or threatened with separation.

A. Reauthorization and Termination

Statutory Change: Sections 1891 through 1893 of the 2009 Amendments contain effective dates for the 2009 Act and amend section 245, 246 and 285 relating to the authorization of appropriations and termination/phase-out provisions applicable to the TAA program under the 2002 Act and the TAA program under the 2009 Act.

Administration: Section 1891 of the 2009 Amendments provides that the effective date for the 2009 Act is 90 days after the date of enactment and the amendments apply to petitions filed on or after the effective date. Since the 2009 Amendments were signed into law on February 17, 2009, the effective date is May 18, 2009. Therefore, petitions filed on or after that date will be governed by the 2009 Act and the 2009 Act will apply to benefits available to workers covered under certifications issued in response to such petitions. Workers covered by certifications issued in response to petitions filed before May 18, 2009 will continue to be governed by the provisions of the 2002 Act. This distinction means that CSAs will be providing benefits under two different sets of rules for workers covered by petitions filed before and on or after May 18, 2009. Workers covered by petitions filed before May 18, 2009, will be entitled to the benefits and services available under the TAA program under the 2002 Act, including the opportunity for ATAA-certified workers to elect to

participate in the ATAA program and receive the ATAA wage supplement benefit. Workers covered by petitions filed on or after May 18, 2009, will be entitled to benefits and services under the new TAA program under the 2009 Act, including the RTAA wage supplement benefit. The ATAA program will not terminate, as provided in the 2002 Act, five years after it was implemented by a State. Instead, workers covered by certifications for TAA and ATAA based on petitions filed before May 18, 2009, will continue to be eligible to receive the ATAA wage supplement benefit available under the 2002 Act.

Section 1892 amends section 245 of the 2002 Act to extend the authorization of appropriations through December 31, 2010. This section also amends section 285 of the 2002 Act to extend the termination/phase-out provision to December 31, 2010. Under the termination phase-out provision, no petitions filed after December 31, 2010, will be certified. Workers covered by certifications based on petitions filed on or before December 31, 2010, will be eligible to continue to receive services and benefits in accordance with the requirements in effect before the termination.

Section 1893 contains other sunset provisions relating to the 2009 Amendments. DOL does not believe this section needs to be addressed in these operating instructions but will issue additional instructions if actions relating to these provisions were to become necessary.

The following operating instructions explain how the 2009 Amendments changed the 2002 Act, and provide guidance on the operation of the new TAA program.

B. Group Eligibility Requirements

B.1. Primary Worker Certification Criteria

Statutory Change: Section 1801 of the 2009 Amendments amends Section 222(a) of the 2002 Act to read:

(a) IN GENERAL. A group of workers shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated; and

(2)(A)(i) The sales or production, or both, of such firm have decreased absolutely;

(ii)(I) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(II) Imports of articles like or directly competitive with articles—

(aa) Into which one or more component parts produced by such firm are directly incorporated, or

(bb) Which are produced directly using services supplied by such firm, have increased; or

(III) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased; and

(iii) The increase in imports described in clause (ii) contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

(B)(i)(I) There has been a shift by such workers' firm to a foreign country in the production of articles or the supply of services like or directly competitive with articles which are produced or services which are supplied by such firm; or

(II) Such workers' firm has acquired from a foreign country articles or services that are like or directly competitive with articles which are produced or services which are supplied by such firm; and

(ii) The shift described in clause (i)(I) or the acquisition of articles or services described in clause (i)(II) contributed importantly to such workers' separation or threat of separation.

Administration: As explained in greater detail below, the 2009 Amendments substantially expand program coverage by expanding the groups of worker that the Department must certify. The 2009 Amendments expand the coverage of workers for firms that produce articles. Under the 2002 Act, the Department could not certify workers for firms that produce a component part for a domestic article, where imports of articles like or directly competitive with that domestic article caused the separations of workers producing that component part. The 2009 Act now provides, in these circumstances, for certification of the workers making the component part. It also provides for certification where separations are caused by increased imports of articles directly incorporating one or more component parts produced outside the United States are like or directly competitive with imports of articles incorporating one or more component parts produced by the workers' firm.

Significantly, the 2009 Amendments amend Section 222(a) of the 2002 Act to expand coverage to workers for firms that supply services on the same terms as workers for firms that produce articles. In addition, the 2002 Act covered workers only where production was shifted to certain foreign countries, unless there ''has been or is likely to be an increase in imports like or directly competitive with articles produced by'' the workers' firm. The 2009 Act covers workers where there was a shift in production or the supply of services to any foreign country, regardless of whether there is either an actual or likely increase in imports.

The 2009 Act also codifies current practice of covering workers in a firm that acquires articles from a foreign country that are like or directly competitive with articles that are produced by those workers' firm. Similarly, the 2009 Act extends this practice to cover workers in a firm that acquires services from a foreign country that are like or directly competitive with services that are supplied by those workers' firm.

In order for the Department to issue a certification, the petition must satisfy these three criteria:

1. A significant number or proportion of the workers in the workers' firm, must have become totally or partially separated or be threatened with total or partial separation.

The first criterion has not changed from the first worker group eligibility criterion applied to the TAA program since its inception. However, the 2009 Amendments amend the definition of a ''firm'' to include an ''appropriate subdivision,'' since those Amendments delete the latter term from the certification criteria. Accordingly, the term ''firm,'' as used in these operating instructions, includes the ''appropriate subdivision.''

2. The second criterion is satisfied if either (2)(A)(i) or (2)(B)(i) is satisfied:

(i) Sales or production, or both, at the workers' firm must have decreased absolutely, and

(ii)(a) Imports of articles or services like or directly competitive with articles or services produced or supplied by the workers' firm have increased, or

(b) Imports of articles like or directly competitive with articles into which the component part produced by the workers' firm was directly incorporated have increased; or

(c) Imports of articles like or directly competitive with articles which are produced directly using the services supplied by the workers' firm have increased; or

(d) Imports of articles directly incorporating component parts not produced in the U.S. that are like or directly competitive with the article into which the component part produced by the workers' firm was directly incorporated have increased.

The first part of this requirement has not changed from the worker group

eligibility criterion applied to the TAA program since its inception.

The second part of this requirement significantly expands the TAA program's coverage to include certification based on increased imports of services as well as increased imports of articles. It also expands coverage based on increased imports to include imports of articles that either incorporate component articles produced by the workers' firm or are produced directly using services supplied by the workers' firm. In addition, clause (ii) expands coverage by allowing certification in situations where there has been an increase in imports from articles incorporating component parts produced in the United States to articles incorporating component parts produced outside the United States.

(B)(i)(I) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm; or

(ii) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm.

The first part of this requirement now includes workers for firms that supply services, thus significantly expanding coverage to include shifts in the supply of services by the workers' firm. It also now includes shifts of the production of articles or the supply of services to any foreign country by the workers' firm. The second part of this requirement (subclause ii) is new and provides for worker group eligibility based on foreign contracting by the workers' firm. Subclause (ii) is met if the workers' firm has acquired from a foreign source articles or services like or directly competitive with those produced/supplied by the workers' firm.

3. The increase in imports or shift/acquisition must have contributed importantly to the workers' separation or threat of separation.

The legislation codifies the Department's practice of interpreting the 2002 Act to require a causal nexus between the shift of production to a foreign country and the workers' separations. Previously, the contributed importantly criterion was explicit only in increased imports cases and was implicit in shift cases. The 2009 Amendments now make the requirement explicit for cases involving a shift in production or a shift in acquisition of a service.

B.2. Public Agency Worker Certification Criteria

Statutory Change: Section 1801 of the 2009 Amendments adds a new provision at subsection (b) of Section 222 of the 2009 Act. Section 222(b) now reads:

(b) ADVERSELY AFFECTED WORKERS IN PUBLIC AGENCIES.—A group of workers in a public agency shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services described in paragraph (2) contributed importantly to such workers' separation or threat of separation.

Administration: Workers of a public agency that has acquired from a foreign source services like or directly competitive with those supplied by the agency may now be certified as eligible to apply for TAA. Section 247(7) of the 2009 Act defines ''public agency'' as a ''department or agency of a State or local government or of the Federal Government, or a subdivision thereof.''

In order for a ''public agency worker'' certification to be issued, the petition must satisfy these three criteria:

1. A significant number or proportion of the workers in the public agency have become totally or partially separated or be threatened with total or partial separation.

2. The public agency has acquired from a foreign country services that are like or directly competitive with the services supplied by the public agency.

3. The acquisition of services described in criterion 2 contributed importantly to the workers' separation or threat of separation.

The new certification criteria treat similarly workers in firms in the private sector that perform services and workers in the public sector. The first criterion has been used for the certification of workers in firms that produce articles since the inception of the TAA program. The second criterion mirrors a certification criterion for workers in firms in the private sector. The third criterion similarly follows the certification criterion for workers in the private sector.

B.3. Secondarily-Affected Worker Certification Criteria

Statutory Change: Section 1801 of the 2009 Amendments renumbers subsection (b) of Section 222 of the 2002 Act as subsection (c) and amends new Section 222(c) to read:

(c) ADVERSELY AFFECTED SECONDARY WORKERS.—A group of workers shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

(1) A significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a supplier or downstream producer to a firm that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article or service that was the basis for such certification (as defined in subsection (d) (3)and (4)); and

(3) Either

(A) The workers firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation determined under paragraph (I). Section 1801 of the 2009 Amendments amends Section 222 of the Act so that Section 222(d)(3)–(4) now reads:

(3) DOWNSTREAM PRODUCER.—

(A) IN GENERAL.—The term 'downstream producer' means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified under subsection (a).

(B) VALUE-ADDED PRODUCTION PROCESSES OR SERVICES.—For purposes of subparagraph (A), value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services.

(4) SUPPLIER—The term ''supplier'' means a firm that produces and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services, as the case may be, that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm.

Administration: The 2002 Act covers workers of a firm that supplies component parts (a ''supplier'') a primary firm (a firm that employs a worker group certified as eligible to apply for TAA) and workers of a firm that provides additional, value-added production processes (a ''downstream producer'') for a primary firm.

The 2009 Act now covers suppliers and downstream producers where the

certification of workers for the primary firm was based upon the firm's supply of services. Further, workers for suppliers and downstream producers may now be certified on the basis of the services they supply to, or the additional, value-added services they provide for, the primary firm. However, the requirement under the 2002 Act that the supplier must directly supply the primary firm has not changed. The component parts from the supplier must be used in the production of articles or in the supply of services that were the basis for the certification of a group of workers in the primary firm. Further, the component parts or services that the supplier supplied to the primary firm must either account for at least 20 percent of the production or sales of the supplier, or the loss of business with the primary firm by the upstream firm must have contributed importantly to the upstream workers' separations or threat of separations.

The ''direct'' requirement under the 2002 Act for downstream producers also remains unchanged: The downstream producer must perform additional, value-added production processes or services ''directly'' for a primary firm for articles or services with respect to which the group of workers in the primary firm was certified. However, the 2009 Amendments have eliminated the requirement that downstream workers may only be certified as secondarily affected if the workers of the primary firm are certified based on increased imports from Canada or Mexico or a shift of production to Canada or Mexico.

In order for a certification to be issued, the petition must satisfy these three criteria:

1. A significant number or proportion of the workers in the workers' firm must have become totally or partially separated or be threatened with total or partial separation.

2. The workers' firm (or subdivision) is a supplier or downstream producer to a primary firm and such supply or production is related to the article or service that was the basis for the primary firm's workers' certification.

3. Either A or B below is satisfied:

(A) The workers' firm is a supplier and the component parts it supplied to the primary firm (or subdivision) accounted for at least 20 percent of the production or sales of the workers' firm, or

(B) A loss of business by the workers' firm with the primary firm (or subdivision) contributed importantly to the workers' separation or threat of separation.''

The new certification criteria permit a group of workers in a downstream producer to be eligible for TAA if the primary firm's certification is linked to trade with any country, not just Canada or Mexico. The first criterion has not changed from the worker group eligibility criteria applied to the TAA program since its inception. The second criterion reflects the elimination of the requirement in the 2002 Act that the certification of eligibility of the downstream producer's customer must be based on increased imports or a shift in production to Canada or Mexico. The third criterion is similar to the language in the 2002 Act, but also allows for secondary worker coverage based on certifications of workers in service sector firms. In all cases, there must have been a loss of sales to the certified firm.

B.4. Verification of Information

Statutory Change: Section 1801(b) of the 2009 Amendments adds a new subsection (e) to Section 222 of the 2009 Act, as follows:

(e)(3) VERIFICATION OF INFORMATION.—

(A) CERTIFICATION.— The Secretary shall require a firm or customer to certify—

(i) All information obtained under paragraph (1) from the firm or the customer (as the case may be) through questionnaires; and

(ii) All other information obtained under paragraph (1) from the firm or the customer (as the case may be) on which the Secretary relies in certifying a group of workers under section 223, unless the Secretary has a reasonable basis for determining that such information is accurate and complete without being certified.

(B) USE OF SUBPOENAS.—The Secretary shall require a workers' firm or a customer of the workers' firm to provide information requested by the Secretary under paragraph (1) by subpoena pursuant to section 249 if the firm or customer (as the case may be) fails to provide the information within 20 days of the Secretary's request, unless the firm or customer (as the case may be) demonstrates to the satisfaction of the Secretary that the firm or customer (as the case may be) will provide the information within a reasonable period of time.

(C) PROTECTION OF CONFIDENTIAL INFORMATION.—The Secretary may not release information obtained under paragraph (1) that the Secretary considers to be confidential business information unless the firm or customer (as the case may be) submitting the confidential business information had notice at the time of submission, that the information would be released by the Secretary, or the firm or customer (as the case may be) subsequently consents to the release if the information. Nothing in this paragraph shall be construed to prohibit the Secretary from providing such confidential business information to a court in camera or to another party under a protective order issued by a court.

Administration: The 2009 Amendments do not change the Department's obligation to make a determination on the petitioning workers' eligibility to apply for TAA based on substantive evidence, its authority to subpoena information necessary to make a determination on a petition, or its obligation to protect confidential information.

The 2009 Act requires a firm or customer to verify the information it provides to the Department during the investigation of a TAA petition. Under the new program, the Department will require the firm or customer providing information through questionnaires or in other formats to certify that the information is accurate and complete, unless the Department has a reasonable basis for determining that such certification is not required. The various forms and communications used by the Department in collecting relevant information may include such an affirmation requirement.

The 2009 Act codifies the Department's practice of issuing subpoenas when the Department is unable, through other means, to obtain information necessary for making a determination. Under current practice, the issuance of the subpoena does not follow any established timeframe. Under the 2009 Act, the Department is required to issue a subpoena if the firm or customer fails to provide the information within twenty (20) days of the Department's request, unless the firm or customer has demonstrated to the Department's satisfaction that the information sought will be provided within a reasonable period of time.

The 20 day period begins once the Department issues an information request, not at the 20th day of the investigation. Thus, for example, if a petition is filed on June 5 and if a Confidential Data Request is issued on June 11, 2009, and the firm fails to provide the information, the Department may issue a subpoena on July 1, 2009.

Section 222(e)(3)(C) of the 2009 Act contains slightly different confidentiality protections on confidential information than those applied under the 2002 Act. The 2009 Act expressly prohibits DOL from releasing information it gathers in the course of the investigation of a petition where DOL considers that information to be ''confidential business information.'' DOL currently defines that term in 29 CFR 90.33.

The 2009 Act provides two exceptions to this confidentiality requirement, the

first occurs where ''the firm or customer * * * submitting the confidential business information had notice, at the time of submission, that the information would be released by'' DOL. If DOL determines that a firm or customer submitted any information in confidence that is not entitled to confidentiality, then DOL, consistent with past practice, will notify the firm or customer of this finding and permit it to withdraw the information.

The 2009 Act's second exception to confidentiality is the permission it affords DOL to provide ''confidential business information to a court in camera or to another party under a protective order issued by a court.'' This codifies past practice where DOL submits confidential business information under seal to the U.S. Court of International Trade on appeal of DOL's denial of certification of a petition. It also codifies DOL's practice of releasing, under a protective order issued by a court, confidential business information to plaintiffs' attorneys in these proceedings.

In addition to the 2009 Act exceptions, DOL will release confidential business information with the permission of the entity submitting it, which is consistent with the intent of the 2009 Amendments. DOL is committed to protecting business confidential information to the full extent of the law.

B.5. Firms Identified by the International Trade Commission

Statutory Change: Section 1802 of the 2009 Amendments amends Section 222 of the 2002 Act by adding a new subsection (f):

(f) FIRMS INDENTIFIED BY THE INTERNATIONAL TRADE COMMISSION.—Notwithstanding any other provision of this chapter, a group of workers covered by a petition filed under section 221 shall be certified under subsection (a) as eligible to apply for adjustment assistance under this chapter if—

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (B) or (C) of paragraph (1) is published in the **Federal Register;** and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b), the 1-year period preceding the 1-year period described in paragraph (2).

