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WHEN: Tuesday, October 20, 2009
9 a.m.–12:30 p.m.

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

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Proclamation 8436 of October 9, 2009

National School Lunch Week, 2009

By the President of the United States of America

A Proclamation

Every young American deserves access to a wholesome, nutritious lunch. These meals prevent hunger and give our children the energy and nourishment they need to grow into healthy, productive adults. Since 1946, the National School Lunch Program has helped to protect the health and well-being of our children by providing them with balanced, low-cost or free lunches throughout the school year. This week, we renew our commitment to serving healthy meals that will prepare our next generation of leaders to learn and thrive.

The National School Lunch Program serves more than 31 million students every school day at over 100,000 schools across our Nation. These meals can be an important source of fruits, vegetables, and low-fat dairy products, containing essential nutrients to meet the demands of a growing child. For many schoolchildren, it will be their most nutritious meal—sometimes their only meal—of the day. This program can also teach children about the importance of good eating habits, which is vital to our Nation's fight against childhood obesity. In the coming months, my Administration will continue our partnership with Federal, State, and local leaders to strengthen the National School Lunch Program. We must work together to remove barriers that prevent some eligible children from receiving meals, and update nutrition standards to reflect the latest Dietary Guidelines for Americans.

Academic success requires hard work and concentration. Students distracted by hunger cannot match the focus of their peers. Poorly nourished students are also more likely to become ill, and miss class more frequently. During National School Lunch Week, we honor all those who make the National School Lunch Program possible, including government and school officials, food service professionals, farmers, and parents. By ensuring that every child, regardless of background or family income, is properly fed at school, we secure a brighter future for each of them and for America.

The Congress, by joint resolution of October 9, 1962 (Public Law 87–780), as amended, has designated the week beginning on the second Sunday in October each year as ''National School Lunch Week,'' and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim the week of October 11 through October 17, 2009, as National School Lunch Week. I call upon all Americans to join the dedicated individuals who administer the National School Lunch Program in appropriate activities that support the health and well-being of our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, 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. E9–25080
Filed 10–15–09; 8:45 am]
Billing code 3195–W9–P

Presidential Documents

Proclamation 8437 of October 9, 2009

Columbus Day, 2009

By the President of the United States of America

A Proclamation

More than 500 years have passed since Christopher Columbus set sail across the Atlantic Ocean in a bold attempt to expand human understanding of the known world. His voyage radically altered the course of history and changed our world forever. Many generations later, that same spirit of exploration inspires Americans to pursue brave new frontiers in business, science, and technology. Today, we reflect on the transformation of North America from a land of boundless opportunity to the modern communities of the 21st century.

Born in Genoa, Italy, Christopher Columbus' journey aboard three Spanish ships revealed a new land for many European nations whose people would later flock to our shores in search of prosperity and freedom. These immigrants joined many thriving indigenous communities who suffered great hardships as a result of the changes to the land they inhabited. Although their competing ways of life were initially at odds, over time, the ''New World'' became a culturally and ethnically diverse place where we now enjoy the free exchange of ideas and democratic self-governance. Tribal communities continue to strengthen our Nation through their rich heritage and unique identity.

Columbus inspired generations of men and women to search out the farthest reaches of the world. From the coasts of Newfoundland to the Gulf of Mexico, explorers of Italian descent have directly influenced the growth of North America. Their dedication to our country has helped lay the foundation on which America was built. Today, Italian Americans continue to contribute immeasurably to the identity of our Nation, as role models, leaders, innovators, and committed public servants. From the boardroom to the classroom, they are prominent in every facet of American life.

In commemoration of Christopher Columbus' historic exploration 517 years ago, the Congress, by joint resolution of April 30, 1934 (48 Stat. 657), and an Act of June 28, 1968 (82 Stat. 250), has requested that the President proclaim the second Monday of October of each year as ''Columbus Day.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim October 12, 2009, as Columbus Day. I call upon all the people of the United States to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in honor of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, 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. E9–25082
Filed 10–15–09; 8:45 am]
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Presidential Documents

Proclamation 8438 of October 9, 2009

General Pulaski Memorial Day, 2009

By the President of the United States of America

A Proclamation

Each year on this day, Americans pause to remember a patriot and champion of liberty who fought valiantly for the freedom of our Nation. During our struggle for independence, General Casimir Pulaski displayed heroic leadership and ultimately sacrificed his life in service to our country. His commitment to liberty remains an inspiration to us today, 230 years later, and it serves as a reflection of the many contributions Polish Americans have made to our national identity.

Born in Poland in 1745, Brigadier General Casimir Pulaski witnessed the occupation of Poland by foreign troops during his youth. He joined the struggle for Polish independence in 1768, fighting alongside his father with unwavering determination. Despite the tremendous courage of Pulaski and his compatriots, the foreign forces prevailed and Poland was divided among three of its neighbors. The young Casimir Pulaski was exiled, and, while in Paris, met America's envoy to France, Benjamin Franklin, and learned of our nascent quest for independence.

Arriving in America during the summer of 1777, General Pulaski quickly earned a commission and led his troops with admirable skill in a number of important campaigns. He would eventually become known as the ''Father of the American Cavalry.'' In 1779, Pulaski was mortally wounded during the siege of Savannah while trying to rally his troops under heavy enemy fire. Before laying down his life for the United States, this Polish and American hero had earned a reputation for his idealism and his courageous spirit.

Pulaski's ideals live on today in the many Polish-American communities across the country. These neighborhoods continue to celebrate Polish culture, while adding immeasurably to our national identity. Their contributions have expanded our collective knowledge, pushing the boundaries of science, business, and the arts. With each passing year, the cooperation between the United States and Poland grows, supported by the dedication and commitment of Polish Americans to our shared history. Today, as we remember General Pulaski, we celebrate our strong friendship with Poland, and honor those Americans of Polish heritage.

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 Sunday, October 11, 2009, as General Pulaski Memorial Day. I encourage all Americans to commemorate this occasion with appropriate programs and activities paying tribute to Casimir Pulaski and honoring all those who defend the freedom of our great Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of October, 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. E9–25083
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Rules and Regulations

Federal Register

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Friday, October 16, 2009

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0616; Directorate Identifier 2009–NM–070–AD; Amendment 39–16043; AD 2009–21–06]

RIN 2120–AA64

Airworthiness Directives; 328 Support Services GmbH Dornier Model 328–100 and –300 Airplanes

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

ACTION: Final rule.

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

A recent incident has been reported with a Dornier 328–100 aeroplane, where the right-hand (RH) power lever jammed in flight-idle position during the landing roll-out. The aeroplane was stopped by excessive braking.

The investigation by the operator revealed that the cockpit door locking device * * * had fallen off the RH cockpit wall and blocked the RH power/condition lever pulley/cable cluster below the door. * * *

This condition, if not corrected, could cause interference with the engine- and/or flight control cables, possibly resulting in reduced control of the aeroplane.

* * * * *

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

DATES: This AD becomes effective November 20, 2009.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 20, 2009.

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

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 16, 2009 (74 FR 34511). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A recent incident has been reported with a Dornier 328–100 aeroplane, where the right-hand (RH) power lever jammed in flight-idle position during the landing roll-out. The aeroplane was stopped by excessive braking.

The investigation by the operator revealed that the cockpit door locking device Part Number 001A252A3914012 had fallen off the RH cockpit wall and blocked the RH power/condition lever pulley/cable cluster below the door. Although the affected aeroplane had been modified, the technical investigation showed that a loose Cockpit Door Locking device could also occur on 328–100 and 328–300 aeroplanes with a standard installation.

This condition, if not corrected, could cause interference with the engine- and/or flight control cables, possibly resulting in reduced control of the aeroplane.

For the reasons described above, this AD requires a one-time inspection of the cockpit door locking device and the surrounding area [for proper installation] and the reporting of all findings to the TC [type certificate] holder. This AD is considered to be an interim action and the retrofit of a new design may be implemented later.

The corrective action is re-torquing the attachment screws. You may obtain further information by examining the MCAI in the AD docket.

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 69 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $5,520, or $80 per product.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–21–06 328 Support Services GmbH (Formerly, AvCraft Aerospace GmbH, formerly Fairchild Dornier GmbH, formerly Dornier Luftfahrt GmbH): Amendment 39–16043. Docket No. FAA–2009–0616; Directorate Identifier 2009–NM–070–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 20, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all 328 Support Services GmbH Dornier Model 328–100 and –300 airplanes, certificated in any category.

Subject

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

Reason

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

A recent incident has been reported with a Dornier 328–100 aeroplane, where the right-hand (RH) power lever jammed in flight-idle position during the landing roll-out. The aeroplane was stopped by excessive braking.

The investigation by the operator revealed that the cockpit door locking device Part Number 001A252A3914012 had fallen off the RH cockpit wall and blocked the RH power/condition lever pulley/cable cluster below the door. Although the affected aeroplane had been modified, the technical investigation showed that a loose Cockpit Door Locking device could also occur on 328–100 and 328–300 aeroplanes with a standard installation.

This condition, if not corrected, could cause interference with the engine- and/or flight control cables, possibly resulting in reduced control of the aeroplane.

For the reasons described above, this AD requires a one-time inspection of the cockpit door locking device and the surrounding area [for proper installation] and the reporting of all findings to the TC [type certificate] holder. This AD is considered to be an interim action and the retrofit of a new design may be implemented later.

The corrective action is re-torquing the attachment screws.

Actions and Compliance

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

(1) Within 3 months after the effective date of this AD, do a detailed visual inspection of the cockpit door locking device and the surrounding area for proper installation, in accordance with the Accomplishment Instructions of 328 Support Services Service Bulletin SB–328–25–485 or SB–328J–25–235, both dated January 28, 2009, as applicable.

(2) If any discrepancy is found during the inspection specified in paragraph (f)(1) of this AD, before further flight, do the corrective action in accordance with the Accomplishment Instructions of 328 Support Services Service Bulletin SB–328–25–485 or SB–328J–25–235, both dated January 28, 2009, as applicable.

(3) Submit a report of the findings (both positive and negative) of the inspection required by paragraph (f)(1) of this AD to the Manager, Attention Dept P1, 328 Support Services GmbH, Customer Services, P.O.B. 1252, D–82231 Wessling, Fed. Rep. of Germany; Fax +49 (0) 8153 88111–6565, at the applicable time specified in paragraph (f)(3)(i) or (f)(3)(ii) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Groves, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1503; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

(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 Airworthiness Directive 2009–0082, dated April 7, 2009; and 328 Support Services Service Bulletins SB–328–25–485 and SB–328J–25–235, both dated January 28, 2009; for related information.

Material Incorporated by Reference

(i) You must use 328 Support Services Service Bulletin SB–328–25–485, dated

January 28, 2009; or 328 Support Services Service Bulletin SB–328J–25–235, dated January 28, 2009, as applicable; to do the actions required by this AD, unless the AD specifies otherwise. (Only the odd-numbered pages of these documents contain the issue dates of the documents.)

(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 Global Support Center, P.O. Box 1252, D–82231 Wessling, Federal Republic of Germany; telephone +49 8153 88111 6666; fax +49 8153 88111 6565; e-mail *gsc.op@328support.de;* Internet *http://www.328support.de.*

(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 30, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–24448 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0348; Directorate Identifier 2008–NE–39–AD; Amendment 39–16050; AD 2009–21–11]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. ARRIUS 1A Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

Cycle life limit value for ARRIUS 1A balancing piston Part Number (P/N) 0 319 20 152 0, initially set at 40 000 cycles, has been reduced to 16 000 cycles, following the discovery of a calculation error during a recent review of the ARRIUS 1 engine family files.

We are issuing this AD to prevent failure of the balancing piston, which could result in an engine in-flight-shutdown and the release of high-energy debris and damage to the helicopter.

DATES: This AD becomes effective November 20, 2009.