Administration: The 2009 Act provides, for the first time, for certification of a petition without a Departmental investigation upon certain findings by the International Trade Commission (ITC).

In order for a certification to be issued, the petition must satisfy these three criteria:

1. The workers' firm must be publicly identified by name by the ITC as a member of a domestic industry in an investigation resulting in a finding of injury or market disruption under section 202(b)(1), 421(b)(1), 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930.

2. The petition is filed within one year after the date on which a summary of the ITC's report to the President, or the ITC's affirmative finding, is published in the **Federal Register.**

3. The workers of the firm identified in criterion 1 were totally or partially separated no more than one year before the publication date of the **Federal Register** notice described in criterion 2 and no later than one year after that date.

Should the petition be filed more than one year after the date of the publication of the ITC's **Federal Register** notice, the Department will investigate whether the petition meets the other certification criteria. Further, although section 223(b) provides that a certification will not cover workers separated more than one year before the date of the petition on which that certification was granted, section 222(f)(3)(B) provides that a certification based upon an ITC finding covers workers separated up to a year before the date of the publication of the ITC's **Federal Register** notice.

C. Trade Readjustment Allowances (TRA)

C.1. TRA Eligibility

Statutory Change: Sections 1801, 1821 and 1858 of the 2009 Amendments amend Section 231(a)(1)–(4) of the 2002 Act to read:

(a) Payment of a trade readjustment allowance shall be made to an adversely affected worker covered by a certification under subchapter A who files an application for such allowance for any week of unemployment which begins on or after the date of such certification, if the following conditions are met:

(1) Such worker's total or partial separation before the worker's application under this chapter occurred—

(A) On or after the date, as specified in the certification under which the worker is covered, on which total or partial separation began or threatened to begin in the adversely affected employment,

(B) Before the expiration of the 2-year period beginning on the date on which the determination under section 223 was made, and

(C) Before the termination date (if any) determined pursuant to section 223(d).

(2) Such worker had, in the 52-week period ending with the week in which such total or partial separation occurred, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment with a single firm, or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary. For the purpose of this paragraph, any week in which such worker—

(A) Is on the employer-authorized leave for purposes of vacation, sickness, injury, maternity, or inactive duty or active duty military service for training,

(B) Does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States,

(C) Had his employment interrupted in order to serve as a full-time representative of a labor organization in such firm, or

(D) Is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is ''Federal service'' as defined in section 8521(a)(1) of title 5, United States Code shall be treated as a week of employment at wages of $30 or more, but not more than 7 weeks, in case of weeks described in subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)), may be treated as weeks of employment under this sentence.

(3) Such worker—

(A) Was entitled to (or would be entitled to if the worker applied therefore) unemployment insurance for a week within the benefit period (i) in which such total or partial separation took place, or (ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by such worker after such total or partial separation;

(B) Has exhausted all rights to any unemployment insurance except additional compensation that is funded by a State and is not reimbursed from any Federal finds, to which the worker was entitled (or would be entitled if he applied therefore); and

(C) Does not have an unexpired waiting period applicable to the worker for any such unemployment insurance.

(4) Such worker, with respect to such week of unemployment, would not be disqualified for extended compensation payable under

the Federal-State Extended Unemployment Compensation Act of 1970 by reason of the work acceptance and job search requirements in section 202(a)(3) of such Act.

Administration: Section 1821 of the 2009 Amendments changes Section 231(a) of the 2002 Act by eliminating the 60-day waiting period after a petition is filed to receive trade readjustment allowances (TRA) and allows receipt of those allowances for any week of unemployment that begins on or after the date of certification. This amendment allows workers to begin receiving TRA benefits immediately upon certification of a petition if UI entitlement (as defined in section 247(12)) has been exhausted. Unlike under the 2002 Act, this means that no payments may be made retroactively for weeks of unemployment that occur before the certification was issued, but after the date of the petition. Subparagraph C.5 of these Operating Instructions discusses two new provisions that address specific issues that may arise because of this amendment in determining the first payable week, such as the certification being delayed because of appeals or other situations where there is justifiable cause to extend the eligibility period for basic TRA.

Section 231(a)(1) through Section 231(a)(4), establishing requirements for TRA eligibility, have not otherwise been substantively amended. They continue to require for eligibility that the worker be adversely affected; that the worker's total or partial separation occurred during the period covered by the certification; that the worker (with exceptions) had 26 weeks of employment at $30 or more per week in the 52-week period ending with the total or partial separation from adversely affected employment; that the worker was entitled to and exhausted all UI entitlement, except additional compensation that is funded by a State and is not reimbursed from any Federal funds; and that the worker would not be disqualified for extended compensation payable under the Federal-State Extended Compensation Act of 1970 by reason of its work search and job search requirements. Subparagraph C.4.1 of these Operating Instructions discusses the sole exception to the requirement that TRA eligibility depends upon the exhaustion all UI other than a certain type of additional compensation).

C.2. Enrollment in Training

Statutory Change: Section 1821 of the 2009 Amendments amends Section 231(a)(5)(A) of the 2002 Act to read:

(5) Such worker—

(A)(i) Is enrolled in a training program approved by the Secretary under section 236(a), and

(ii) The enrollment required under clause (i) occurs no later than the latest of—

(I) In the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs after the date on which the Secretary issues a certification covering the worker, the last day of the 26th week after such total separation,

(II) In the case of a worker whose most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2) occurs before the date on which the Secretary issues a certification covering the worker, the last day of the 26th week after the date of such certification,

(III) 45 days after the date specified in subclause (I) or (II), as the case may be, if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period,

(IV) In the case of a worker who fails to enroll by the date required by subclause (I), (II), or (III), as the case may be, due to the failure to provide the worker with timely information regarding the date specified in such subclause, the last day of a period determined by the Secretary, or

(V) The last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c),

(B) Has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

(C) Has received a written statement certified under subsection (c)(1) after the date described in subparagraph (13).

Administration: The 2009 Amendments leave intact the basic structure of Section 231(a)(5). As before, Section 231(a)(5)(A) requires, as a condition for receiving TRA, that the worker be enrolled in training. As before, Section 231(a)(5)(C) allows a worker to receive a waiver of the training requirement in order to receive basic TRA. Section 231(a)(5)(A)(ii) sets deadlines by which the enrollment in training must occur. These deadlines apply for eligibility for any TRA payment—basic TRA, additional TRA, and additional weeks paid to adversely affected workers who undertake remedial or prerequisite education.

The 2009 Amendments lengthen the enrollment deadlines from 8 weeks after certification or 16 weeks after separation to the later of 26 weeks from the separation or certification date. This deadline extension allows a worker to actively engage in a longer job search before making a decision about training, and to make full use of the case management services provided under the 2009 Act to choose an appropriate training program. Additionally, in cases where large worker groups are dislocated all at once, it allows the CSA more time for counseling, assessment and other case management services which were difficult to perform in advance of the prior, shorter enrollment deadlines.

The 2009 Act continues to allow for an extension of the enrollment deadlines for 45 days where the CSA determines that there are extenuating circumstances justifying the extension. ''Extenuating circumstances'' continue to be circumstances beyond the control of the worker. This includes situations where training programs are abruptly cancelled as well as where the worker suffers injury or illness preventing participation in training.

The 2009 Act includes a new Section 231(a)(5)(A)(ii)(IV), providing an exception to the enrollment deadlines where the worker did not enroll by the deadlines because the CSA failed to provide the worker with timely information regarding the training enrollment deadlines. In that event, the worker must be enrolled by the last day of a period to be determined by the Secretary. Accordingly, the Secretary has determined that the worker must be enrolled in training or receive a waiver by the Monday of the first week occurring 60 days after the date on which the worker was properly notified of both his/her eligibility to apply for TAA and the requirement to enroll in training absent a waiver of the training requirement. The CSA must document its efforts to notify workers of the enrollment deadlines.

A worker must be enrolled in training as a condition of basic TRA when the enrollment in training deadline is reached. Further, a CSA may not waive the enrollment in training requirement after the deadlines have passed.

The 2009 Act continues to have an additional deadline for training enrollment that applies to workers who were granted a waiver of the training requirement, now in Section 231(a)(5)(A)(ii)(V). Workers who have received a training waiver must be enrolled in training prior to the last day of a period set by the Secretary after the termination of a waiver in order to maintain future eligibility for TRA. In its initial implementation of the 2002 Amendments, the Department set this time period to be the first Monday after the termination of the waiver. Subsequent experience operating the program has indicated that additional time is needed in some cases. Accordingly, the Secretary has determined that the worker must be

enrolled in training by the Monday of the first week occurring 30 days after the date on which the waiver terminated, whether by revocation or expiration.

''Enrolled in training'' continues to mean that the worker's application for training has been approved by the CSA and that the training institution has furnished written notice to the CSA that the worker has been accepted into the approved program which is to begin within 30 days of such approval.

C.3. Waiver of Training Requirement

Statutory Change: Section 1821 of the 2009 Amendments amends Section 231(c) of the 2002 Act to read:

(c) WAIVERS OF TRAINING REQUIREMENTS.—

(1) ISSUANCE OF WAIVERS—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

(A) RECALL—The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

(B) MARKETABLE SKILLS—

(i) IN GENERAL.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

(ii) MARKETABLE SKILLS DEFINED.—For purposes of clause (i), the term 'marketable skills' may include the possession of a postgraduate degree from an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) or an equivalent institution, or the possession of an equivalent postgraduate certification in a specialized field.

(C) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

(i) Old-age insurance benefits under title H of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

(ii) A private pension sponsored by an employer or labor organization.

(D) HEALTH—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

(E) ENROLLMENT UNAVAILABLE.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

(F) TRAINING NOT AVAILABLE—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1 998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training finds are available.

(2) DURATION OF WAIVERS.—

(A) IN GENERAL—Except as provided in paragraph (3)(B), a waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

(B) REVOCATION.——The Secretary shall revoke a waiver issued under paragraph (I) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify,' the worker in writing of the revocation.

(3) AGREEMENTS UNDER SECTION 239.—

(A) ISSUANCE BY COOPERATING STATES.— An agreement under section 239 shall authorize a cooperating State to issue waivers as described in paragraph (1).

(B) Review of Waivers.— An agreement under section 239 shall require a cooperating State to review each waiver issued by the State under subparagraph (A), (B), (D), (E), or (F) of paragraph (1)—

(i) 3 months after the date on which the State issues the waiver; and

(ii) On a monthly basis thereafter.

(C) SUBMISSION OF STATEMENTS. —An agreement under section 239 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.

Administration: The 2009 Amendments expand the definition of ''Marketable Skills.'' Additionally, they provide that no review of waivers is necessary if issued under the ''retirement'' reason for granting the waiver. Finally, they provide that periodic reviews of waivers issued under the remaining provisions need not occur during the first three months, but must be reviewed at the three-month mark and on a monthly basis thereafter.

Section 231(c) sets forth the requirements for issuing waivers of the requirement under Section 231(a)(5)(A) that a worker be enrolled in training in order to receive basic TRA, if training is not feasible or appropriate for the worker. The training enrollment requirement may only be waived for receipt of basic TRA. Training may not be waived for receipt of additional TRA or additional weeks paid to workers who participated in remedial or prerequisite education. In order to receive additional TRA, a worker must be participating in approved training.

Section 231(c)(1) continues to provide six specific criteria for issuing a waiver of the training requirement for eligibility for basic TRA. For convenience, those criteria are provided below:

(A) Recall.—The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

(B) Marketable Skills—

(i) In General.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

(ii) Marketable Skills Defined.—For purposes of clause (i), the term 'marketable skills' may include the possession of a postgraduate degree from an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)) or an equivalent institution, or the possession of an equivalent postgraduate certification in a specialized field.

(C) Retirement.—The worker is within 2 years of meeting all requirements for entitlement to either—

(i) Old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 *et seq.*) (except for application therefore); or

(ii) A private pension sponsored by an employer or labor organization.

(D) Health.—The worker is unable to participate in training due to the health of the worker, except that this basis for a waiver does not exempt a worker from the availability for work, active search for work, or refusal to accept work requirements under Federal or State unemployment compensation laws.

(E) Enrollment Unavailable.—The first available enrollment date for the worker's approved training is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined under guidelines issued by the Secretary.

(F) Training Not Available.—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no suitable training for the worker is available at reasonable cost, or no training funds are available.

The training requirement may be waived only after an assessment that results in a determination that one of the waiver provisions is met.

These criteria and their administration are essentially unchanged. The only change to these criteria is the addition of subparagraph (B)(ii) that specifies that workers who possess a post-graduate degree should be considered to have marketable skills and are eligible for the marketable skills waiver.

The requirement that waivers be reviewed within three months of the time they are issued provides the CSA with some flexibility in managing the waiver review process while at the same time allowing the State to ensure the worker continues to qualify for the waiver. It is important that the individual continue to receive appropriate case management services during the waiver period to ensure that progress continues to be made toward meeting the individual's reemployment plan.

C.4. Weekly Amounts of TRA

Statutory Change: Section 1822 of the 2009 Amendments amends Section 232(a)(1)–(2) of the 2002 Act to read:

(a) Subject to subsections (b), (c), and (d), the trade readjustment allowance payable to an adversely affected worker for a week of unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the workers' first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B) reduced (but not below zero) by—

(1) Any training allowance deductible under subsection (c); and

(2) Income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law, except that in the case of an adversely affected worker who is participating in training under this chapter, such income shall not include earnings from work for such week that are equal to or less than the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 231(a)(3)(B)).

Administration: Section 232(a) establishes the weekly amount of TRA a worker may receive. Section 232(a)(2) requires the deduction from that weekly amount all income that is deductible from UI under the disqualifying income provisions of State or Federal UI law. The 2009 Act provides, however, that for workers participating in approved training, no deduction is made for earnings from work for a week up to an amount that is equal to the worker's most recent UI benefit amount (as determined under section 231(a)(3)(B)).

This provision will affect only the benefit computation for workers who are participating in full-time training other than on-the-job training (because receipt of TRA requires participation in full-time training, as discussed in Section D.3 of these operating instructions). State payment units will need to reprogram their TRA payment process to accommodate this change in the amount of deductible earnings disregarded. This provision does not affect any wage calculations to determine a future claim for UI; it simply disregards wages equal to or less than the weekly benefit amount (WBA) for calculating the weekly TRA payment.

C.4.1. Election of TRA or UI

Statutory Change: Section 1822 of the 2009 Amendments amends Section 232 of the 2002 Act by adding a new subsection (d), to read:

(d) ELECTION OF TRADE READJUSTMENT ALLOWANCE OR UNEMPLOYMENT INSURANCE.—Notwithstanding section 231(a)(3)(B), an adversely affected worker may elect to receive a trade readjustment allowance instead of unemployment insurance during any week with respect to which the worker—

(1) Is entitled to receive unemployment insurance as a result of the establishment by the worker of a new benefit year under State law, based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and

(2) Is otherwise entitled to a trade readjustment allowance.

Administration: Sometimes, a worker earns wages after the most recent separation from adversely affected employment, qualifying the worker for a subsequent benefit year of UI at a lower WBA than for the first benefit year. Section 231(a)(3) requires, as a condition of receiving TRA, that a worker ''has exhausted all rights to any unemployment insurance,'' except a certain type of additional compensation. Therefore, the worker's TRA, based upon, the higher WBA of the first benefit year, must stop while the worker collects UI based upon the lower WBA of the second benefit year. This result sometimes forces a worker to quit training to return to work.

Section 232(d), added by the 2009 amendments, resolves this dilemma by allowing the worker, notwithstanding the UI exhaustion requirement of section 231(a)(3)(B), to elect to receive TRA instead of UI for any week where the worker meets two conditions: The worker is entitled to receive UI as a result of a new benefit year based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and the worker is otherwise entitled to TRA.

The first condition requires some explanation. It permits a worker to elect TRA, instead of UI based upon a new benefit year, only where that new benefit year is ''based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment. * * *'' Thus, in determining whether the worker may elect to receive TRA instead of UI based upon the new benefit year, the CSA must determine whether the worker had any wages ''*after* the worker's most recent total separation from adversely affected employment.'' (Emphasis added). If the CSA determines that the worker is entitled to a new benefit year based, in whole or part, upon those specified wages ''after'' the worker's ''most total separation from adversely affected employment,'' the worker may (if otherwise eligible) elect TRA instead of UI based on that new benefit year.

The first point to note is that the Act uses the phrase ''most recent total separation from adversely affected employment,'' not, as in sections 231(a)(5)(A)(ii)(I) and (II), the phrase ''most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2)'' of section 231(a). (Emphasis added.) (*See, also,* section 233(a)(2), establishing the eligibility period for basic TRA, which uses substantively identical language.) Those paragraphs (1) and (2) of section 231(a) require that a worker's separation occur during the period covered by the certification and that the worker had, with certain exceptions, in the 52-week period ending with the week in which the separation occurred, at least 26 weeks of employment at wages of $30 or more a week in adversely affected employment. The Department interprets the election provision at section 232(d) as looking at wages earned after the ''most recent total separation from adversely affected employment that meets the requirements of paragraphs (1) and (2)'' of section 231(a).

This interpretation is advantageous to workers because it looks to a broader range of wages upon which the new benefit year may be based (in whole or in part) in order to allow the worker the

election. For example, a worker might, after having a separation meeting the requirements of paragraphs (1) and (2), have a second separation after the period covered by the certification. Were section 232(d) read literally, only the wages earned after that second separation (the ''most recent separation''), rather than all wages earned after the first separation (the ''most recent separation that meets the requirements of paragraphs (1) and (2)''), would ''count'' in determining whether the worker's new benefit year fell within the section permitting an election. The wages earned after the second separation might have occurred too recently to be used in establishing the second benefit year, and, in that event, that second benefit year would not fall within section 232(d). The worker would be ineligible to elect TRA over UI based upon the new benefit year. Thus, the Department's interpretation will allow workers to elect TRA over UI based upon a new benefit year in more situations.

The second point to note is that (in addition to the time period during which the wages must be earned) the new benefit year must be based in whole or in part upon ''part-time or short-term employment.'' In practice, a worker who establishes a UI claim with a WBA that is less than the TRA benefit amount would meet this test as the subsequent employment would not have been suitable long term employment.

Significantly, the statute is silent as to what becomes of the UI claim based upon the second benefit year, where the claimant elects to receive TRA instead. Thus, State law applies to this UI claim. For States where that means a claim establishes a benefit year, no subsequent claim may be established in a later quarter during that benefit year, and any available entitlement remains, consistent with State law, once TRA is exhausted. For States where claims may be withdrawn if no benefits are paid, the worker might subsequently file a claim in a later quarter, and the worker might potentially exercise the TRA option a second time.

Often, the weekly amount of the UI payments in the second benefit period will be a significant reduction from the weekly amount of TRA. If a worker establishes a new UI benefit year based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment (meeting the conditions specified above), the State must provide the worker with the option to elect to continue to receive TRA, if the worker is otherwise eligible. The CSA must provide the worker an explanation of his/her benefit rights in writing, and document the worker's choice in the case management file.

C.5. Limitations on TRA

C.5.1 Prerequisite/Remedial TRA

Statutory Change: Sections 1823 and 1829 of the 2009 Amendments amend Section 233(a)(2) of the 2002 Act to read:

(2) A trade readjustment allowance under paragraph (1) shall not be paid for any week occurring after the close of the 104-week period (or, in the case of an adversely affected worker who requires a program of prerequisite education or remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 236, the 130-week period) that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

(A) Within the period which is described in section 231(a)(1), and

(B) With respect to which the worker meets the requirements of section 23 l(a)(2).

Administration: The 2009 Amendments added ''prerequisite education'' to ''remedial education'' as an exception to the 104-week eligibility period for basic TRA. Therefore, the eligibility period for basic TRA for workers requiring a program of either prerequisite education or remedial education is 130 weeks. Prerequisite education is coursework that the training institution requires for entry into the approved training program. For instance, some nursing programs may require additional math coursework that the worker may not have had in high school to begin training in the new field. When required, this additional coursework would qualify as ''prerequisite education'' and extend the weeks during which basic TRA is potentially payable under this provision.

C.5.2 Additional TRA

Statutory Change: Section 1823 of the 2009 Amendments amends Section 233(a)(3) of the 2002 Act to read:

(3) Notwithstanding paragraph (I), in order to assist the adversely affected worker to complete a training program approved for the worker under section 236, and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 78 additional weeks in the 91-week period that—

(A) Follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter; or

(B) Begins with the first week of such training, if such training begins after the last week described in subparagraph (A).

Payments for such additional weeks may be made only for weeks in such 91-week period during which the individual is participating in such training.

Administration: Section 233(a)(3) allows workers participating in training to receive additional TRA. The 2009 Amendments increase the number of weeks for which a worker may receive additional TRA from 52 to 78. The eligibility requirements for additional TRA remain unchanged except for the elimination of the 210-day rule discussed in subparagraph C.5.3 below. This change provides support for workers to participate in longer term training, such as a two-year Associate's degree, a nursing certification, or completion of a four year degree (if that four-year degree was previously initiated or if the worker will complete it using non-TAA funds).

The 2009 Act also expands the eligibility period within which a worker may receive additional TRA from 52 weeks to 91 weeks to accommodate breaks in training. The expansion of the eligibility period allows the worker 91 weeks during which to collect 78 weeks of benefits. Prior to this amendment, the worker had a 52-consecutive week period during which to collect 52 weeks of benefits. Any weeks not claimed were lost. This change allows the worker to not claim benefits during up to 13 weeks without losing any weeks of benefits.

C.5.3 Elimination of 210-Day Requirement

Statutory Change: Section 1821 of the 2009 Amendments repeal Section 233(b) of the 2002 Act, eliminating the 210-day time requirement for the submission of a bona fide application for training as a condition of additional TRA.

Administration: There is no longer a requirement that a worker make a bona fide application for training within the latter of 210 days of certification or separation. However, there are still deadlines for a worker to be enrolled in approved training as a condition for the receipt of TRA. See section C.2 of these operating instructions. Redesignated paragraphs 233(b)–(f) (covering adjustments in amounts of TRA, payments of TRA while in on-the-job training, breaks in training and extension of time for remedial education) remain the same as in the 2002 Act except that paragraph 233(f) adds prerequisite education, discussed in Section C.5.1, above.

C.6 Special Rules for Calculating Separations

C.6.1 Judicial or Administrative Appeal

Statutory Change: Section 1824 of the 2009 Amendments amends Section 233 of the 2002 Act by adding a new subsection (g), to read:

(g) SPECIAL RULE FOR CALCULATING SEPARATION.—Notwithstanding any other provision of this chapter, any period during which a judicial or administrative appeal is pending with respect to the denial by the Secretary of a petition under section 223 shall not be counted for purposes of calculating the period of separation under subsection (a)(2).

Administration: As discussed above, Section 233(a)(2) establishes a 104-week eligibility period (130 weeks for workers requiring prerequisite or remedial education) for basic TRA. This period begins with the first week following the week in which the worker was most recently totally separated from adversely affected employment within the period covered by the certification and with respect to which the worker meets certain tenure requirements in that employment.

This new section 233(g) tolls this eligibility period during a judicial or administrative appeal of the Department's denial of a certification. The tolling of deadlines is necessary; otherwise a successful appeal might be meaningless since all or most of the workers' eligibility period might lapse by the time the certification is granted.

In the event of a certification issued as a result of an appeal of a negative determination denying certification, the 104-week (130-week as applicable) eligibility period for basic TRA will begin with the week following the week in which the group was certified. There is no need to adjust the enrollment deadlines in such a circumstance because the applicable deadline will be 26 weeks after the certification is issued. Moreover, the enrollment deadlines may be extended due to extenuating circumstances or State good cause rules as with any other waivers.

C.6.2 Justifiable Cause To Extend the Period

Statutory Change: Section 1824 of the 2009 Amendments amends Section 233 of the 2002 Act by adding a new subsection (h), to read:

(h) SPECIAL RULE FOR JUSTIFIABLE CAUSE.—If the Secretary determines that there is justifiable cause, the Secretary may extend the period during which trade readjustment allowances are payable to an adversely affected worker under paragraphs (2) and (3) of subsection (a) (but not the maximum amounts of such allowance that are payable under this section).

Administration: As discussed above, Section 233(a)(2) of the 2002 Act establishes a 104-week (130-week for workers requiring prerequisite or remedial education) period beginning with a worker's most recent total qualifying separation during which the worker may receive basic TRA. Section 233(a)(3) establishes a 91-week period during which a worker may receive additional TRA. Section 233(h) is a new section allowing for an extension of these periods for ''justifiable cause,'' meaning circumstances determined to be beyond the worker's control by the CSA. In making this determination, the CSA will apply the State's ''good cause'' law, regulations, policies and practices applicable to administration of the State's UI laws.

C.6.3 Military Service

Statutory Change: Section 1824 of the 2009 Amendments amends Section 233 of the 2002 Act by adding a new subsection (i), to read:

(i) SPECIAL RULE WITH RESPECT TO MILITARY SERVICE—

(1) IN GENERAL.—Notwithstanding any other provision of this chapter, the Secretary may waive any requirement of this chapter that the Secretary determines is necessary to ensure that an adversely affected worker who is a member of a reserve component of the Armed Forces and serves a period of duty described in paragraph (2) is eligible to receive a trade readjustment allowance, training, and other benefits under this chapter in the same manner and to the same extent as if the worker had not served the period of duty.

(2) PERIOD OF DUTY DESCRIBED.—An adversely affected worker serves a period of duty described in this paragraph if, before completing training under section 236, the worker—

(A) Serves on active duty for a period of more than 30 days under a call or order to active duty of more than 30 days; or

(B) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performs full-time National Guard duty under section 502(f) of title 32, United States Code, for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

Administration: Under the 2002 Act, returning members of the Armed Forces and National Guard units could sometimes be determined to be ineligible for benefits if, for example, they missed the enrollment in training deadlines as a condition of TRA eligibility, or if the plant at which they worked closed while they were away on active duty. New section 233(i) makes returning service members ''whole,'' as if the period of military service had not occurred. The provision allows workers called up for active duty military or full-time National Guard service to restart the TAA enrollment process after completion of military service.

CSAs will need to apply this provision to any returning service member who either: (1) Served on active duty in the Armed Forces for a period of more than 30 days under a call or order to active duty of more than 30 days; or (2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full-time National Guard duty under 32 U.S.C. 502(f) (regarding required drills and field exercises) for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds. Under section 233(i)(2), this ''make-whole'' provision applies only if the worker's period of duty occurs before the worker completes a training program approved under section 236. However, the worker need not have already enrolled in or in fact have begun training before the worker's period of duty began for this provision to apply. Upon separation, these individuals are eligible to receive TRA, training, and other benefits under this chapter in the same manner and to the same extent as if the worker had not served the period of duty.

Accordingly, the CSAs will toll all deadlines for all TAA, ATAA, and RTAA benefits and services, as well as TRA eligibility periods, during a service member's period of duty within the period described by section 233(i)(2), and which occurs before the worker completes TAA-approved training. A CSA must first consult with, and receive the Department's permission, before waiving any other TAA requirement under section 233(i).

C.7 Use of State Law Good Cause Provisions

Statutory Change: Section 1825 of the 2009 Amendments amends Section 234 of the 2002 Act by adding a new subsection (b):

(b) SPECIAL RULE WITH RESPECT TO STATE LAWS AND REGULATIONS ON GOOD CAUSE FOR WAIVER OF TIME LIMITS OR LATE FILING OF CLAIMS.—Any law, regulation, policy, or practice of a cooperating State that allows for a waiver for good cause of any time limitation relating to the administration of the State unemployment insurance law shall, in the administration of the program under this chapter by the State, apply to any time

limitation with respect to an application for a trade readjustment allowance or enrollment in training under this chapter.

Administration: New section 234(b) supersedes 20 CFR 617.50(d), providing in part that ''no provision of State law or regulations on good cause for waiver of any time limit, or for late filing of any claim, shall apply to any time limitation referred to or specified in this part 617, unless such State law or regulation is made applicable by a specific provision of this part 617.'' Accordingly, CSAs will apply state UI ''good cause'' waiver provisions (laws, policies, or practices) to all time limitations governing TRA and enrollment in training.

C.8 Waiver of Recovery of TRA Overpayment

Statutory Change: Section 1855 of the 2009 Amendments amends Section 243(a)(1) of the 2002 Act to read:

(a)(1) If a cooperating State agency, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this chapter to which the person was not entitled, including a payment referred to in subsection (b), such person shall be liable to repay such amount to the State agency or the Secretary, as the case may be, except that the State agency or the Secretary shall waive such repayment if such agency or the Secretary determines that—

(A) The payment was made without fault on the part of such individual, and

(B) Requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household),

Administration: Section 243(a)(1) of the 2002 Act provided that a CSA ''may waive'' repayment of any payment made in error where ''the payment was made without fault'' on the worker's part and where requiring repayment ''would be contrary to equity and good conscience.'' The 2009 Amendments retained the requirement that ''the payment was made without fault'' on the worker's part, but amended that section to make waiver of repayment mandatory (''shall waive'') where the worker's financial circumstance meet specific criteria (as opposed to the general standard of ''contrary to equity and good conscience'') . By making waiver mandatory where the worker meets specific criteria for waiver (as long as the worker is not at fault), the 2009 Act supersedes 20 CFR 617.55(a)(2)(ii).

The new waiver criterion requires that recovery of the overpayment must be waived if it would ''cause a financial hardship for the individual (or the individual's household, if applicable), when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).'' This standard is more generous than the standard that 20 CFR 617.55(a)(2)(ii) establishes, which requires the CSA to consider whether repayment of the overpayment would, among other things, cause ''extraordinary and lasting financial hardship * * *.'' Section 617.55(a)(2)(ii)(C)(1) defines that term as meaning that overpayment recovery would ''result directly'' in the ''loss of or inability to obtain minimal necessities of food, medicine, and shelter for a substantial period of time'' and ''may be expected to endure for the foreseeable future.'' By including explicit statutory waiver criteria in the 2009 Act, Congress intended that overpaid individuals who are without fault and unable to repay their TAA overpayments must be granted a reasonable opportunity for waivers of overpayments. The Department is considering whether to provide further guidance on this new standard prior to the completion of rulemaking.

D. Training

D.1. Cap on Training Funds

Statutory Change: Section 1828 of the 2009 Amendments amends Section 236(a)(2)(A) of the 2002 Act to read:

(2)(A) The total amount of payments that may be made under paragraph (1) shall not exceed—

(i) For each of the fiscal years 2009 and 2010, $575,000,000; and

(ii) For the period beginning October 1, 2010, and ending December 31, 2010, $143,750,000.

Administration: Section 236(a)(2)(A) limits the amount available to pay the costs of approved training each year. The 2009 Amendments raise the amount from the $220 million available each fiscal year since 2002, to $575 million for each of fiscal years 2009 and 2010, and $143,750,000 for the first quarter of fiscal year 2011.

D.2 Pre-Separation Training

D.2.1 Adversely Affected Incumbent Workers Defined

Statutory Change: Section 1830 of the 2009 Amendments amends Section 247 of the 2002 Act by adding subsection (19), which reads:

(19) The term 'adversely affected incumbent worker' means a worker who—

(A) Is a member of a group of workers who have been certified as eligible to apply for adjustment assistance under subchapter A;

(B) Has not been totally or partially separated from adversely affected employment; and

(C) The Secretary determines, on an individual basis, is threatened with total or partial separation.

Administration: As discussed in Section D.2.2 below, the 2009 Act provides that training may be approved before separation for adversely affected incumbent workers. This provision defines an adversely affected incumbent worker as a worker who: (1) Is a member of a group of workers that has been certified as eligible to apply for TAA benefits, (2) has not been totally or partially separated from employment and thus does not have a qualifying separation, and (3) is determined to be individually threatened with total or partial separation. A CSA may determine that a worker has been individually threatened with separation when the worker has received a notice of termination or layoff from employment. The CSA also may accept other documentation of a threat of total or partial separation from the firm or other reliable source in making a determination that a worker is an adversely affected incumbent worker entitled to pre-separation training.

Section 617.4(d)(ii) of 20 CFR requires the CSA, upon notice of a certification, to notify each worker covered by a TAA certification of program benefits as soon as possible after the partial or total separation. A CSA satisfies this requirement by obtaining from the firm, or other reliable source, the names and addresses of all workers who were or became totally or partially separated before the CSA received the certification and within the certification period, as well as workers subsequently separated during the certification period. Because of the statutory expansion of the TAA training benefit to adversely affected incumbent workers, the new Secretary/Governor Agreement requires the CSA to notify these workers of their possible entitlement to TAA-training as soon as possible before their partial or total separations. Thus, the CSA must identify, through the firm or other reliable source, the names and addresses of all adversely affected incumbent workers to permit the CSA to determine whether a worker is individually threatened with separation. Accordingly, CSAs must request a separate list of workers who are threatened with separation at the same time they request the list of adversely affected workers from the employer.

D.2.2 Extension of Benefits To Adversely Affected Incumbent Workers

Statutory Change: Section 1830 of the 2009 Amendments amends Section 236(a) of the Act by adding the phrase ''or an adversely affected incumbent worker'' after ''adversely affected worker,'' in the criteria for the approval of training for these two types of workers. In doing so, the 2009 Amendments extend to ''adversely affected incumbent workers'' the same training benefits provided to ''adversely affected workers'' under the Act, except as provided in Section 236(a)(10), which is discussed below in subparagraph E.2.3 of these Operating Instructions.