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

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: james.lawrence@faa.gov;* telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 17, 2009 (74 FR 17797). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

Cycle life limit value for ARRIUS 1A balancing piston Part Number (P/N) 0 319 20 152 0, initially set at 40 000 cycles, has been reduced to 16 000 cycles, following the discovery of a calculation error during a recent review of the ARRIUS 1 engine family files.

As of the publication date of this Airworthiness Directive, no ARRIUS 1A engines in service are fitted with a balancing piston that has logged more than 16 000 cycles, and the outlook for the consumption of cycles on the ARRIUS 1A fleet indicates that no balancing pistons will exceed this new limit for a few years' time.

Moreover, this new cycle life limit value for the balancing piston has been incorporated since the end of 2007 in ARRIUS 1A Maintenance documentation.

Failure to comply with the new life limits provided in the Airworthiness Limitations Section of ARRIUS 1A Maintenance documentation could potentially result in an engine in-flight-shutdown and the release of high energy debris.

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

Comments

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

Conclusion

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

Differences Between This AD and the MCAI or Service Information

The MCAI requires modifying the cyclic life limit value of the balancing piston in the engine log book as specified in Turbomeca Mandatory Service Bulletin 319 72 0811, dated April 30, 2008, and updating the approved operator's maintenance program.

We are requiring removing from service ARRIUS 1A engines containing a balancing piston, P/N 0 319 20 152 0, before the balancing piston meets or exceeds the new, reduced cyclic life limit value of 16,000 cycles-since-new.

Costs of Compliance

Based on the service information, we estimate that this AD would affect about 33 products of U.S. registry. We also estimate that it would take about 0.5 work-hour per product to comply with this AD. The average labor rate is $80 per work-hour. Required parts would cost about $5,280 per product. Based on these figures, we estimate the cost of the AD on U.S. operators to be $175,560.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on

the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–21–11 Turbomeca S.A.: Amendment 39–16050. Docket No. FAA–2009–0348; Directorate Identifier 2008–NE–39–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 20, 2009.

Affected Airworthiness Directives (ADs)

(b) None.

Applicability

(c) This AD applies to Turbomeca S.A. ARRIUS 1A turboshaft engines with balancing pistons, part number (P/N) 0 319 20 152 0, installed. These engines are installed on, but not limited to, Eurocopter AS355N helicopters.

Reason

(d) Cycle life limit value for ARRIUS 1A balancing piston Part Number (P/N) 0 319 20 152 0, initially set at 40 000 cycles, has been reduced to 16 000 cycles, following the discovery of a calculation error during a recent review of the ARRIUS 1 engine family files.

We are issuing this AD to prevent failure of the balancing piston, which could result in an engine in-flight-shutdown and the release of high-energy debris and damage to the helicopter.

Actions and Compliance

(e) Unless already done, for ARRIUS 1A engines with a balancing piston, P/N 0 319 20 152 0, installed, remove the engine from service before the balancing piston accumulates 16,000 cycles-since-new (CSN).

Installation Prohibition

(f) After the effective date of this AD, don't return to service any engine that has a balancing piston that has accumulated 16,000 or more CSN.

FAA AD Differences

(g) This AD differs from the Mandatory Continuing Airworthiness Information (MCAI) or service information as follows:

(1) This AD requires removing from service, any ARRIUS 1A engine that has a balancing piston, P/N 0 319 20 152 0, with 16,000 CSN installed.

(2) We prohibit returning to service any ARRIUS 1A engine that has a balancing piston, P/N 0 319 20 152 0, with 16,000 or more CSN.

Other FAA AD Provisions

(h) *Alternative Methods of Compliance (AMOCs):* The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(i) Refer to MCAI Airworthiness Directive 2008–0133, dated July 17, 2008 for related information.

(j) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *e-mail: james.lawrence@faa.gov*; telephone (781) 238–7176; fax (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(k) None.

Issued in Burlington, Massachusetts, on October 8, 2009.

Diane S. Romanosky,

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

[FR Doc. E9–24853 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1369; Directorate Identifier 2003–NE–03–AD; Amendment 39–16048; AD 2009–21–09]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211 Trent 800 Series Turbofan Engines

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Rolls-Royce plc RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines with high-pressure (HP) compressor rotor rear stage 5 and 6 discs and cone shafts, part numbers (P/Ns) FK25230 and FK27899 installed. That AD currently requires removal from service of these HP compressor rotor rear stage 5 and 6 discs and cone shafts before reaching newly reduced life limits. This AD requires removing these parts at new reduced cycle limits. This AD results from Rolls-Royce plc reducing the lives of these parts and changing the life calculating method to use ''Standard Duty Cycles'' with ''Multiple Flight Profile Monitoring'' and ''Flight Cycles'' with ''Heavy Flight Profile Monitoring''. We are issuing this AD to prevent stage 5 and 6 disc crack initiation and propagation that might lead to uncontained disc failure and damage to the airplane.

DATES: This AD becomes effective November 20, 2009.

ADDRESSES: You can get the service information identified in this AD from Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, UK, telephone 44 (0) 1332 242424; fax 44 (0) 1332 249936.

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

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803, e-mail: *james.lawrence@faa.gov*; telephone (781) 238–7176; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 by

superseding AD 2003–15–06, Amendment 39–13249 (68 FR 44610, July 30, 2003), with a proposed AD. The proposed AD applies to Rolls-Royce plc RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines with HP compressor rotor rear stage 5 and 6 discs and cone shafts, P/Ns FK25230 and FK27899 installed. We published the proposed AD in the **Federal Register** on April 27, 2009 (74 FR 19025). That action proposed to require changing the life calculating method to use ''Standard Duty Cycles'' with ''Multiple Flight Profile Monitoring'' and ''Flight Cycles'' with ''Heavy Flight Profile Monitoring'', and reducing the lives of the affected parts to 5,000 ''Standard Duty Cycles'' or ''5,000 Flight cycles'', respectively.

Examining the AD Docket

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

Comments

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

One commenter, Kenya Airways Limited, requests that in the compliance section, we insert ''Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AE082, Revision 7, dated June 18, 2008, pertains to the subject of this AD.''

We do not agree. That information already exists in paragraph (k) of the AD. We did not change the AD.

One commenter, American Airlines, states that the FAA should include a reasonable schedule for operators to manage the replacement of parts with lives already in excess of the proposed reduced limit, to avoid unnecessary and unreasonable hardship once the final rule becomes effective.

We do not agree. We have confirmed that all U.S. operators are already operating to the reduced life limit specified in this AD. There are no U.S. operators with parts lives in excess of the reduced limit. We did not change the AD.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 94 Rolls-Royce plc RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines installed on airplanes of U.S. registry. Removal of these HP compressor rotor rear stage 5 and 6 discs and cone shafts will not impose any additional labor costs if performed at the time of scheduled engine overhaul. The prorated life loss is about $225,000 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $21,150,000. Our cost estimate is exclusive of possible warranty coverage.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–13249 (68 FR 44610, July 30, 2003), and by adding a new airworthiness directive, Amendment 39–16048, to read as follows:

2009–21–09 Rolls-Royce plc: Amendment 39–16048. Docket No. FAA–2009–1369; Directorate Identifier 2003–NE–03–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 20, 2009.

Affected ADs

(b) This AD supersedes AD 2003–15–06, Amendment 39–13249.

Applicability

(c) This AD applies to Rolls-Royce plc RB211 Trent 875–17, Trent 877–17, Trent 884–17, Trent 892–17, Trent 892B–17, and Trent 895–17 turbofan engines with high-pressure (HP) compressor rotor rear stage 5 and 6 discs and cone shafts, part numbers FK25230 and FK27899 installed. These engines are installed on, but not limited to, Boeing 777 series airplanes.

Unsafe Condition

(d) This AD results from Rolls-Royce plc reducing the lives of these parts and changing the life calculating method to use ''Standard Duty Cycles'' with ''Multiple Flight Profile Monitoring'', and ''Flight Cycles'' with ''Heavy Flight Profile Monitoring''. We are issuing this AD to prevent stage 5 and 6 disc crack initiation and propagation that might lead to uncontained disc failure and damage to the airplane.

Compliance

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

(f) For operators using ''Multiple Flight Profile Monitoring'' (Flight Profiles ''A'' through ''F''), remove HP compressor rotor rear stage 5 and 6 discs and cone shafts from service at or before accumulating 5,000 ''Standard Duty Cycles''. Guidance on ''Multiple Flight Profile Monitoring'' can be found in the Aircraft Maintenance Manual, Chapter 70–01–10.

(g) For operators using ''Heavy Flight Profile Monitoring'', remove HP compressor rotor rear stage 5 and 6 discs and cone shafts from service at or before accumulating 5,000 ''Flight Cycles''. Guidance on ''Heavy Flight Profile Monitoring'' can be found in the Aircraft Maintenance Manual, Chapter 70–01–10.

Alternative Methods of Compliance

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

Related Information

(i) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803, e-mail *james.lawrence@faa.gov*; telephone (781) 238–7176; fax (781) 238–7199, for more information about this AD.

(j) European Aviation Safety Agency AD 2007–0004, dated January 8, 2007, also addresses the subject of this AD.

(k) Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AE082, Revision 7, dated June 18, 2008, pertains to the subject of this AD. Contact Rolls-Royce plc, P.O. Box 31, Derby, DE24 8BJ, UK, telephone 44 (0) 1332 242424; fax 44 (0) 1332 249936, for a copy of this service information.

(l) Contact Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207, for a copy of the Aircraft Maintenance Manual referenced in this AD.

Material Incorporated by Reference

(m) None.

Issued in Burlington, Massachusetts, on October 8, 2009.

Diane S. Romanosky,

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

[FR Doc. E9–24855 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0907; Directorate Identifier 2009–NM–072–AD; Amendment 39–16042; AD 2009–21–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A340–200 and –300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (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) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

An A340–300 aeroplane experienced the opening of the engine n°3 lower left thrust reverser pivoting door during climb.

This event was the result of a primary lock malfunction and non-engagement of the secondary lock.

* * * * *

Deployment of one thrust reverser door in flight and during the take-off constitutes an unsafe condition.

* * * * *

Deployment of one thrust reverser door in flight or during take-off could result in reduced controllability of the airplane. This AD requires actions that are intended to address the unsafe condition described in the MCAI.

DATES: This AD becomes effective November 2, 2009.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in the AD as of November 2, 2009.

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 W12–40, 1200 New Jersey Avenue, SE., Washington, DC, 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 Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

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 Airworthiness Directive 2009–0063, dated March 11, 2009, and corrected March 20, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

An A340–300 aeroplane experienced the opening of the engine n°3 lower left thrust reverser pivoting door during climb.

This event was the result of a primary lock malfunction and non-engagement of the secondary lock.

Preliminary investigations have revealed two main findings:

—The primary lock lever arm of the affected door was contaminated with lubrication fluid, which is a known contributor to incorrect operation;

—The actuator of the deployed door was found with 3 shim sets installed whereas the system is designed for a maximum of one shim set. It is considered that installation of three shim sets has a detrimental effect on the secondary lock capacity to engage in case of primary lock failure.

Deployment of one thrust reverser door in flight and during the take-off constitutes an unsafe condition.

In order to ensure that the fleet is clear from unauthorized actuator shimming configurations which may lead to non-engagement of the secondary lock, EASA AD 2008–0074 required a one-time visual inspection to check that no more than one shim set per pivoting door actuator was installed.

Another A340–300 experienced a similar event after the publication of AD 2008–0074.

Airbus and CFM are currently investigating the root cause.

As a consequence, Airbus has defined a one-time inspection programme [for defects] to decrease the thrust reverser sensitivity to primary lock release.

This AD requires the accomplishment of a one-time [detailed] inspection programme which consists in [the following actions]:

—Primary lock inspection [for improper locking],
—Pivoting door seal inspection [for defective seal],
—Pivoting door actuator gimbal gap inspection [for gaps exceeding limits],
—Pivoting door hydraulic actuators inspection to check that one shim set is installed (consequently [EASA] AD 2008–0074, which required to check the installation of one shim set only per pivoting door actuator, is superseded by this [EASA] AD [2009–0063]),
—Pivoting door adjustment [to ensure proper operation of pivoting door], and their associated corrective actions.