Administration: This provision allows workers threatened with total or partial separation from adversely affected employment to begin TAA-approved training before the date of that separation. ''Pre-layoff training'' is not the same as incumbent worker training programs allowable under Section 134(a)(3) of the WIA, 29 U.S.C. 2864(a)(3). The goal of WIA incumbent worker training programs is retraining the worker with new skills to allow the worker to continue employment with an employer. TAA pre-separation training is intended to allow earlier intervention where layoffs are planned in advance and the employer can specifically identify which workers will be affected. Adversely affected incumbent workers may begin training prior to layoff, thereby lessening the amount of time needed to complete the training program after the separation occurs, and lessening the worker's overall length of unemployment.

The criteria and limitations for approval of training for adversely affected incumbent workers are the same as they are for adversely affected workers, except as discussed below in section D.2.3 of these Operating Instructions. Adversely affected incumbent workers, like adversely affected workers, are entitled to employment and case management services, as described in section G, to ensure that they have the same assistance in developing a reemployment plan and choosing training.

D.2.3 Incumbent Worker Exclusions

Statutory Change: Section 1830 of the 2009 Amendments amends Section 236(a) of the 2002 Act by adding paragraph (10):

(10) In the case of an adversely affected incumbent worker, the Secretary may not approve—

(A) On-the-job training under paragraph (5)(A)(i); or

(B) Customized training under paragraph (5)(A)(ii), unless such training is for a position other than the worker's adversely affected employment.

Administration: Pre-layoff training may not be approved if it consists of or includes on-the-job training. Moreover, a CSA may not approve customized training, meaning training that is designed to meet the special requirements of one or more employers, for an adversely affected incumbent worker unless such training is for a position other than the worker's position in the adversely affected employment. CSAs will need to ensure that the training being provided is for a different position than the worker's current position if the training is being provided under agreement with the worker's current employer. An incumbent worker may receive pre-separation training for another position with the worker's current employer, but only if the position is not similarly threatened by trade, i.e. the new position is outside of a subdivision with a trade-certified worker group.

D.2.4 Loss of Threat to Separation

Statutory Change: Section 1830 of the 2009 Amendments amends Section 236(a) of the 2002 Act to add paragraph (11):

(11) If the Secretary determines that an adversely affected incumbent worker for whom the Secretary approved training under this section is no longer threatened with a total or partial separation, the Secretary shall terminate the approval of such training.

Administration: CSAs must evaluate whether the threat of total or partial separation continues to exist for the duration of the pre-layoff training. This can be accomplished by verifying with the employer that the threat of separation still exists before each subsequent portion of the training is funded. If the threat of separation is removed during a training program, funding of the training must cease. The worker would be eligible to complete any portion of the training program where TAA funds have already been expended, but would not be eligible for further TAA funding of the training program in the absence of a threatened or actual separation from the adversely affected employment. The worker may resume the approved training program upon the resumption of the threat or in the event of a total qualifying separation, if the six criteria for approval of the training under Section 236(a)(1) are still met.

Section 617.22(f)(2) of 20 CFR permits a worker approval of one training program per certification. A training program begun prior to separation counts as that one training program, and the training plan should be designed to meet the long-term needs of the worker based on the expectation that they will be laid off. The training program should also take into account the availability of up to 156 weeks of training. Thus, while a pre-separation training program may be resumed, a worker who has participated in pre-separation training will not be eligible for a new and different training program.

D.3 Part-Time Training

Statutory Change: Section 1830 of the 2009 Act amends Section 236 of the 2002 Act by adding subsection (h), which reads:

(h) PART-TIME TRAINING.—

(1) IN GENERAL.—The Secretary may approve full-time or part-time training for a worker under subsection (a).

(2) LIMITATION.—Notwithstanding paragraph (1), a worker participating in part-time training approved under subsection (a) may not receive a trade readjustment allowance under section 231.

Administration: New subsection (h) allows workers to choose either part-time or full-time training, although workers enrolled in part-time training are not eligible for TRA. This amendment supersedes 20 CFR 617.22(f)(4), limiting training to full-time programs. The training approval criteria at 20 CFR 617.22 (a) (1—6) that apply to the approval of full-time training also apply to the approval of part-time training. Since part-time training will not be accompanied by TRA, see Section D.5.1 of these Operating Instructions, which discusses a new statutory provision (Section 236(a)(9)(B)(i)) permitting a CSA to approve training for a period longer than the worker's period of eligibility for TRA if the worker demonstrates a financial ability to complete the training after the worker's eligibility period. Additionally, participation in part-time training can allow a worker to participate in full-time work, even if that work is not suitable employment, as defined at Section 236(e).

D.4 Length of Training

The Act does not include a specific limitation on the length of approvable training. However, 20 CFR 617.22(f)(2) limits the maximum length of approvable training to 104 weeks (during which training is conducted) so that a training program would not extend too far beyond the worker's TRA. The 2002 amendments extended the maximum duration of TRA to 104 weeks for most workers, but also added up to 26 weeks of TRA for workers requiring remedial education, for a total potential

of up to 130 weeks of income support. Accordingly, TEGL No. 11–02 extended the maximum duration of approvable training for workers who require remedial education to 130 weeks to match the maximum duration of TRA availability.

As discussed in section C.5.2 of these Operating Instructions, the 2009 Act provides up to 26 more weeks of additional TRA to workers for a potential total of 130 weeks of income support for most workers, as well as up to 26 more weeks for workers who require either remedial education or prerequisite training for a total of up to 156 weeks of available income support. DOL interprets these amendments as allowing approval of training for a maximum of 156 weeks (during which training is conducted), consistent with the 156-week maximum duration of income support. The 2009 Act also allows approval of training that extends beyond the weeks of TRA available to the individual worker, as explained in Section D.5.1 of these Operating Instructions. Most workers will not have 156 or 130 weeks of income support available at the beginning of training; rather most workers will have used some weeks of income support, such as 26 weeks or more of UI.

D.5 Approval of Training

The 2009 amendments left unchanged the six criteria for approval of training at Section 236(a)(1)(A—F) of the 2002 Act. Accordingly, 20 CFR 617.22, describing the administration of the training approval criteria, is still applicable, and will be interpreted in the context of the 2009 Amendments, as elaborated upon in the following sections of these Operating Instructions.

Section 236(a)(1) provides that if the CSA determines, with respect to an adversely affected worker or an adversely affected incumbent worker, that:

(A) There is no suitable employment (which may include technical and professional employment) available for an adversely affected worker,

(B) The worker would benefit from appropriate training,

(C) There is a reasonable expectation of employment following completion of such training,

(D) Training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers),

(E) The worker is qualified to undertake and complete such training, and

(F) Such training is suitable for the worker and available at a reasonable cost, the Secretary shall approve such training for the worker. Upon such approval, the worker shall be entitled to have payment of the costs of such training (subject to the limitations imposed by this section) paid on the worker's behalf by the Secretary directly or through a voucher system.

D.5.1 Qualifications To Be Applied for Extended Training

Statutory Change: Section 1828 of the 2009 Amendments amends Section 236(a)(9)(B) of the 2002 Act by adding clause (i), which reads:

(B)(i) In determining under paragraph (1)(E) whether a worker is qualified to undertake and complete training, the Secretary may approve training for a period longer than the worker's period of eligibility for trade readjustment allowances under part I if the worker demonstrates a financial ability to complete the training after the expiration of the worker's period of eligibility for such trade readjustment allowances.

Administration: New Section 236(a)(9)(B)(i) provides that when determining under Section 236(a)(1)(E) whether the worker is qualified to undertake and complete training, the State may approve training for longer than the worker's period of TRA eligibility if the worker demonstrates the financial ability to complete the training after the expiration of the TRA eligibility period. This section mirrors 20 CRF 617.22(a)(5)(ii) and (iii), permitting training approval where a worker's personal or family resources are adequate to complete training.

This new section makes it possible for workers to have access to long-term training such as a two-year Associate's degree, a nursing certificate, or completion of a four-year degree if that four-year degree was previously initiated. States must not limit training approvals only to short-term programs, and must, where the worker requests it, consider approval of training for longer than the individual worker's available remaining weeks of income support. For example, delayed enrollment in training may result in the exhaustion of some basic TRA when an adversely affected worker does not immediately enter training due to job search activities. Training may be approved, provided that the other training approval criteria are also met, for a period that is longer than the period for which TRA is available if the worker demonstrates the financial ability to support him/herself through the completion of the training. Financial ability means the ability to pay living expenses while in TAA-approved training after the period of TRA eligibility.

Training which will exceed the 156 maximum number of weeks currently allowed may not be paid for under the TAA program at this time. Consideration will be given to expanding the approval to include longer term training approval in the rule making process envisioned by the Department to implement the new provisions of the 2009 Act.

D.5.2 Reasonable Cost

Statutory Change: Section 1828 of the 2009 Amendments also amends Section 236(a)(9)(B) of the 2002 Act to add clause (ii):

(ii) In determining the reasonable cost of training under paragraph (1)(F) with respect to a worker, the Secretary may consider whether other public or private funds are reasonably available to the worker, except that the Secretary may not require a worker to obtain such funds as a condition of approval of training under paragraph (1).

Administration: Section 236(a)(9)(B) provides that when determining whether the cost of training is reasonable, the CSA will consider whether other public or private funds are available to the worker. This section ensures that training programs that would otherwise not be approved under TAA due to costs may be approved if a worker voluntarily commits to using public or private funds to pay a portion of the costs of training. Private funds may include grants (with the exception of certain student financial assistance, explained below), scholarships, employer funding, or other sources available to the participant not requiring the use of funds personal to the worker, relatives, or friends. Sections 617.22(h), 617.25(b)(1)(iii), and 617.25(b)(5)(ii) of 20 CFR prohibiting the use of funds personal to the worker remain in effect until such time as they are amended through notice and comment rulemaking. Further, a CSA may not require the worker to obtain other funds as a condition for approval of training. If the worker volunteers to use other funds to supplement the TAA training funds when the cost of training is otherwise not reasonable, the training program will be approved, if the other training approval criteria are met.

Significantly, a provision of the Higher Education Act of 1965, codified at 20 U.S.C. 1087uu, provides that ''notwithstanding any other law,'' certain types of student financial assistance (Pell Grants, benefits under Supplemental Educational Opportunity Grants, Federal educational loan programs, Presidential Access Scholarships, Federal student work-study programs, and Bureau of Indian Affairs Student Assistance) ''shall not be taken into account in determining the need or eligibility of any person for

benefits or assistance, or the amount of such benefits or assistance, under any Federal * * * program * * *.'' Therefore, a CSA may not consider the student financial assistance in determining whether to approve training. This allows a worker to use student financial assistance for living expenses instead of tuition and thus provides the worker income support during long-term training. However, the worker may voluntarily choose to apply student financial assistance to the costs of training, if the training would not be approved because the costs would otherwise be found to be unreasonable.

Regarding the ''reasonable cost'' criterion for training approval, it should be noted that the Department has not prohibited the limited use of ''training caps'' on the amount of training costs a CSA considers reasonable. A CSA may determine a maximum reasonable cost for training in the State, but only with a mechanism for exceeding that maximum when that results in the most reasonable and cost effective way of returning the trade affected worker to sustainable employment. Beyond this, the CSA must ensure that any ''caps'' developed are sufficient to cover the reasonable cost of suitable training for high growth, demand, and green occupations in all localities to which those caps apply.

Regulatory guidance for determining ''reasonable cost'' is found at 20 CFR 617.22(6). Specifically, the regulations dictate that, for the purpose of determining reasonable costs of training, the CSA considers:

(A) Costs of a training program shall include tuition and related expenses (books, tools, and academic fees), travel or transportation expenses, and subsistence expenses;

(B) In determining whether the costs of a particular training program are reasonable, first consideration must be given to the lowest cost training which is available within the commuting area. When training, substantially similar in quality, content and results, is offered at more than one training provider, the lowest cost training shall be approved; and

(C) Training at facilities outside the worker's normal commuting area that involves transportation or subsistence costs which add substantially to the total costs shall not be approved if other appropriate training is available. In approving training, CSAs must consider cost, suitability for the worker, and quality and results. A CSA may approve a more expensive training program that is of demonstrably higher quality or that may be expected to produce better results for the worker in quickly returning to suitable employment.

D.5.3 Apprenticeship, Higher Education and WIA Programs

Statutory Change: Section 1829 of the 2009 Act amends Section 236(a)(5) of the 2002 Act to read as follows:

(5) Except as provided in paragraph (10), the training programs that may be approved under paragraph (I) include, but are not limited to—

(A) Employer-based training, including—

(i) On-the-job training,

(ii) Customized training, and

(iii) Apprenticeship programs registered under the Act of August 16, 1937 (commonly known as the 'National Apprenticeship Act'; 50 Stat. 664, chapter 663; 29 U.S.C. 50 *et seq.*),

(B) Any training program provided by a State pursuant to Title I of the Workforce Investment Act of 1998,

(C) Any training program approved by a private industry council established under section 102 of such Act,

(D) Any program of remedial education,

(E) Any program of prerequisite education or coursework required to enroll in training that may be approved under this section,

(F) Any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

(i) Under any Federal or State program other than this chapter, or

(ii) From any source other than this section,

(G) Any other training program approved by the Secretary, and

(H) Any training program or coursework at an accredited institution of higher education (described in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)), including a training program or coursework for the purpose of—

(i) Obtaining a degree or certification; or

(ii) Completing a degree or certification that the worker had previously begun at an accredited institution of higher education.

The Secretary may not limit approval of a training program under paragraph (1) to a program provided pursuant to title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et seq.*).

Administration: These provisions clarify that the TAA program can pay for registered apprenticeship programs, any prerequisite education required to enroll in training, and training at an accredited institution of higher education including training to obtain or complete a degree or certificate program that reasonably can be expected to result in employment.

Registered Apprenticeship programs offer workers employment and a combination of on-the-job learning and related instruction. Since, in apprenticeship programs, the employer pays all of the apprentice's wages, the on-the-job learning portion of apprenticeship training is not considered to be on-the-job training as defined in Section 236(c). Apprentices are employed at the start of their apprenticeship and work through a series of defined curricula until the completion of their apprenticeship programs. The length of registered apprenticeship programs varies depending on the specific occupation. Adversely affected workers can access registered apprenticeship programs by contacting their State's Registered Apprenticeship Office (Contact information is available on-line at: *http://www.doleta.gov/oa/sainformation.cfm*).

TAA funds can be used to pay for the expenses associated with related instruction (e.g., classroom and distance learning), tools, uniforms, equipment and/or books for an adversely affected worker's participation in a registered apprenticeship program. These TAA funds can be used until the worker reaches ''suitable employment'' (which is the purpose of training) or 156 weeks, whichever comes first, while participating in the registered apprenticeship program. Suitable employment as defined in Section 236 of the Act means work of substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

Additionally, because registered apprenticeship combines classroom instruction with employment, adversely affected workers enrolled in a registered apprenticeship program may not be able to access TRA income support due to their income earned through wages. However, the use of the RTAA benefit as described in Section H of these Operating Instructions may be an option for adversely affected workers who are being trained and employed through a registered apprenticeship program. In the case of registered apprenticeship, a key factor for access to and use of RTAA funds are the wages for the workers' past adversely affected employment, as compared to their current wages while employed in a registered apprenticeship program as well as meeting the age requirement of being age 50 or older.

Until the 2009 Act, the statute did not explicitly provide that TAA training funds may be used to obtain a college or advanced degree although most States do use the funds to assist workers to complete such degrees. The addition of Section 236(a)(5)(H) is intended to encourage CSAs to approve the use of training under TAA to obtain a two-year certificate or degree, or to complete a four-year (or more) degree that has been started and can be completed in a 156-

week period. The Department may consider this issue further in upcoming rulemaking.

Additionally, WIA-approved training is an approvable TAA training option. However, the amendment of Section 236(a)(5) of the 2002 Act expressly provides that training options available under the TAA program are not limited to training programs available under Title I of WIA.

D.6 On-the-Job Training

Statutory Change: Section 1831 of the 2009 Amendments amends Section 236(c)(1)–(4) of the 2002 Act to read:

(1) IN GENERAL.—The Secretary may approve on-the-job training for any adversely affected worker if—

(A) The worker meets the requirements for training to be approved under subsection (a)(1);

(B) The Secretary determines that on-the-job training—

(i) Can reasonably be expected to lead to suitable employment with the employer offering the on-the-job training;

(ii) Is compatible with the skills of the worker;

(iii) Includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and

(iv) Can be measured by benchmarks that indicate that the worker is gaining such knowledge or skills; and

(C) The State determines that the on-the-job training program meets the requirements of clauses (iii) and (iv) of subparagraph (B).

(2) MONTHLY PAYMENTS.—The Secretary shall pay the costs of on-the-job training approved under paragraph (1) in monthly installments.

(3) CONTRACTS FOR ON-THE-JOB TRAINING.—

(A) IN GENERAL.—The Secretary shall ensure, in entering into a contract with an employer to provide on-the-job training to a worker under this subsection, that the skill requirements of the job for which the worker is being trained, the academic and occupational skill level of the worker, and the work experience of the worker are taken into consideration.