Further mandatory action is foreseen (introduction of Additional Return Line restrictor on external engines).

* * * * *

Deployment of one thrust reverser door in flight or during take-off could result in reduced controllability of the airplane. Corrective actions include replacing with new or serviceable parts the thrust reverser pivoting door primary lock, the thrust reverser pivoting door, and the thrust reverser pivoting door actuator; removing excess shims from the thrust reverser pivoting door actuator or adding a shim; and adjusting the thrust reverser pivoting door. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued All Operators Telex A340–78A4040, dated February 18, 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 This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

Differences Between the AD and the MCAI or Service Information

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

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

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

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–2009–0907; Directorate Identifier 2009–NM–072–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 this AD:

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

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

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

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

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:

2009–21–05 Airbus: Amendment 39–16042. Docket No. FAA–2009–0907; Directorate Identifier 2009–NM–072–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 2, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A340–211, –212, and –213 series airplanes; and Model A340–311, –312, and –313 series airplanes; certificated in any category; all manufacturer serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 78: Engine exhaust.

Reason

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

An A340–300 aeroplane experienced the opening of the engine n°3 lower left thrust reverser pivoting door during climb.

This event was the result of a primary lock malfunction and non-engagement of the secondary lock.

Preliminary investigations have revealed two main findings:

—The primary lock lever arm of the affected door was contaminated with lubrication fluid, which is a known contributor to incorrect operation;

—The actuator of the deployed door was found with 3 shim sets installed whereas the system is designed for a maximum of one shim set. It is considered that installation of three shim sets has a detrimental effect on the secondary lock capacity to engage in case of primary lock failure. Deployment of one thrust reverser door in flight and during the take-off constitutes an unsafe condition.

In order to ensure that the fleet is clear from unauthorized actuator shimming configurations which may lead to non-engagement of the secondary lock, EASA AD 2008–0074 required a one-time visual inspection to check that no more than one shim set per pivoting door actuator was installed.

Another A340–300 experienced a similar event after the publication of AD 2008–0074.

Airbus and CFM are currently investigating the root cause.

As a consequence, Airbus has defined a one-time inspection programme [for defects] to decrease the thrust reverser sensitivity to primary lock release.

This AD requires the accomplishment of a one-time [detailed] inspection programme which consists in [the following actions]:

—Primary lock inspection [for improper locking],

—Pivoting door seal inspection [for defective seal],

—Pivoting door actuator gimbal gap inspection [for gaps exceeding limits],

—Pivoting door hydraulic actuators inspection to check that one shim set is installed (consequently [EASA] AD 2008–0074, which required to check the installation of one shim set only per pivoting door actuator, is superseded by this [EASA] AD [2009–0063]),

—Pivoting door adjustment [to ensure proper operation of pivoting door], and their associated corrective actions.

Further mandatory action is foreseen (introduction of Additional Return Line restrictor on external engines).

* * * * *

Deployment of one thrust reverser door in flight or during take-off could result in reduced controllability of the airplane. Corrective actions include replacing with new or serviceable parts the thrust reverser pivoting door primary lock, the thrust reverser pivoting door, and the thrust reverser pivoting door actuator; removing excess shims from the thrust reverser pivoting door actuator or adding a shim; and adjusting the thrust reverser pivoting door.

Actions and Compliance

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

(1) Within 1,800 flight hours after the effective date of this AD, do the detailed inspections for the discrepancies identified in paragraphs (f)(1)(i), (f)(1)(ii), (f)(1)(iii), (f)(1)(iv), and (f)(1)(v) of this AD, in accordance with the applicable paragraph of Airbus All Operators Telex A340–78A4040, dated February 18, 2009 (''the AOT'').

(i) Improper locking of the thrust reverser pivoting door primary lock as specified in paragraph 4.2.1 of the AOT.

(ii) Defects of the thrust reverser pivoting door seal as specified in paragraph 4.2.2 of the AOT.

(iii) Gaps exceeding limits of the thrust reverser pivoting door actuator gimbal as specified in paragraph 4.2.3 of the AOT.

(iv) Incorrect number of shim sets is installed on the thrust reverser pivoting door hydraulic actuator as specified in paragraph 4.2.4 of the AOT.

(v) Incorrect adjustment of the thrust reverser pivoting door as specified in paragraph 4.2.5 of the AOT.

(2) If any discrepancy is found during the inspections required by paragraph (f)(1) of this AD, before further flight, do all applicable corrective actions required by paragraphs (f)(2)(i), (f)(2)(ii), (f)(2)(iii), (f)(2)(iv), and (f)(2)(v) of this AD, in accordance with the applicable paragraph of Airbus All Operators Telex A340–78A4040, dated February 18, 2009 (''the AOT''); except that if a replacement actuator is not available, the airplane may be dispatched with the thrust reverser inhibited per Master Minimum Equipment List reference 2.10.

(i) Replace the thrust reverser pivoting door primary lock with a new or serviceable thrust reverser pivoting door primary lock in accordance with paragraph 4.2.1 of the AOT.

(ii) Replace the thrust reverser pivoting door with a new or serviceable thrust reverser pivoting door in accordance with paragraph 4.2.2 of the AOT.

(iii) Replace the thrust reverser pivoting door actuator with a new or serviceable thrust reverser pivoting door actuator in accordance with paragraph 4.2.3 of the AOT.

(iv) Remove excess shims from the thrust reverser pivoting door actuator or add a shim in accordance with paragraph 4.2.4 of the AOT.

(v) Adjust the thrust reverser pivoting door in accordance with paragraph 4.2.5 of the AOT.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office. The AMOC approval letter must specifically reference this AD.

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

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

Related Information

(h) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) Airworthiness Directive 2009–0063, dated March 11, 2009, and corrected March 20, 2009; and Airbus All Operators Telex A340–78A4040, dated February 18, 2009; for related information.

Material Incorporated by Reference

(i) You must use Airbus All Operators Telex A340–78A4040, dated February 18, 2009, to do the actions required by this AD, unless the AD specifies otherwise. (The issue date of this document is specified only on the first page of the document.)

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

(2) For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80, e-mail *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.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 30, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–24447 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0247; Directorate Identifier 2009–NE–07–AD; Amendment 39–16040; AD 2009–21–03]

RIN 2120–AA64

Airworthiness Directives; Hamilton Sundstrand Power Systems T–62T–46C12 Auxiliary Power Units

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Hamilton Sundstrand Power Systems T–62T–46C12 auxiliary power units (APUs). This AD requires upgrading the software in the APU full-authority digital controller (FADEC) from software version 02.01.000 to version 03.00.000. This AD results from two reports of APU compartment explosions due to over-fueling of the APU at low revolutions-per-minute during the start sequence. We are issuing this AD to prevent over-fueling of the APU during the start sequence, which could lead to fuel explosions, injury, and damage to the APU and the airplane.

DATES: This AD becomes effective November 20, 2009. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of November 20, 2009.

ADDRESSES: You can get the service information identified in this AD from Hamilton Sundstrand Technical Publications, One Hamilton Road, Mail Stop: 1A–3–Z63, Windsor Locks, CT 06096–1010; telephone (860) 654–3575.

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

FOR FURTHER INFORMATION CONTACT: Roger Pesuit, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712; e-mail: *roger.pesuit@faa.gov*; telephone (562) 627–5251, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 with a proposed AD. The proposed AD applies to Hamilton Sundstrand Power Systems T–62T–46C12 APUs. We published the proposed AD in the **Federal Register** on April 13, 2009 (74 FR 16811). That action proposed to require upgrading the software in the APU FADEC from software version 02.01.000 to version 03.00.000.

Examining the AD Docket

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

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comment received.

One commenter states that we should reference Revision 2 of Hamilton Sundstrand Power Systems Service Bulletin (SB) No. 4503067–49–12 instead of referencing Revision 1 of that SB. Revision 1 had a technical error in it that prevented loading the software change.

We agree. We changed the AD to reference Revision 2 of the SB.

Conclusion

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

Costs of Compliance

We estimate that this AD will affect 59 Hamilton Sundstrand Power Systems T–62T–46C12 APUs installed on airplanes of U.S. registry. We also estimate that it will take about three work-hours per APU to perform the actions, and that the average labor rate is $80 per work-hour. There is no required part cost. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $14,160.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–21–03 Hamilton Sundstrand Power Systems: Amendment 39–16040. Docket No. FAA–2009–0247; Directorate Identifier 2009–NE–07–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 20, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Hamilton Sundstrand Power Systems T–62T–46C12 auxiliary power units (APUs). These APUs are installed on, but not limited to, Bombardier Inc. DHC–8–400 series airplanes.

Unsafe Condition

(d) This AD results from two reports of APU compartment explosions due to over-fueling of the APU at low revolutions-per-minute during the start sequence. We are issuing this AD to prevent over-fueling of the APU during the start sequence, which could lead to fuel explosion, injury, and damage to the APU and the airplane.

Compliance

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

Software Upgrade of the APU Full-Authority Digital Electronic Controller (FADEC)

(f) At the next FADEC removal, but no later than 18 months after the effective date of this AD, upgrade the software in the APU FADEC from software version 02.01.000 to version 03.00.000, and change the FADEC part number (P/N) from 4503069E to 4503069F.

(g) Use paragraphs 3.A through 3.F.(2) of the Accomplishment Instructions of Hamilton Sundstrand Power Systems Service Bulletin No. 4503067–49–12, Revision 2, dated March 9, 2009, to do the software upgrade and the FADEC P/N change.

Alternative Methods of Compliance

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

Related Information

(i) Contact Roger Pesuit, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712; e-mail: *roger.pesuit@faa.gov*; telephone (562) 627–5251, fax (562) 627–5210, for more information about this AD.

Material Incorporated by Reference

(j) You must use Hamilton Sundstrand Power Systems Service Bulletin No. 4503067–49–12, Revision 2, dated March 9, 2009, to perform the actions required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Hamilton Sundstrand Technical Publications, One Hamilton Road, Mail Stop: 1A–3–Z63, Windsor Locks, CT 06096–1010; telephone (860) 654–3575, for a copy of this service information. You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on September 30, 2009.

Peter A. White,

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

[FR Doc. E9–24396 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0404; Airspace Docket No. 09–ACE–5]

Amendment of Class D and Class E Airspace; Topeka, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E airspace at Forbes Field Airport, Topeka, KS. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAPs) at Forbes Field Airport, Topeka, KS. This action also incorporates the Class E extensions to Class D airspace at Forbes Field Airport into the Class D surface area. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Forbes Field Airport.

DATES: 0901 UTC, December 17, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On July 30, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class D and Class E airspace at Topeka, KS (74 FR 37968, Docket No. FAA–2009–0404). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class D and Class E airspace at Forbes Field Airport, Topeka, KS, for the safety and management of IFR operations at the airport. The Class E surface area designated as an extension to a Class D surface area will be added to the Class D airspace area.

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it

is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Forbes Field Airport, Topeka, KS.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ACE KS D Topeka, Forbes Field Airport, KS [Amended]

Topeka, Forbes Field Airport, KS
(Lat. 38°57′03″ N., long. 95°39′49″ W.)
Topeka, Forbes Field Airport ILS
(Lat. 38°58′04″ N., long. 95°40′50″ W.)
RIPLY LOM
(Lat. 38°53′06″ N., long. 95°34′53″ W.)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.9-mile radius of Forbes Field Airport, and within 2.2 miles each side of the RIPLY LOM 317° bearing extending from the 4.9-mile radius to 5.3 miles northwest of the airport and within 1.8 miles each side of the Forbes Field Airport ILS Localizer southeast course extending from the 4.9-mile radius to 0.9 miles southeast of the RIPLY LOM. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Airspace Designated as Surface Areas

* * * * *

ACE KS E2 Topeka, Forbes Field Airport, KS [Amended]

Topeka, Forbes Field Airport, KS
(Lat. 38°57′03″ N., long. 95°39′49″ W.)
Topeka, Forbes Field Airport ILS
(Lat. 38°58′04″ N., long. 95°40′50″ W.)
RIPLY LOM
(Lat. 38°53′06″ N., long. 95°34′53″ W.)