(B) TERM OF CONTRACT.—Training under any such contract shall be limited to the period of time required for the worker receiving on-the-job training to become proficient in the job for which the worker is being trained, but shall not exceed 104 weeks in any case.

(4) EXCLUSION OF CERTAIN EMPLOYERS.—The Secretary shall not enter into a contract for on-the-job training with an employer that exhibits a pattern of failing to provide workers receiving on-the-job training from the employer with—

(A) Continued, long-term employment as regular employees; and

(B) Wages, benefits, and working conditions that are equivalent to the wages, benefits, and working conditions provided to regular employees who have worked a similar period of time and are doing the same type of work as workers receiving on-the-job training from the employer.

Administration: CSAs may approve ''on-the-job'' training (OJT) for a worker meeting the approval criteria of Section 236(a)(1), implemented at 20 CFR 617.22 (a), and the OJT criteria of Section 236(c)(1)(B).

Criterion (1) (Section 236(c)(1)(B)(i)) requires that the OJT can reasonably lead to employment with the OJT employer. The 2002 Act removed this requirement completely, but the 2009 Act reinstates it. However, approval should be conditioned on whether the OJT can reasonably lead to employment with the OJT employer, and not that there is a guarantee of employment with the OJT employer. Criterion (2) (Section 236(c)(1)(B)(ii)) requires that the OJT is compatible with the worker's skills. Criterion (3) (Section 236(c)(1)(B)(iii)) requires the OJT to allow the worker to become proficient in the job for which the worker is being trained. Criterion (4) (Section 236(c)(1)(B)(iv)) requires the State to be able to identify benchmarks or systematically evaluate whether the worker is gaining knowledge or skills.

Under the 2009 Act, OJT is simply one of several training options for workers. The 2009 Amendments repealed the requirement at Section 236(a)(1) that ''[i]nsofar as possible,'' training be provided on the job.

Further, while the 2002 Act required payment for OJT to be made in equal monthly installments, the 2009 Act requires only that payment be made on a monthly basis. The 2009 Act expressly limits OJT contracts to no more than 104 weeks. Lastly, the 2009 Act also provides that employers that exhibit a pattern of failing to provide workers with continued long-term employment, and adequate wages, benefits and working conditions as regular employees are excluded from OJT contracts.

D.7. UI and TAA Benefits While in Training

Statutory Change: Section 1832 of the 2009 Amendments amends Section 236(d) of the 2002 Act to read:

(d) ELIGIBILITY.—An adversely affected worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter—

(1) Because the worker—

(A) Is enrolled in training approved under subsection (a);

(B) Left work—

(i) That was not suitable employment in order to enroll in such training; or

(ii) That the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or

(C) Left on-the-job training not later than 30 days after commencing such training because the training did not meet the requirements of subsection (c)(1)(B); or

(2) Because of the application to any such week in training of the provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

Administration: The 2009 amendments codify the current regulations at 20 CFR 617.18 regarding disqualification of trainees from UI or TRA. In addition, the 2009 Amendments add two new circumstances under which a CSA may not deny UC—because the worker left work that the worker engaged in on a temporary basis during a break in training or a delay in the commencement of that training, and that the worker left OJT not later than 30 days after commencing such training because the training did not meet the requirements of Section 236(c)(1)(B). That section provides for the approval of OJT where the CSA determines that it can reasonably be expected to lead to suitable employment with the employer offering the OJT; is compatible with the skills of the worker; includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and can be measured by benchmarks that indicate that the worker is gaining that knowledge or skills.

E. Job Search Allowances

Statutory Change: Section 1833 of the 2009 Amendments amends Section 237 of the 2002 Act to read:

(a) JOB SEARCH ALLOWANCE AUTHORIZED.—

(1) IN GENERAL.—An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for payment of a job search allowance.

(2) APPROVAL OF APPLICATIONS.—The Secretary may grant an allowance pursuant to an application filed under paragraph (I) when all of the following apply:

(A) ASSIST ADVERSELY AFFECTED WORKER—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

(B) LOCAL EMPLOYMENT NOT AVALABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) APPLICATION.—The worker has filed an application for the allowance with the Secretary before—

(i) The later of—

(I) The 365th day after the date of the certification under which the worker is certified as eligible; or

(II) The 365th day after the date of the worker's last total separation; or

(ii) The date that is the 182nd day after the date on which the worker concluded training.

(b) AMOUNT OF ALLOWANCE.—

(1) IN GENERAL.—An allowance granted under subsection (a) shall provide reimbursement to the worker of all cost of necessary job search expenses as prescribed by the Secretary in regulations.

(2) MAXIMUM ALLLOWANCE.—Reimbursement under this subsection may not exceed $1,500 for any worker.

(3) ALLOWANCE FOR SUBSISTENCE AND TRANSPORTATION.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 236(b)(1) and (2).

(c) EXCEPTION.—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.

Administration: The qualifying conditions for job search allowances are largely unchanged.

The 2009 Amendments repeal the exception for workers who received a waiver of the training requirement from the requirement to file a job search allowance application within 182 days after the worker completes training. This exception appears to have been meaningless, since it eliminates the deadline for workers who enter training after the expiration or termination of a waiver, but requires workers who enter training without ever having had a waiver to file an application within 182 days after completing training. Accordingly, 20 CFR 617.31(c)(2) interpreted the 182-day application requirement as applying regardless of whether the worker received a training waiver—and Congress apparently concurred with the Department's interpretation that the exception was meaningless by repealing it.

The 2009 Act also raises the reimbursement amount for allowable job search expenses from 90 percent to 100 percent of those expenses, and increases the maximum amount payable to the worker from $1,250 to $1,500.

States must continue to administer job search allowances in accordance with 20 CFR part 617, subpart D, except that ''90 percent'' in section 617.34(a) will be read as ''100 percent,'' and ''$800'' (from a prior amendment to the Trade Act) in section 617.34(b) will be read as ''$1,500.''

F. Relocation Allowances

Statutory Change: Section 1833 of the 2009 Amendments amends Section 238 of the 2002 Act to read:

(a) RELOCATION ALLOWANCE AUTHORIZED.—

(1) IN GENERAL.—Any adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

(2) CONDTIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:

(A) ASSIST AN ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—-

(i) Has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

(ii) Has obtained a bona fide offer of such employment.

(E) APPLICATION.—The worker filed an application with the Secretary before

(i) The later of—

(I) The 425th day after the date of the certification under subchapter A of this chapter; or

(II) The 425th day after the date of the worker's last total separation; or

(ii) The date that is the 182d day after the date on which the worker concluded training.

(b) AMOUNT OF ALLOWANCE— The relocation allowance granted to a worker under subsection (a) includes—

(1) All reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b)(1) and (2) specified in regulations prescribed by the Secretary), incurred in transporting the worker, the worker's family, and household effects; and

(2) A lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $1,500.

(c) LIMITATIONS.—A relocation allowance may not be granted to a worker unless—

(1) The relocation occurs within 182 days after the filing of the application for relocation assistance; or

(2) The relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 236(b)(1) and (2).

Administration: The qualifying requirements for relocation allowances are largely unchanged.

The 2009 Amendments repeals the exception for workers who received a waiver of the training requirement from the requirement to file a relocation allowance application within 182 days after the worker completes training. This exception appears to be meaningless, since it eliminates the deadline for workers who enter training after the expiration or termination of a waiver, but requires workers who enter training without ever having had a waiver to file an application within 182 days after completing training. Accordingly, 20 CFR 617.31(c)(2) interpreted the 182-application requirement as applying regardless of whether the worker received a training waiver—and Congress apparently concurred with the Department's interpretation that the exception was meaningless by repealing it.

The 2009 Act also raises the reimbursement amount for allowable relocation expenses from 90 percent to 100 percent of those expenses, and increases the maximum amount of the lump sum payment to the worker from $1,250 to $1,500.

States must continue to administer relocation allowances in accordance with 20 CFR part 617, subpart D, except that ''90 percent'' in section 617.34(a) will be read as ''100 percent,'' and ''$800'' (from a prior amendment to the Trade Act) in section 617.34(b) will be read as ''$1,500.''

G. Employment and Case Management Services

G.1 Provision of Services

Statutory Change: Section 1826 of the 2009 Amendments amends Section 235 of the 2002 Act to read:

SEC. 235. EMPLOYMENT AND CASE MANAGEMENT SERVICES.

The Secretary shall make available, directly or through agreements with States under section 239, to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A of this chapter the following employment and case management services:

(1) Comprehensive and specialized assessment of skill levels and service needs, including through—

(A) Diagnostic testing and use of other assessment tools; and

(B) In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.

(2) Development of an individual employment plan to identify employment goals and objectives, and appropriate training to achieve those goals and objectives.

(3) Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.

(4) Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965 (20 U.S.C. 1070a–16), where applicable,

and notifying workers that the workers may request financial aid administrators at institutions of higher education (as defined in section 102 of such Act (20 U.S.C. 1002)) to use the administrators' discretion under section 479A of such Act (20 U.S.C. 1087tt) to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for Federal financial assistance under title IV of such Act (20 U.S.C. 1070 et seq.).

(5) Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.

(6) Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training under this chapter, and after receiving such training for purposes of job placement.

(7) Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including—

(A) Job vacancy listings in such labor market areas;

(B) Information on jobs skills necessary to obtain jobs identified in job vacancy listings described in subparagraph (A);

(C) Information relating to local occupations that are in demand and earnings potential of such occupations; and

(D) Skills requirements for local occupations described in subparagraph (C).

(8) Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.

Administration: The 2002 Act required CSAs to ''make every reasonable effort'' to provide adversely affected workers the listed services through other programs. The 2009 Act now *requires* that these services be offered to all adversely affected workers and adversely affected incumbent workers. The required services may be provided by staff funded by the new case management funds authorized under the Act (discussed below), or by staff funded under partner programs.

Co-enrollment or multiple-enrollment allows trade-affected workers to receive supportive services that may assist in a quicker transition to work. It is vitally important that States develop a goal, or informal deadline, for administering assessment of workers in order to determine training and reemployment needs. This will provide data for State officials to make a more accurate employability determination and issue TAA waivers of training. Likewise, early assessment will give case management staff the information necessary to advise, counsel, and refer participants to the appropriate partner/training provider. Many States have provided case management activities and related services in the past through co-enrollment in other Federal programs (usually WIA and Wagner-Peyser programs). The Department expects CSAs to continue this practice. CSAs that have not fully used co-enrollment now have an opportunity to use more integrated service strategies. Expertise in providing these services already exists within the WIA and Wagner-Peyser programs.

A CSA must offer workers each of the services set forth in Section 235. It must demonstrate that it has provided or offered these services either in a paper-based case file or in an electronic case management system, which must be available for review. Additionally, the case management file of each participant must demonstrate that the CSA notified each worker of his/her enrollment in training deadlines.

The purpose of these employment and case management services is to provide workers the necessary information and support for them to achieve sustainable reemployment. Therefore, these services must be made available to workers over the course of their participation in the TAA program, in an integrated manner that suits their individual needs at a particular time. For example, skill assessments must be geared towards evaluating whether the worker meets the TAA training criteria or matches up to specific career opportunities in the community. The individual employment plan must use and be guided by the results of the skill assessments. The employment plan should, in turn, lead to support for finding suitable employment and/or development of a training plan that addresses any skill gaps made evident by the assessments, including remedial or prerequisite training where appropriate. Career counseling and labor market information must also inform the development of the employment and training plans. Information on financial aid and supportive services must be available as they are needed by the individual. Career counseling and other informational resources must also be available after an individual completes training, through his/her reemployment and exit from the TAA program.

CSAs should minimize the extent to which they establish new or stand alone employment and case management structures for TAA program participants where these services are available within the workforce development system. Rather, CSAs should fully integrate TAA participants and resources into the One-Stop Career Center system, thereby maximizing and enhancing existing employment and case management structures. As stated in Section II.B of the Governor-Secretary Agreement, ''The State agrees that the TAA program is a required partner in the comprehensive One-Stop system established under the Workforce Investment Act of 1998 (WIA) (29 U.S.C. 2801 *et seq.*) (see WIA Section 121(b)(1)(B)(viii), 29 U.S.C. 2841(b)(1)(B)(viii)). The State will ensure integration of the TAA program into its One-Stop system and will comply with all applicable laws, regulations, and policy guidance issued under the WIA. The State will use One-Stop Career Centers as the main point of participant intake and delivery of benefits and services.''

Early intervention services that include orientation; initial assessment of skill levels, aptitudes, and abilities; provision of labor market information; job search assistance; and financial management workshops continue to be a priority for workers in the TAA program. We encourage TAA staff to work with WIA staff to align resources and develop clear plans for coordination.

G.2 Funding

Statutory Change: Section 1826 of the 2009 Amendments adds Section 235A to the 2002 Act:

SEC. 235A. FUNDING FOR ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.

(A) FUNDING FOR ADMINISTRATIVE EXPENSES AND EMPLOYMENT AND CASE MANAGEMENT SERVICES.—

(1) IN GENERAL.—In addition to any funds made available to a State to carry out section 236 for a fiscal year, the State shall receive for the fiscal year a payment in an amount that is equal to 15 percent of the amount of such funds.

(2) USE OF FUNDS.—A State that receives a payment under paragraph (1) shall—

(A) Use not more than ⅔ of such payment for the administration of the trade adjustment assistance for workers program under this chapter, including for—

(i) Processing waivers of training requirements under section 231;

(ii) Collecting, validating, and reporting data required under this chapter; and

(iii) Providing reemployment trade adjustment assistance under section 246; and

(B) Use not less than ⅓ of such payment for employment and case management services under section 235.

(b) ADDITIONAL FUNDING FOR EMPLOYMENT AND CASE MANAGEMENT SERVICES.—

(1) IN GENERAL.—In addition to any funds made available to a State to carry out section 236 and the payment under

subsection (a)(1) for a fiscal year, the Secretary shall provide to the State for the fiscal year a payment in the amount of $350,000.

(2) USE OF FUNDS.—A State that receives a payment under paragraph (1) shall use such payment for the purpose of providing employment and case management services under section 235.

(3) VOLUNTARY RETURN OF FUNDS.—A State that receives a payment under paragraph (1) may decline or otherwise return such payment to the Secretary.

Administration: The 2009 Act provides two separate TAA program funding sources for case management services, one under Section 235A(a) and the second under Section 235A(b). Section 235A(a) provides funding for ''administrative expenses'' and ''case management services.'' Section 235A(a)(2)(A) requires that a CSA will ''use not more than ⅔ of'' these funds ''for the administration of the trade adjustment assistance for workers program,'' and Section 235A(a)(2)(B) requires that it will ''use not less than ⅓'' of these funds ''for employment and case management services under section 235.''

In addition to staff costs for career counselors, the ''employment and case management services'' funds may be used for: Assessment tests; skills transferability analysis; peer counselors; development and provision of labor market information; maintenance and enhancement of electronic case management systems to allow for improved case management services; information on available training, including provider performance and cost information; and, any other staff costs related to case management. This list is not intended to be all inclusive.

With respect to the employment and case management funds, CSAs do not need to maintain the ⅔ to ⅓ ratio on a regular basis. Instead, a determination of whether the CSA has met this ratio requirement will be made during the grant close out process upon expiration of the funds. At that time, expenditures on administration in excess of ⅔ of the allotment for that fiscal year (meaning that expenditures on employment and case management services were less than ⅓ of the allotment) will be considered disallowed costs.

The second source of funding for case management services, under Section 235A(b), is a payment ''for the fiscal year * * * in the amount of $350,000.'' The 2009 Act provides that States may decline or return these funds to the Secretary. If a State chooses not to accept the $350,000 in employment and case management services funds authorized for allotment to States under Section 235A(b) for the next fiscal year, the CSA should notify the Department, through their appropriate ETA Regional Office, by August 15 of the prior fiscal year in order to ensure that an allocation is not made. If a State receives these funds through the allotment process, but decides to return them to DOL, States must do so as soon as possible.

The employment and case management services funding provided for in this section should be in addition to, and not offset, any funds that the CSA would otherwise receive under WIA or any other program.

G.3 Coordination With WIA

Statutory Change: Section 1852 of the 2009 Amendments amends Section 239 of the 2002 Act by redesignating subsection (f) as subsection (g) and adding to new subsection (g) paragraphs (4) and (5), to read:

Each cooperating State agency shall, in carrying out subsection (a)(2)—

* * * * *

(4) Perform outreach to, intake of, and orientation for adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A with respect to assistance and benefits available under this chapter, and

(5) Make employment and case management services described in section 235 available to adversely affected workers and adversely affected incumbent workers covered by a certification under subchapter A and, if funds provided to carry out this chapter are insufficient to make such services available, make arrangements to make such services available through other Federal programs.

Administration: As required in the agreements between the Secretary of Labor and the States under Section 239 of the Act, the CSAs must administer outreach, intake, and orientation for adversely affected workers and make employment and case management services as newly described in Section 235 available to workers. If the TAA program funding sources for provision of employment and case management services to workers in the TAA program are insufficient to meet the requirement that these services be offered to all adversely affected workers and adversely affected incumbent workers, the CSA must make arrangements to assure that funding under the WIA or another program is available to provide those services. Multiple enrollment resources may include Wagner-Peyser activities, faith-based and community-based programs, vocational rehabilitation services, and veterans' programs.

H. Reemployment Trade Adjustment Assistance (RTAA)

H.1. Background

Statutory Change: Section 1841 of the 2009 Amendments amends Section 246(a)(1) of the 2002 Act to read:

(1) ESTABLISHMENT.—The Secretary shall establish a reemployment trade adjustment assistance program that provides the benefits described in paragraph (2).

Administration: The 2009 Act establishes RTAA as a wage supplement option available to older workers under the TAA program. RTAA replaces ATAA, which provided wage supplements as an option for reemployed older workers as a demonstration project under the 2002 Act. Rather than a demonstration program, RTAA is permanent, and has the same expiration date as the rest of the TAA program.

ATAA is extended and remains available to workers certified for ATAA under petitions filed prior to May 18, 2009.

RTAA builds on the basic structure of ATAA, with some important differences:

- The 26-week deadline for reemployment, running from the date of separation from the adversely affected employment is eliminated. This 26-week period frequently began prior to certification, not allowing enough time for workers to find new jobs after learning of their potential eligibility for ATAA.
- A separate certification of group eligibility beyond the TAA certification is no longer required. All certifications include eligibility to apply for RTAA, as well as other TAA benefits.
- Workers opting to participate in the wage supplement program no longer surrender their eligibility for TAA-approved training.
- RTAA may be paid to participants working part-time, if they are enrolled in approved training.
- Workers may collect RTAA after a period of TRA. These changes to the program should make the program more accessible and attractive to workers by removing barriers that existed under ATAA.
- RTAA eligibility requires that the worker ''is not employed at the firm from which the worker was separated.'' This is a more restrictive requirement than ATAA imposes. That program required only that the worker ''does not return to the employment from which the worker was separated,'' which the Department interpreted as permitting the worker to return to the separating firm in a different job.

• The maximum benefit that the worker may receive over the course of the eligibility period is increased from $10,000 to $12,000.

• The limit on wages in eligible reemployment is increased from $50,000 to $55,000.

• RTAA has a different eligibility period than ATAA.

Significantly, workers receiving RTAA may, like ATAA participants, be eligible for the HCTC.

H.2. Group Eligibility

Statutory Change: Section 1841 of the 2009 Amendments amends Section 246(a)(3)(A) of the 2002 Act to read:

(A) IN GENERAL.—A group of workers certified under subchapter A as eligible for adjustment assistance under subchapter A is eligible for benefits described in paragraph (2) under the program established under paragraph (1).

Administration: The new RTAA program eliminates the separate group eligibility requirements under the ATAA program and instead provides that workers in a group certified as eligible to apply for TAA are also eligible to apply for RTAA.

H.3. Individual Eligibility

Statutory Change: Section 1841 of the 2009 Amendments amends Section 246(a)(3)(B) of the 2002 Act to read:

(B) INDIVIDUAL ELIGIBILITY.—A worker in a group of workers described in subparagraph (A) may elect to receive benefits described in paragraph (2) under the program established under paragraph (1) if the worker—

(i) Is at least 50 years of age;

(ii) Earns not more than $55,000 each year in wages from reemployment;

(iii)(I) Is employed on a full-time basis as defined by the law of the State in which the worker is employed and is not enrolled in a training program approved under section 236; or

(II) Is employed at least 20 hours per week and is enrolled in a training program approved under section 236; and

(iv) Is not employed at the firm from which the worker was separated.

Administration: The RTAA program has several differences in individual eligibility from the ATAA program. It eliminates the requirement that the worker obtain full-time employment within 26 weeks of separation from adversely affected employment, increases the maximum an individual may earn in reemployment from $50,000 to $55,000, and is not limited to workers employed full-time, but allows workers employed at least 20 hours per week, and enrolled in approved training, to qualify. To be eligible for RTAA, an individual must meet the following conditions at the time of reemployment:

1. Be at least age 50 at time of reemployment. The individual's age can be verified with a driver's license or other appropriate documentation.

2. Must not be expected to earn more than $55,000 annually in gross wages, excluding overtime pay, from the reemployment. If a paycheck has not been issued at the time of application, the employer must submit a supporting statement documenting the worker's annual wages.

3. Reemployment:

a. Be reemployed full-time as defined by the State law where the worker is employed and not enrolled in a TAA-approved training program. If there is no State law addressing the definition of full-time employment, the State must issue a definition of full-time employment for RTAA purposes. The CSA will verify reemployment in the same manner as it uses for ATAA eligibility; or

b. Be reemployed less than full-time, but at least 20 hours a week, and be enrolled in a TAA-approved training program. Similar to the requirement that TRA benefits may only be paid when enrolled in a full time training program, eligibility for RTAA benefits based on part-time employment and participation in training requires enrollment in a full time training program as well. This requirement helps ensure that workers will not exhaust their limited RTAA benefit before returning to full-time employment, which is the true goal of the TAA program. The verification will be conducted in the same manner as is used for verifying employment for ATAA eligibility and for verifying participation in training.

4. The worker cannot return to employment at the ''firm'' from which the worker was separated. However, the 2009 Act defines ''firm'' as either the entire firm or the appropriate subdivision. Accordingly, this requirement means that, if the certification is issued for a worker group in an appropriate subdivision of a firm, the worker may not return to employment with that subdivision, but may return to work at another subdivision of the firm. If, however, the certification is issued for workers in the entire firm, the worker may not return to employment in any subdivision of that firm.

As with ATAA, the CSA will issue a written determination on an RTAA application within 5 working days of its receipt. If approved, the CSA will also notify the appropriate State payment unit and other appropriate component offices within the State. The RTAA applicant has the right to appeal a State determination which denies RTAA benefits in the same manner as provided for in State UI law for all TAA determinations.

Where a worker seeks to establish RTAA eligibility based upon more than one job, the employment hours will be combined in order to determine whether the worker has the number of hours needed to qualify for RTAA. If the worker obtains additional job(s), the wages from this employment will be included in the calculation to determine whether the worker is expected to reach the $55,000 annual limit for reemployment wages.

Qualifying employment that was commenced prior to separation from adversely affected employment may be considered RTAA qualifying employment.

H.4. Eligibility Period

Statutory Change: Section 1841 of the 2009 Act amends Section 246(a)(4) of the 2002 Act to read:

(4) ELIGIBILITY PERIOD FOR PAYMENTS.—

(A) WORKER WHO HAS NOT RECEIVED TRADE READJUSTMENT ALLOWANCE.—In the case of a worker described in paragraph (3)(B) who has not received a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period not to exceed 2 years beginning on the earlier of—

(i) The date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification; or

(ii) The date on which the worker obtains reemployment described in paragraph (3)(B).

(B) WORKER WHO HAS RECEIVED TRADE READJUSTMENT ALLOWANCE.—In the case of a worker described in paragraph (3)(B) who has received a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A), the worker may receive benefits described in paragraph (2) for a period of 104 weeks beginning on the date on which the worker obtains reemployment described in paragraph (3)(B), reduced by the total number of weeks for which the worker received such trade readjustment allowance.

Administration: The eligibility periods for RTAA are different than those under ATAA. The 2009 Act provides two separate eligibility periods, the first for workers who have not received TRA, and the second for workers who have received TRA.

The eligibility period for workers who have not received TRA is a two-year period beginning the earlier of ''the date on which the worker exhausts all rights to unemployment insurance based on

the separation of the worker from the adversely affected employment that is the basis of the certification,'' or reemployment. Section 247(12) defines ''unemployment insurance'' as ''the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law,'' which includes EUC.

The statutory phrase ''worker exhausts all rights to unemployment insurance based on the separation of the worker from * * * adversely affected employment * * * '' requires some interpretation. The first point to make is that a worker may have more than one separation from adversely affected employment. Where there is more than one such separation, the relevant separation is the worker's last separation from adversely affected employment that qualifies the worker as an adversely affected worker. The Department chose the last separation because that separation is the one that triggers the worker's application for RTAA. Under 20 CFR 617.3(c), a separation that qualifies a worker as an adversely affected worker is a lack-of-work separation from adversely affected employment. Accordingly, the CSA must determine the worker's last separation for lack of work from adversely affected employment before the RTAA application. This principle applies only to the determination of the eligibility period, and does not apply to the calculation of RTAA payments.

Further, a separation may trigger a benefit year, occur during a benefit year, or not result in any entitlement to UI. If the worker's last separation from adversely affected employment, which qualifies the worker as an adversely affected worker, either triggers a benefit year or occurs within a benefit year, the eligibility period will begin (if earlier than the reemployment) when the worker exhausts that UI eligibility, either by collecting all benefits available on the benefit year or by the expiration of the benefit year. If the worker has no UI entitlement for his/her last separation from adversely affected employment that qualifies him/her as an adversely affected worker, then the two-year period begins on the date on which the worker obtains reemployment.

The eligibility period for a worker who has not received TRA is the two year period (generally 104 weeks) beginning with the date of reemployment, reduced by the number of weeks the worker received TRA. For example, if a worker received 52 weeks of TRA, the eligibility period would be reduced to 52 weeks beginning on the date of reemployment.

The individual's application for RTAA must be filed within the applicable eligibility period as described above. As with ATAA, retroactive payment may be made where appropriate.

H.5. Total Amount of Payments

Statutory Change: Section 1841 of the 2009 Act amends Section 246(a)(5) of the 2002 Act to read:

(5) TOTAL AMOUNT OF PAYMENTS.—

(A) IN GENERAL.—The payments described in paragraph (2)(A) made to a worker may not exceed—

(i) $12,000 per worker during the eligibility period under paragraph (4)(A); or

(ii) The amount described in subparagraph (B) per worker during the eligibility period under paragraph (4)(B).

(B) AMOUNT DESCRIBED.—The amount described in this subparagraph is the amount equal to the product of—

(i) $12,000, and

(ii) The ratio of—

(I) The total number of weeks in the eligibility period under paragraph (4)(B) with respect to the worker, to

(II) 104 weeks.

Administration: The total amount of payments that may be made to workers under RTAA is different than under ATAA. The 2009 Act provides two separate calculations of the maximum amount of payments that may be made to a worker, the first for workers who have not received TRA, and the second for workers who have received TRA.

Workers who have not received TRA may receive a maximum of $12,000 during the eligibility period described in Section J.4 of the Operating Instructions. This is an increase of $2,000 over the maximum amount of ATAA available to an adversely affected worker.

Workers who have received TRA may receive an amount equal to the product of $12,000 and the ratio of the number of weeks in the eligibility period described in Section J.4 above and 104. For example, the calculation for a worker who received 52 weeks of TRA and therefore has a 52-week eligibility period would be as follows:

Factors	
x	Weeks of TRA.
y	Eligibility Period.
z	$12,000 Maximum RTAA Benefit.

Ratio	
x/y = ...	Ratio.

Formula	
(x/y) * z = ...	RTAA Benefit.

Example
(52/104) * $12,000 = $6,000

H.6. Continuing Eligibility

The structure and procedures established for verification of continuing eligibility under the ATAA program remain in place for the RTAA program, except where noted otherwise. Once approved for the RTAA program, individuals who continue to meet the eligibility criteria are paid RTAA benefits until they reach the end of the eligibility period or the maximum total amount of payments whichever occurs first.

Nothing in the statute precludes an individual from working for different employers within this eligibility period. Further, employment is not required to be consecutive. However, as with ATAA, RTAA benefits are not payable during periods of unemployment, but payment is allowable when the worker is on employer allowed release time, such as sick leave. Changes in employment that do not encompass a period of unemployment will be handled during the State's ongoing review of each worker's RTAA status, as described below. In the event of a period of unemployment, workers will need to complete a new Individual Application for RTAA upon reemployment. The worker would be eligible for the remaining RTAA benefits to which he/she is entitled. The eligibility period continues to run from the date of UI exhaustion or reemployment.

Workers applying for RTAA will need to visit a One-Stop Career Center in person to provide information and establish initial individual eligibility for RTAA. The CSA will need to assess each RTAA claimant's continuing eligibility for RTAA. Whether RTAA entitlement is received on the basis of part-time (at least 20 hours) or full-time employment, the CSA must verify the worker's employment and wage status on at least a monthly basis. If the worker is employed part-time (at least 20 hours per week) and receiving RTAA while in TAA-approved training, the CSA must, on a monthly basis, verify participation in the training.

RTAA payments stop in the event of any one of the following:

- The worker's annualized wages from reemployment are projected to exceed $55,000 in a year.

• The worker no longer meets the reemployment requirement through either full-time work or a combination of TAA-approved training and at least 20 hours of work. (But, see the caveat in the second paragraph below.)

• The worker has received the maximum amount of RTAA.

• The worker has reached the end of the RTAA eligibility period.

It is the CSA's responsibility, when calculating the RTAA payment, to annualize the recipient's wages on a monthly basis to assure that the recipient's annual wages do not exceed $55,000. Annual wage calculations include all jobs in which the worker is employed.

As explained above, a worker may qualify for RTAA where the worker is working part-time, provided the worker is enrolled in training. A worker will be excused from the training requirement for any week for which s/he has ''justifiable cause,'' as defined at 20 CFR 617.18(b)(2), for failing to begin or ceasing participation in training. If the worker has justifiable cause for failing to participate in training for a week, but is working at least 20 hours per week, RTAA is payable for that week if the worker is otherwise eligible. If the worker fails to participate in training for a week without justifiable cause, the worker is ineligible for RTAA for that week.

H.7. RTAA Payments

Statutory Changes:

Section 1841 of the 2009 Amendments amends Section 246(a)(2) of the Act to read:

(2) BENEFITS.

(A) PAYMENTS—A State shall use the funds provided to the State under section 241 to pay, for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be), to a worker described in paragraph (3)(B), 50 percent of the difference between—

(i) The wages received by the worker at the time of separation; and

(ii) The wages received by the worker from reemployment.

It also amends Section 246(a)(6) of the Act to read:

(6) CALCULATION OF AMOUNT OF PAYMENTS FOR CERTAIN WORKERS.—

(A) IN GENERAL.—In the case of a worker described in paragraph (3)(B)(iii)(II) [a worker employed at least 20 hours per week an enrolled in training], paragraph (2)(A) [the RTAA benefit amount calculation] shall be applied by substituting the percentage described in subparagraph (B) for '50 percent'.

(B) PERCENTAGE DESCRIBED.—The percentage described in this subparagraph is the percentage—

(i) Equal to ½ of the ratio of—

(I) The number of weekly hours of employment of the worker referred to in paragraph (3)(B)(iii)(II), to

(II) The number of weekly hours of employment of the worker at the time of separation, but

(ii) In no case more than 50 percent.

Administration: The 2009 Act slightly rewords the benefit calculation found in Section 246(a)(2)(A), but does not change the basic structure of providing 50 percent of the difference between the wages the worker received from the adversely affected employer at the time of separation and the wages the worker receives in new employment for workers who are employed on a full-time basis.

For workers who meet the reemployment requirement described in Section H.3. of the Operating Instructions through a combination of TAA-approved training and at least 20 hours of work, the RTAA benefit calculation is based on a percentage of the difference between the wages the worker received from the adversely affected employer at the time of separation and the wages the worker receives in new employment. The percentage is based on the number of hours worked in new employment as compared to the adversely affected employment. This calculation is illustrated below and in sections H.7.1 and H.7.2.

As with ATAA, in order to establish the RTAA payment, wages at separation are defined as the annualized hourly rate at the time of the most recent separation. Wages at reemployment are defined as the annualized hourly rate at the time of reemployment. Annualized wages at separation are defined as the annualized hourly rate at the time of the most recent qualifying separation. In the case of a worker who had a partial separation, as defined in 20 CFR 617.3(cc), that resulted in a reduction of the worker's wage and/or hours, the calculation should be based on the wages and/or hours immediately before the partial separation went into effect. The annualized wages are computed by multiplying the worker's hourly rate received during the last full week of his/her employment by the number of hours the individual worked during the last full week of employment and multiplying that number by 52. Overtime wages and hours are excluded from the calculation. Annualized wages at reemployment are defined similarly to annualized wages at separation, except that the hourly rate and hours worked must reflect those of the first full week of reemployment.

RTAA may be paid on a weekly, biweekly, or other payment frequency not to exceed monthly, as established by the CSA, ensuring that the total payment does not exceed the $12,000 maximum or a period of two-years.

For example, the calculation of a monthly allotment would be derived in one of the two following methods as appropriate:

WAGE CALCULATION METHODOLOGY FACTORS

o	Annualized Old Wages (also Annualized Separation Wages).
n	Annualized New Wages (also Annualized Reemployment Wages).
h	Variable percentage based on reduced Hours Per Week h = (current hours per week/old hours per week).