Within a 4.9-mile radius of Forbes Field Airport, and within 2.2 miles each side of the RIPLY LOM 317° bearing extending from the 4.9-mile radius to 5.3 miles northwest of the airport and within 1.8 miles each side of the Forbes Field Airport ILS Localizer southeast course extending from the 4.9-mile radius to 0.9 miles southeast of the RIPLY LOM.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D Surface Area

* * * * *

ACE KS E4 Topeka, Forbes Field, KS [Removed]

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ACE KS E5 Topeka, Forbes Field Airport, KS [Amended]

Topeka, Forbes Field Airport, KS
(Lat. 38°57′03″ N., long. 95°39′49″ W.)
Topeka, Forbes Field Airport ILS
(Lat. 38°58′04″ N., long. 95°40′50″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Forbes Field Airport, and within 3.1 miles each side of the Forbes Field Airport ILS localizer course extending from the 7.4-mile radius to 13 miles southeast of the airport, and within 3.5 miles each side of the Forbes Field Airport ILS localizer course extending from the 7.4-mile radius to 13 miles northwest of the airport.

* * * * *

Issued in Fort Worth, Texas, on October 1, 2009.

Walter L. Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–24618 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0405; Airspace Docket No. 09–ASW–12]

Amendment of Class D and Class E Airspace; New Orleans NAS, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D and Class E airspace at New Orleans NAS, LA. Changes in control tower operating hours and cancellation of the NDB RWY 4 instrument approach for Class E airspace have made this action necessary for the continued safety and management of Instrument Flight Rule (IFR) operations at New Orleans NAS Alvin Callender Field.

DATES: 0901 UTC, December 17, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On July 31, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class D and Class E airspace at New Orleans NAS, LA (74 FR 38141, Docket No. FAA–2009–0405). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class D airspace designations are published in paragraph 5000 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR Part 71.1. Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9T signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR Part 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class D and Class E airspace at New Orleans NAS Alvin Callender Field, LA, for the safety and management of IFR operations at the airport.

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at New Orleans NAS Alvin Callender Field, LA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASW LA D New Orleans NAS, Alvin Callender Field, LA [Amended]

New Orleans NAS, Alvin Callender Field, LA
(Lat. 29°49′31″ N., long. 90°02′06″ W.)
Harvey VORTAC
(Lat. 29°51′01″ N., long. 90°00′11″ W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.7-mile radius of New Orleans NAS Alvin Callender Field and within 1.3 miles each side of the 228° radial of the Harvey VORTAC extending from the 4.7-mile radius to 5.6 miles southwest of the airport, and within 1.3 miles each side of the 058° radial of the Harvey VORTAC extending from the 4.7-mile radius to 6 miles northeast of the airport, excluding that airspace within the New Orleans, LA, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ASW LA E2 New Orleans NAS, Alvin Callender Field, LA [Amended]

New Orleans NAS, Alvin Callender Field, LA
(Lat. 29°49′31″ N., long. 90°02′06″ W.)
Harvey VORTAC
(Lat. 29°51′01″ N., long. 90°00′11″ W.)

Within a 4.7-mile radius of New Orleans NAS Alvin Callender Field and within 1.3 miles each side of the 228° radial of the Harvey VORTAC extending from the 4.7-mile radius to 5.6 miles southwest of the airport, and within 1.3 miles each side of the 058° radial of the Harvey VORTAC extending from the 4.7-mile radius to 6 miles northeast of the airport, excluding that airspace within the New Orleans, LA, Class B airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, Texas, on October 1, 2009.

Walter L. Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–24626 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0536; Airspace Docket No. 09–ASW–14]

Amendment of Class E Airspace; Many, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Many, LA. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Hart Airport, Many, LA. This action also updates the geographic coordinates of the airport to coincide with the FAA's National Aeronautical Charting Office. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Hart Airport.

DATES: 0901 UTC, December 17, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On August 10, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Many, LA, adding additional controlled airspace extending upward from 700 feet above the surface, at Hart Airport, Many, LA. (74 FR 39908, Docket No. FAA–2009–0536). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by adding additional Class E airspace extending upward from 700 feet above the surface at Hart Airport, Many, LA, for the safety and management of IFR operations at the airport. This action also updates the geographic coordinates of the airport to coincide with the FAA's National Aeronautical Charting Office.

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace at Hart Airport, Many, LA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW LA E5 Many, LA [Amended]

Many, Hart Airport, LA

(Lat. 31°32′41″ N., long. 93°29′09″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hart Airport.

* * * * *

Issued in Fort Worth, Texas, on October 1, 2009.

Walter L. Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–24644 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0513; Airspace Docket No. 09–ASW–13]

Amendment of Class E Airspace; Midlothian-Waxahachie, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Midlothian-Waxahachie, TX. Additional controlled airspace is necessary to accommodate Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) at Mid-Way Regional Airport, Midlothian-Waxahachie, TX. This action also reflects the name change to Mid-Way Regional Airport and updates the geographic coordinates to coincide with the FAA's National Aeronautical Charting Office. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at Mid-Way Regional Airport.

DATES: 0901 UTC, December 17, 2009. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 321–7716.

SUPPLEMENTARY INFORMATION:

History

On August 12, 2009, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend Class E airspace at Midlothian-Waxahachie, TX, adding additional controlled airspace extending upward from 700 feet above the surface, at Mid-Way Regional Airport, Midlothian-Waxahachie, TX. (74 FR 40534, Docket No. FAA–2009–0513). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by adding additional Class E airspace extending upward from 700 feet above the surface at Mid-Way Regional Airport, Midlothian-Waxahachie, TX, for the safety and management of IFR operations at the airport. This action also reflects the name change of the airport to Mid-Way Regional Airport and updates the geographic coordinates to coincide with the FAA's National Aeronautical Charting Office.