Annualized Old Wages (o): Annualized wages are computed by multiplying the worker's hourly rate during the last full week of his/her employment by the number of hours the worker worked during the last full week of employment and multiplying that number by 52:

(hourly rate * hours worked) * 52

Annualized New Wages (n): Annualized wages at reemployment are defined similarly to annualized wages at separation, except that the hourly rate and hours worked must reflect those of the first full week of reemployment:

(hourly rate * hours worked) * 52

Variable Percentage (h): This variable equals the quotient of the worker's current hours per week divided by the worker's hours per week at the time of separation.

H.7.1 Wage Calculation Formulas

Calculation for Full-Time Employment: Annualized Separation Wages minus Annualized Reemployment Wages multiplied by .50 equals 50 percent of the difference between the two periods of wages. Fifty percent of the difference between the two periods of wages divided by 12 equals the monthly RTAA wage subsidy.

$$\text{Monthly Benefit} = \frac{(o - n) * .50}{12}$$

Calculation for Part-time Employment: Annualized Separation Wages minus Annualized Reemployment Wages multiplied by h (the variable percentage based on reduced hours for part-time Annualized Reemployment Wages). Fifty percent of the difference between the two periods of wages divided by 12 equals the monthly RTAA wage subsidy.

$$\text{Monthly Benefit} = \frac{((o-n)*h*.50)}{12}$$

To determine the weekly annualized benefit amount change 12 to 52, or to determine the bi-weekly annualized benefit amount change 12 to 26.

H.7.2 Wage Calculation Examples

RTAA participant was working 40 hour per week with annualized separation wage of $50,000 per year. The participant obtained full-time employment making $20,000 per year.

$o = \$50K \qquad n = \$20K$

Option 1—Full-Time Employment

$$\text{Monthly Benefit} = \frac{(\$50K - \$20K)*.50}{12} = \$1250 \text{ Per Month}$$

Option 2—Part-Time Employment

RTAA participant was working 40 hour per week with annualized separation wage of $50,000 per year. The participant obtained part-time employment of 20 hours per week making $20,000 per year.

$o = \$50K \qquad n = \$20K \qquad h = (20/40)$

$$\text{Monthly Benefit} = \frac{(\$50K - \$20K)*(20/40)*.50}{12} = \$625 \text{ Per Month}$$

If, as a result of the monthly verification exercise, the participant's hourly wage and/or hours are determined to have changed in such a way as to affect the RTAA wage supplement, the CSA will repeat the above calculation and adjust the RTAA payment accordingly.

H.8. Overpayments

As with ATAA, the determination of ''annualized wages'' is made prospectively. An individual meets the ''earns not more than $55,000 a year in wages from reemployment'' requirement in Section 246 for a given month if the monthly determination of annualized wages is accurate and complete at the time it is made. Absent fraud, no overpayment determinations will be made for that month based on projections for the yearly annual wage that later changed based on information that was not available at the time that the monthly determination was made. Monthly payments derived from the annualized wage projection based on complete and accurate information at the time are valid payments that the individual was entitled to, and are not overpayments.

H.9. Other Program Benefits

Statutory Changes:

Section 1841 of the 2009 Amendments amends Section 246(a)(2)(B)–(C) of the 2002 Act to read:

(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for the eligibility period under subparagraph (A) or (B) of paragraph (4) (as the case may be), a credit for health insurance costs under section 35 of the Internal Revenue Code of 1986.

(C) TRAINING AND OTHER SERVICES.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive training approved under section 236 and employment and case management services under section 235.

Section 1841 of the 2009 Amendments also amends Section 246(a)(7) of the 2002 Act to read:

(7) LIMITATION ON OTHER BENEFITS.—A worker described in paragraph (3)(B) may not receive a trade readjustment allowance under part I of subchapter B pursuant to the certification described in paragraph (3)(A) during any week for which the worker receives a payment described in paragraph (2)(A).

Administration: An individual receiving RTAA may also receive TAA training, employment and case management services, HCTC, and job search and relocation allowances under certain conditions.

As with ATAA, once a worker elects RTAA, the worker cannot return to TRA. Under the 2009 Act, a means is provided for a worker to move from TRA to RTAA, by authorizing a method of computing an available balance when that move occurs, but does not provide a means for a worker to move from RTAA back to TRA.

With respect to HCTC, the CSA must report RTAA recipients (workers who are receiving RTAA) to the Internal Revenue Service (IRS) in the manner described in UIPL No. 24–03, dated April 14, 2003 and UIPL No. 21–09, dated April 3, 2009.

H.10. Documentation of Benefit History

The Department requires that each CSA maintain a manual or automated benefit history for each RTAA recipient for a period of no less than three years for audit purposes. The three years begins from the most recent determination of eligibility, benefits paid or appeal decisions—whichever is later. The information required in that benefit history is the same as that required for ATAA.

I. State Operations

I.1. Alien Verification

Statutory Change: Section 1853 of the 2009 Amendments amends Section 239 of the 2002 Act by adding subsection (k), which reads:

(k) VERIFICATION OF ELIGIBILITY FOR PROGRAM BENEFITS.—

(1) IN GENERAL.—An agreement under this subchapter shall provide that the State shall periodically redetermine that a worker receiving benefits under this subchapter who is not a citizen or national of the United States remains in a satisfactory immigration status. Once satisfactory immigration status has been initially verified through the immigration status verification system described in section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)) for purposes of establishing a worker's eligibility for unemployment compensation, the State shall reverify the worker's immigration status if the documentation provided during initial verification will expire during the period in which that worker is potentially eligible to receive benefits under this subchapter. The State shall conduct such redetermination in a timely manner, utilizing the immigration status verification system described in

section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)).

(2) PROCEDURES.—The Secretary shall establish procedures to ensure the uniform application by the States of the requirements of this subsection.

Administration: All states are required, under section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)), to initially verify the immigration status of self-reporting aliens who apply for UI through the Systematic Alien Verification for Entitlement (SAVE) program maintained by the U.S. Customs and Immigration Service (USCIS, formerly Immigration and Naturalization Service). Under section 1137(d)(2), an alien is required to provide an alien registration document with an alien registration number, or provide ''such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status.'' If there is a match that verifies the individual's documentation, SAVE returns information that the alien is in satisfactory immigration status, and provides an expiration date, if there is one, for that status.

To meet this requirement, the State must have a system for alerting the staff responsible for processing applications to the expiration of satisfactory immigration status during the time the individual is potentially eligible for benefits. This may be done by modifying case management systems for TAA recipients to track the immigration status of a worker receiving TAA who is not a citizen or national of the United States. It is important to note that this requirement applies to all benefits under the TAA program, and not just TRA benefits.

Section 239(k) of the 2009 Act requires that States re-verify an individual's immigration status if the documentation provided by the individual during initial verification will expire during the period in which that worker is potentially eligible to receive Trade benefits. The re-verification of satisfactory immigration status must be conducted in a timely manner, and in the same manner used for initial verification.

To the extent States have in place, and use, a system for alerting the staff responsible for processing applications to the expiration of satisfactory immigration status during the time the individual is potentially eligible for benefits, no further action is required unless the alien's satisfactory immigration status expires. Additionally, one of the six conditions for approval of training is that there be ''a reasonable expectation of employment following completion of * * * training.'' Where a worker is not in a satisfactory immigration status, there is no such reasonable expectation. Therefore, a training program is not approvable if the individual is not eligible at the time of application for work at least one day following completion of training.

I.2. Control Measures

Statutory Change: Section 1852 of the 2009 Amendments amends Section 239 of the 2002 Act to add subsection (i), which reads:

(i) CONTROL MEASURES.—

(1) IN GENERAL.—The Secretary shall require each cooperating State and cooperating State agency to implement effective control measures and to effectively oversee the operation and administration of the trade adjustment assistance program under this chapter, including by means of monitoring the operation of control measures to improve the accuracy and timeliness of the data being collected and reported.

(2) DEFINITION.—For purposes of paragraph (1), the term 'control measures' means measures that—

(A) Are internal to a system used by a State to collect data; and

(B) Are designed to ensure the accuracy and verifiability of such data.

Administration: This new section requires CSAs to implement control measures to effectively oversee the operation and administration of the TAA program and to improve the timeliness of reported data, as well as verifying the accuracy of such data. In addition, CSAs must monitor on a regular basis the administration of the TAA program and its various components, including TRA, training services, RTAA, job search and relocation, and employment and case management services.

To comply with this new provision, the CSA must adopt a formal monitoring program that reviews a sample of worker files to ensure effective and efficient operation and administration of the program. The monitoring program must be designed to identify best practices, process deficiencies, and training needs. Case files reviewed must include files for workers certified under both the 2002 amendments and the 2009 amendments. A minimum quarterly random sample of 20 cases should be audited and must include at least two certifications. The four quarterly samples within a calendar year should also cover at least four different areas of the State administering the program. If circumstances preclude a CSA from meeting these criteria, the CSA should contact the ETA Regional Office to design a monitoring program that better suits the TAA program in that State, and is sufficient to ensure the accuracy and verifiability of such data.

I.3. Data Reporting

Statutory Change: Section 1852 of the 2009 Amendments amends Section 239 of the Act to add subsection (j), which reads:

(j) DATA REPORTING.—

(1) IN GENERAL.—Any agreement entered into under this section shall require the cooperating State or cooperating State agency to report to the Secretary on a quarterly basis comprehensive performance accountability data, to consist of—

(A) The core indicators of performance described in paragraph (2)(A);

(B) The additional indicators of performance described in paragraph (2)(B), if any; and

(C) A description of efforts made to improve outcomes for workers under the trade adjustment assistance program.

(2) CORE INDICATORS DESCRIBED.—

(A) IN GENERAL.—The core indicators of performance described in this paragraph are—

(i) The percentage of workers receiving benefits under this chapter who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;

(ii) The percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits; and

(iii) The earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits.

(B) ADDITIONAL INDICATORS.—The Secretary and a cooperating State or cooperating State agency may agree upon additional indicators of performance for the trade adjustment assistance program under this chapter, as appropriate.

(3) STANDARDS WITH RESPECT TO RELIABILITY OF DATA.—In preparing the quarterly report required by paragraph (1), each cooperating State or cooperating State agency shall establish procedures that are consistent with guidelines to be issued by the Secretary to ensure that the data reported are valid and reliable.

Administration: This new section establishes statutory core indicators and outcome reporting requirements for TAA participants, including an Entered Employment measure, two Retained Employment measures and an Average Earnings measure. Outcome data is required on a quarterly basis as part of the overall effort to improve the TAA program, its performance and worker outcomes. The Secretary and States may agree upon additional measures, although no new measures are planned at this time. States also must submit a description of efforts made to improve outcomes for workers.

Some of the outcome data required by Section 239(j) of the 2009 Act is

collected on current reports while other data may be new or may be collected in different formats than those currently in place. Although the new reporting requirements under Section 239(j) are similar to the Common Measures currently reported on the Trade Act Participant Report (TAPR) (OMB 1205–0392). Section 239(j) requires CSAs to report additional information beyond that reported on the TAPR.

Therefore, on or before August 17, 2009, the Department expects to transmit new reporting forms to the States and issue detailed guidance on the new reporting requirements imposed on States under the 2009 Act. CSAs are required to continue to submit the TAPR (OMB Control No. 1205–0932) in accordance with TEGL No. 11–00, the ETA–563 Quarterly Participant Report (OMB Control No. 1205–0459) in accordance with TEGL 23–06, and the Alternative Trade Adjustment Assistance Activities Report (ATAAAR) (OMB Control No. 1205–0459) in accordance with TEGL No. 01–06, until the Department has issued superseding forms and guidance.

I.4. Program Reporting Requirements

Statutory Change: Section 1854 of the 2009 Amendments amends the Act by adding Section 249B:

SEC. 249B. COLLECTION AND PUBLICATION OF DATA AND REPORTS; INFORMATION TO WORKERS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary shall implement a system to collect and report the data described in subsection (b), as well as any other information that the Secretary considers appropriate to effectively carry out this chapter.

(b) DATA TO BE INCLUDED.—The system required under subsection (a) shall include collection of and reporting on the following data for each fiscal year:

(1) DATA ON PETITIONS FILED, CERTIFIED, AND DENIED.—

(A) The number of petitions filed, certified, and denied under this chapter.

(B) The number of workers covered by petitions filed, certified, and denied.

(C) The number of petitions, classified by—

(i) The basis for certification, including increased imports, shifts in production, and other bases of eligibility; and

(ii) Congressional district of the United States.

(D) The average time for processing such petitions.

(2) DATA ON BENEFITS RECEIVED.—

(A) The number of workers receiving benefits under this chapter.

(B) The number of workers receiving each type of benefit, including training, trade readjustment allowances, employment and case management services, and relocation and job search allowances, and, to the extent feasible, credits for health insurance costs under section 35 of the Internal Revenue Code of 1986.

(C) The average time during which such workers receive each such type of benefit.

(3) DATA ON TRAINING.—

(A) The number of workers enrolled in training approved under section 236, classified by major types of training, including classroom training, training through distance learning, on-the-job training, and customized training.

(B) The number of workers enrolled in full-time training and part-time training.

(C) The average duration of training.

(D) The number of training waivers granted under section 231(c), classified by type of waiver.

(E) The number of workers who complete training and the duration of such training.

(F) The number of workers who do not complete training.

(4) DATA ON OUTCOMES.—

(A) A summary of the quarterly reports required under section 239(j).

(B) The sectors in which workers are employed after receiving benefits under this chapter.

(5) DATA ON RAPID RESPONSE ACTIVITIES.—Whether rapid response activities were provided with respect to each petition filed under section 221.

(c) CLASSIFICATION OF DATA.—To the extent possible, in collecting and reporting the data described in subsection.

(b), The Secretary shall classify the data by industry, State, and national totals.

(d) REPORT.—Not later than December 15 of each year, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes—

(1) A summary of the information collected under this section for the preceding fiscal year;

(2) Information on the distribution of funds to each State pursuant to section 236(a)(2); and

(3) Any recommendations of the Secretary with respect to changes in eligibility requirements, benefits, or training funding under this chapter based on the data collected under this section.

(e) AVAILABILITY OF DATA.—

(1) IN GENERAL.—The Secretary shall make available to the public, by publishing on the website of the Department of Labor and by other means, as appropriate—

(A) The report required under subsection (d);

(B) The data collected under this section, in a searchable format; and

(C) A list of cooperating States and cooperating State agencies that failed to submit to the data required by this section to the Secretary in a timely manner.

(2) UPDATES.—The Secretary shall update the data under paragraph (1) on a quarterly basis.

Administration: The new reporting requirements for data required under Section 249B are effective 180 days after the date of the Act. Since quarterly data are required, and reporting a split quarter would not be consistent with legislative direction, new reporting requirements will be in effect for the Quarter beginning October 1, 2009 (the first quarter of fiscal year 2010).

The new data elements required under Section 249B, as well as existing data elements collected on current reports, may be required to be collected in different formats than those currently in place in order to accommodate new reporting requirements. Therefore, on or before August 17, 2009, the Department expects to transmit new reporting forms to the States and issue detailed guidance on the new reporting requirements imposed on States under the 2009 Act. States are required to continue to submit the TAPR (OMB Control No. 1205–0932) in accordance with TEGL No. 11–00, the ETA–563 Quarterly Participant Report (OMB Control No. 1205–0459) in accordance with TEGL No. 23–06, and the ATAAAR (OMB Control No. 1205–0459) in accordance with TEGL No. 01–06, until the Department issues superseding forms and guidance.

J. Health Coverage Tax Credit

Statutory Change: Sections 1899A and 1899B of the 2009 Amendments, relating to the HCTC, amended Sections 35(a) and 7527(b) of the Internal Revenue Code of 1986 by adding a new section, Section 7527(e), to provide for 80 percent reimbursement of health insurance costs during the period from March 2009 through December 2010, to provide for certain retroactive payments, and also to reduce the amount of any such payment by the amount of any National Emergency Grant (NEG) payments to the taxpayer. Section 1899C of the 2009 Amendments amended the definition of an ''eligible TAA recipient'' to provide the HCTC during breaks in approved training and where, under defined circumstances, a worker is not in approved training. Section 1899K of the 2009 Act extends the use of NEGs under Section 173(f) of the WIA to cover HCTC advance payments, outreach, and infrastructure changes.

Administration: The Internal Revenue Service administers the HCTC, which helps ''eligible TAA recipients'' and ''eligible alternative TAA recipients'' and other eligible individuals and their families pay their health insurance premiums. ''Eligible alternative TAA recipients'' includes ATAA recipients and RTAA recipients.

The new definition of an ''eligible TAA recipient'' as amended continues to be defined as an individual who receives Trade Readjustment Allowances (TRA) for any day of a month (and the next subsequent month) or who will receive TRA but for the fact that s/he has not exhausted

unemployment compensation (UC) entitlement, and is potentially eligible for HCTC for that month. Under the 2009 Act, an eligible TAA recipient also includes:

An individual who is in a break in approved training that exceeds 30 days, and the break falls within the period for receiving TRA provided under the Section 233 of the Trade Act; or,

Who is receiving UC for any day of such month and would be eligible to receive TRA (except that s/he has not exhausted UC) for such month, without regard to the enrollment in training requirements.

These amendments have the effect of expanding HCTC eligibility, under some conditions, to an individual who is in an extended break in training, or who is still receiving UI benefits under regular or extended programs even though they are not yet enrolled in training. Accordingly, CSAs will need to ensure that they review each case individually before determining HCTC eligibility for trade affected workers.

CSAs should also be aware that these amendments provide, through December, 2010, for the continuation of HCTC to certain family members of eligible recipients after eligibility would have ended due to receipt of Medicare, death, or divorce of the principle recipient. The CSA has no role in the administration of this extension, which is the responsibility of the IRS, however the CSA needs to be aware of this provision. This expanded eligibility is available for up to 24 additional months and permits eligible family members to continue to claim the HCTC credit after eligibility would otherwise have expired.

UIPL No. 21–09 provides guidance on applying the expanded definition of ''eligible TAA recipient.'' Additional information on the HCTC program is available on the IRS Web site at: *http://www.irs.gov*.

Signed: at Washington, DC, this 25th day of September 2009.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. E9–23660 Filed 9–30–09; 8:45 am]

BILLING CODE 4510–FN–P

Federal Register

Thursday,
October 1, 2009

Part III

Department of Homeland Security

6 CFR Part 5

Privacy Act of 1974: Implementation of Exemptions; Final Rules

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0068]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a Department of Homeland Security system of records entitled the ''Department of Homeland Security/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security System of Records'' from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the Department of Homeland Security/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective October 1, 2009.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues, please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register,** 74 FR 2903, January 16, 2009, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system. The DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system of records notice was published concurrently in the **Federal Register**, 74 FR 3088, January 16, 2009, and comments were invited on both the notice of proposed rulemaking and system of records notice. Public comments were received on the notice of proposed rulemaking and the system of records notice.

Public Comments

DHS received two public comments on the notice of proposed rulemaking and one public comment on the system of records notice.

The two public comments received on the notice of proposed rulemaking were in support of the use of exemptions for this system of records noting that exemptions are needed at times to refrain from informing those who may be criminally or civilly prosecuted that may tamper with the investigation. Permitting access to certain documents would disclose information that would put homeland security at risk. Further, public comments stated that classified information must be safeguarded in order for DHS to operate efficiently. DHS concurs with these two public comments on the notice of proposed rulemaking and further establishes the rationale to make this proposed rule final.

The one public comment received on the system of records notice focused on concern over the Department collecting ''bias-related'' information unless the public has an opportunity to see what criteria are utilized to establish the bias, the bias-ratings, and the groups which the Federal government seeks to monitor. The Department is unsure of what the author means by ''bias-related'' information. Information collected will only be within the parameter of this authority, by those delegated the authority from the Secretary of Homeland Security, without a premeditated bias-related focus. The purpose of this system is to maintain and record the results of law enforcement activities in support of the protection of property owned or occupied by DHS. The Secretary of Homeland Security was given this authority through the Homeland Security Act of 2002. The Department will appropriately safeguard all information collected pursuant to this system of records notice. DHS will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: 6 U.S.C. 101 et seq.; Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In Appendix C to Part 5, add a new paragraph 38 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

38. The DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system of records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory

violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: September 23, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–23525 Filed 9–30–09; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0066]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL—017 General Legal Records System of Records

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a Department of Homeland Security system of records entitled the ''Department of Homeland Security/ALL—017 General Legal Records System of Records'' from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the Department of Homeland Security/ALL—017 General Legal Records system from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective October 1, 2009.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues, please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register**, 73 FR 63084, October 23, 2008, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/ALL—017 General Legal Records system. The DHS/ALL—017 General Legal Records system of records notice was published concurrently in the **Federal Register**, 73 FR 63175, October 23, 2008, and comments were invited on both the notice of proposed rulemaking and system of records notice. Comments were received on the notice of proposed rulemaking and no comments were received on the system of records notice.

Public Comments

DHS received one comment on the notice of proposed rulemaking. The comment received focused on the expansiveness of the exemptions, specifically subsection (e)(2) ''Collection of Information from Individuals.'' The public comment recommended that DHS rely on the Freedom of Information Act (FOIA) when screening information for release and not Privacy Act exemptions because the FOIA would potentially allow for higher probability of information release. Although the comment was intended to be helpful, current FOIA processing practices eliminate the requester's concern. If a first party requester makes a request for records under the Privacy Act and those records are exempt from disclosure, DHS will automatically process that request under the FOIA. Should the record be releasable under FOIA, despite not being releasable under the Privacy Act, the record will be released to the first party requester. This is consistent with Department of Justice guidance and directives, including the Overview of the Privacy Act of 1974, 2004 Edition (*http://www.usdoj.gov/oip/1974indrigacc.htm*). The same commenter observed that the notice in question states that ''applicable exemptions may be waived on a case by case basis.'' This is standard language for all proposed and final exemptions at DHS to ensure that where it is possible to release records, DHS will do so. In application to this system of records, though, the commenter acknowledges the legitimate need to exempt some records due to national security, investigations, and other reasons, but that other records would not be of such concern such as records relating to ''foreclosures, titles to property, copies of petitions filed with DHS, and some records of discrimination.'' The commenter is concerned that DHS could refuse record requests for the latter types of records by simply including them in this exempted system of records notice.

The process in place to review records, to ensure they meet specifically requested records, today addresses the comments.

DHS carefully reviewed the public comment received on the notice of proposed rulemaking and the recommendations within the public comment. DHS has determined that since this system is to assist DHS attorneys in providing legal advice to DHS senior leadership and management on a wide variety of legal issues, to collect the information of any individual who is, or will be, in litigation with the Department, as well as the attorneys representing the plaintiff(s) and defendant(s), it is important that the exemptions remain in place. DHS will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 et seq.; 5 U.S.C. 301.

Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In Appendix C to Part 5, add a new paragraph 39 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

39. The DHS/ALL—017 General Legal Records system of records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL—017 General Legal Records system of records is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; national security and intelligence activities; and protection of the President of the United States or other individuals pursuant to Section 3056 and 3056A of Title 18. The DHS/ALL—017 General Legal Records system of records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5) and (e)(8); (f), and (g), pursuant to exemption 5 U.S.C. 552a(j)(2). Additionally, the Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (I), and (f), pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(3) and (k)(5). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise investigations by: Revealing the existence of an otherwise confidential investigation and thereby provide an opportunity for the subject of an investigation to conceal evidence, alter patterns of behavior, or take other actions that could thwart investigative efforts; reveal the identity of witnesses in investigations, thereby providing an opportunity for the subjects of the investigations or others to harass, intimidate, or otherwise interfere with the collection of evidence or other information from such witnesses; or reveal the identity of confidential informants, which would negatively affect the informant's usefulness in any ongoing or future investigations and discourage members of the public from cooperating as confidential informants in any future investigations.

(f) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act relating to individuals' rights to access and amend their records contained in the system. Therefore DHS is not required to establish rules or procedures pursuant to which individuals may seek a civil remedy for the agency's: Refusal to amend a record; refusal to comply with a request for access to records; failure to maintain accurate, relevant, timely and complete records; or failure to otherwise comply with an individual's right to access or amend records.

Dated: September 23, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–23514 Filed 9–30–09; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2009–0069]

Privacy Act of 1974: Implementation of Exemptions; Department of Homeland Security/ALL—023 Personnel Security Management System of Records

AGENCY: Privacy Office, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a Department of Homeland Security system of records entitled the ''Department of Homeland Security/ALL—023 Personnel Security Management System of Records'' from certain provisions of the Privacy Act. Specifically, the Department exempts portions of the Department of Homeland Security/ALL—023 Personnel Security Management system from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective October 1, 2009.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues, please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

Background

The Department of Homeland Security (DHS) published a notice of proposed rulemaking in the **Federal Register**, 74 FR 2904, January 16, 2009, proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records is the DHS/ALL—023 Personnel Security Management system. The DHS/ALL—023 Personnel Security Management system of records notice was published concurrently in the **Federal Register**, 74 FR 3084, January 16, 2009, and comments were invited on both the notice of proposed rulemaking and system of records notice. No comments were received on the notice of proposed rulemaking or system of records notice published on January 16, 2009.

Prior to the January 16, 2009 publishing, DHS published a notice of proposed rulemaking and system of records notice for the DHS–OS–001 Office of Security File System on September 12, 2006. The notice of proposed rulemaking published in the **Federal Register**, 71 FR 53609, September 12, 2006, proposed to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. The system of records notice published concurrently in the **Federal Register**, 71 FR 53700, September 12, 2006, and comments were invited on both the notice of proposed rulemaking and system of records notice. The notice of proposed rulemaking received four public comments and system of records notice received one public comment but were never addressed after the publication period expired.

Because the DHS–OS–001 Office of Security File System notice of proposed rulemaking and system of records notice, published on September 12, 2006, have been superseded by the DHS/ALL—023 Personnel Security Management notice of proposed rulemaking and system of records notice published on January 16, 2009, the Department will respond to previous public comments in this final rule as if they were submitted under the new docket number.

Public Comments

DHS received no public comments on the DHS/ALL—023 Personnel Security Management system notice of proposed rulemaking and system of records notice published on January 16, 2009. As described above, DHS received four public comments on DHS–OS–001 Office of Security File System notice of proposed rulemaking and one public comment on the system of records notice published on September 12, 2006.

Notice of Proposed Rulemaking 71 FR 53609, September 12, 2006

Public comments noted that the functions of law enforcement and personnel security should be two separate systems of records, not commingled systems. In January 2009, the Department published two new system of records notices: (1) DHS/ALL—023 Personnel Security Management system, 74 FR 3084, January 16, 2009; and (2) DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system, 74 FR 3088, January 16, 2009. Publishing these two systems of records notices provides transparency to the public of the Department's security authorities and exemptions for personnel security and law enforcement activities and addresses the concerns expressed in the public comments.

Final exemptions for the DHS/ALL—023 Personnel Security Management system of records are published below under PART 5—DISCLOSURE OF RECORDS AND INFORMATION. The Department's authorities for use of these exemptions are provided therein. The Department, through the Freedom of Information Act and Privacy Act, wishes to remain transparent in providing as much information as possible to the public when formally requesting information.

Having addressed the issues published in response to this notice of proposed rulemaking and after receiving no public comment on the DHS notice of proposed rulemaking published in the **Federal Register**, 74 FR 2904, January 16, 2009, DHS will implement the rulemaking as proposed.

System of Records Notice 71 FR 53700, September 12, 2006

Public comments noted that the functions of law enforcement and personnel security should be two separate systems of records, not commingled systems. In January 2008, the Department published two new system of records notices: (1) DHS/ALL—023 Personnel Security Management system, 74 FR 3084, January 16, 2009; and (2) DHS/ALL—025 Law Enforcement Authority in Support of the Protection of Property Owned or Occupied by the Department of Homeland Security system, 74 FR 3088, January 16, 2008. Each of the above cited systems of records contains a law enforcement and/or a counterintelligence component. Both personnel and physical security systems of records necessarily require law enforcement or counterintelligence information in order to protect the Department from infiltration or compromise. As complementary information collections, both systems ensure the security and integrity of DHS personnel and facilities. Considering those purposes, it is appropriate for the systems of records to take exemptions available under (k)(1), (k)(2), (k)(3) and/or (k)(5) as all of the functions covered by these exemptions are directly relevant to the investigations of threats to the Department's personnel and facilities. Publishing these two systems of records notices provides transparency to the public of the Department's security authorities and exemptions for personnel security and law enforcement activities.

Public comments also noted concern over Routine Use H and Routine Use I of the system of records notice. Routine Use H permits release of information to Congress. It may be necessary, from time to time, for the Department to release information to a Member of Congress working on behalf of a constituent. While such a disclosure might be acceptable under consent of the constituent, Office of Management and Budget guidance recommends additional notice through the published routine use be given. As such, DHS continues to keep this routine use in the SORN.

Routine Use I releases information to contractors, which includes students. One commenter stated that it was inappropriate for DHS to share information with any contractor or student working officially on behalf of the Department. Contractors, including students, are subject to the same screening as full time employees. The Department relies on contractors and students in the course of its day to day activities and it may become necessary for information to be released to them for official government use just as it would be for a DHS employee. The decision to allow students access to DHS facilities and a certain information

level rests solely with the DHS Office of Security and component security offices. Employees, contractors, students, detailees, grantees, experts and any other person working at a DHS facility and accessing DHS information are required to undergo the same background investigation as it pertains to their required classification level. Those decisions are left to the discretion of the Office of Security and the component or office to which the employee, contractor, student, detailee, grantee, expert, or other person is assigned. As such, DHS shall maintain this routine use.

Having addressed the issues published in response to this system of records notice and after receiving no public comment on the DHS system of records notice published in the **Federal Register**, 74 FR 3084, January 16, 2009, DHS will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information; Privacy.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for Part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In Appendix C to Part 5, add a new paragraph 40 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

40. The DHS/ALL—023 Personnel Security Management system of records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL—023 Personnel Security Management system is a repository of information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws; investigations, inquiries, and proceedings thereunder; national security and intelligence activities; and protection of the President of the United States or other individuals pursuant to Section 3056 and 3056A of Title 18. The DHS/ALL—023 Personnel Security Management system contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies. The Secretary of Homeland Security has exempted this system from the following provisions of the Privacy Act, subject to the limitations set forth in 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f) pursuant to 5 U.S.C. 552a(k)(1), (k)(2), (k)(3), and (k)(5). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation, and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsections (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

Dated: September 23, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–23524 Filed 9–30–09; 8:45 am]

BILLING CODE 9110–9B–P

Federal Register

Thursday,
October 1, 2009

Part IV

The President

Executive Order 13511—Continuance of Certain Federal Advisory Committees

Federal Register
Vol. 74, No. 189
Thursday, October 1, 2009

Presidential Documents

Title 3—

The President

Executive Order 13511 of September 29, 2009

Continuance of Certain Federal Advisory Committees

By the authority vested in me as President by the Constitution and the laws of the United States of America, and consistent with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 2011.

(a) Committee for the Preservation of the White House; Executive Order 11145, as amended (Department of the Interior).

(b) National Infrastructure Advisory Council; Executive Order 13231, as amended (Department of Homeland Security).

(c) Federal Advisory Council on Occupational Safety and Health; Executive Order 12196, as amended (Department of Labor).

(d) President's Board of Advisors on Historically Black Colleges and Universities; Executive Order 13256 (Department of Education).

(e) President's Board of Advisors on Tribal Colleges and Universities; Executive Order 13270 (Department of Education).

(f) President's Commission on White House Fellowships; Executive Order 11183, as amended (Office of Personnel Management).

(g) President's Committee for People with Intellectual Disabilities; Executive Order 12994, as amended (Department of Health and Human Services).

(h) President's Committee on the Arts and the Humanities; Executive Order 12367, as amended (National Endowment for the Arts).

(i) President's Committee on the International Labor Organization; Executive Order 12216, as amended (Department of Labor).

(j) President's Committee on the National Medal of Science; Executive Order 11287, as amended (National Science Foundation).

(k) President's Council on Physical Fitness and Sports; Executive Order 13265 (Department of Health and Human Services).

(l) President's Council of Advisors on Science and Technology; Executive Order 13226, as amended (Office of Science and Technology Policy).

(m) President's Export Council; Executive Order 12131, as amended (Department of Commerce).

(n) President's National Security Telecommunications Advisory Committee; Executive Order 12382, as amended (Department of Homeland Security).

(o) Trade and Environment Policy Advisory Committee; Executive Order 12905 (Office of the United States Trade Representative).

Sec. 2. Notwithstanding the provisions of any other Executive Order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in section 1 of this order shall be performed by the head of the department or agency designated after each committee, in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 3. Sections 1 and 2 of Executive Order 13446 are superseded by sections 1 and 2 of this order.

Sec. 4. This order shall be effective September 30, 2009.

THE WHITE HOUSE,
September 29, 2009.

[FR Doc. E9–23886
Filed 9–30–09; 11:15 am]
Billing code 3195–W9–P

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FEDERAL REGISTER PAGES AND DATE, OCTOBER

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CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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H.R. 3325/P.L. 111–63
WIPA and PABSS Reauthorization Act of 2009 (Sept. 18, 2009; 123 Stat. 2001)

S.J. Res. 9/P.L. 111–64
Providing for the appointment of France A. Cordova as a citizen regent of the Board of Regents of the Smithsonian Institution. (Sept. 18, 2009; 123 Stat. 2002)

Last List August 24, 2009

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 2009

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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