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when

promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it adds additional controlled airspace at Mid-Way Regional Airport, Midlothian-Waxahachie, TX.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Midlothian-Waxahachie, TX [Amended]

Mid-Way Regional Airport, TX
(Lat. 32°27′22″ N., long. 96°54′46″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Mid-Way Regional Airport and within 1.8 miles each side of the 184° bearing from the airport extending from the 6.5-mile radius to 9.8 miles south of the airport.

* * * * *

Issued in Fort Worth, Texas, on October 1, 2009.

Walter L. Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. E9–24647 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

[Docket No. FDA–2009–N–0665]

New Animal Drugs; Change of Sponsor; Sometribove Zinc Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for sometribove zinc suspension from Monsanto Co. to Elanco Animal Health, A Division of Eli Lilly & Co.

DATES: This rule is effective October 16, 2009.

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

SUPPLEMENTARY INFORMATION: Monsanto Co., 800 North Lindbergh Blvd., St. Louis, MO 63167, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 140–872 for POSILAC (sometribove zinc suspension) to Elanco Animal Health, A Division of Eli Lilly & Co., Lilly Corporate Center, Indianapolis, IN 46285. Accordingly, the regulations are amended in 21 CFR 522.2112 to reflect this change of sponsorship.

Following this change of sponsorship, Monsanto Co. is no longer the sponsor of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove the entries for Monsanto Co.

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

List of Subjects

21 CFR Part 510

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

21 CFR Part 522

Animal drugs.

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

PART 510—NEW ANIMAL DRUGS

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

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

■ 2. In § 510.600, in the table in paragraph (c)(1) remove the entry for ''Monsanto Co.''; and in the table in paragraph (c)(2) remove the entry for ''000911''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 522.2112 [Amended]

■ 4. In paragraph (b) of § 522.2112, remove ''000911'' and add in its place ''000986''.

Dated: October 9, 2009.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. E9–24881 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2009–N–0665]

Implantation or Injectable Dosage Form New Animal Drugs; Tulathromycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect

approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc. The supplemental NADA provides for veterinary prescription use of tulathromycin injectable solution for the control of swine respiratory disease (SRD) in groups of pigs where SRD has been diagnosed.

DATES: This rule is effective October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Cindy L. Burnsteel, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8341, e-mail: *cindy.burnsteel@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, filed a supplement to NADA 141–244 for DRAXXIN (tulathromycin) Injectable Solution. The supplemental NADA provides for the use of tulathromycin injectable solution for control of SRD associated with *Actinobacillus pleuropneumoniae*, *Pasteurella multocida*, and *Mycoplasma hyopneumoniae* in groups of pigs where SRD has been diagnosed. The application is approved as of September 8, 2009, and the regulations are amended in § 522.2630 (21 CFR 522.2630) to reflect the approval.

In addition, FDA has noticed that the approved indications for use of this product in cattle (73 FR 58872, October 8, 2008) were inaccurately codified. At this time, § 522.2630 is being amended to correctly describe these indications for use. This action is being taken to improve the accuracy of the regulations.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval qualifies for 3 years of marketing exclusivity beginning on the date of approval.

The agency has determined under 21 CFR 25.33(d)(5) 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.

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

List of Subjects in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 522.2630, revise paragraphs (d)(1)(ii) and (d)(2)(ii) to read as follows:

§ 522.2630 Tulathromycin.

* * * * *

(d) * * *

(1) * * *

(ii) *Indications for use*. For the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica*, *Pasteurella multocida*, *Histophilus somni*, and *Mycoplasma bovis*. For the control of respiratory disease in cattle at high risk of developing BRD associated with *M. haemolytica*, *P. multocida*, *H. somni*, and *M. bovis*. For the treatment of infectious bovine keratoconjunctivitis associated with *Moraxella bovis*. For the treatment of bovine foot rot (interdigital necrobacillosis) associated with *Fusobacterium necrophorum* and *Porphyromonas levii*.

* * * * *

(2) * * *

(ii) *Indications for use*. For the treatment of swine respiratory disease (SRD) associated with *Actinobacillus pleuropneumoniae*, *P. multocida*, *Bordetella bronchiseptica*, *Haemophilus parasuis*, and *Mycoplasma hyopneumoniae*; and for the control of SRD associated with *A. pleuropneumoniae*, *P. multocida*, and *M. hyopneumoniae* in groups of pigs where SRD has been diagnosed.

* * * * *

Dated: September 30, 2009.

Steven D. Vaughn,

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

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. FDA–2009–N–0333]

Medical Devices; Plastic Surgery Devices; Classification of Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) Additive

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying the wound dressing with pDADMAC additive into class II (special controls). Elsewhere in this issue of the **Federal Register**, FDA is announcing the availability of a guidance document entitled ''Class II Special Controls Guidance Document: Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) (pDADMAC) Additive,'' which will serve as the special control for this device type. The agency is classifying this device type into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of these devices.

DATES: This final rule is effective November 16, 2009.

FOR FURTHER INFORMATION CONTACT: Sam Arepalli, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 3612, Silver Spring, MD 20993, 301–796–6434.

SUPPLEMENTARY INFORMATION:

I. What Is the Background of This Rulemaking?

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless the device is classified or reclassified into class I or class II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially

equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of FDA's regulations (21 CFR part 807).

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device type. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification (section 513(f)(2) of the act).

In accordance with section 513(f)(1) of the act, FDA issued a written notice of classification on June 23, 2006, classifying the QMT NIMBUS Barrier Gauze Dressing intended for use as a primary dressing for exuding wounds, 1st and 2d degree burns, and surgical wounds, to secure and prevent movement of a primary dressing, and as a wound packing in class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or a device that was subsequently reclassified into class I or class II. On May 10, 2007, Quick-Med Technologies, Inc., submitted a petition requesting classification of the QMT NIMBUS Barrier Gauze Dressing intended for use as a primary dressing for exuding wounds, 1st and 2d degree burns, and surgical wounds, to secure and prevent movement of a primary dressing, and as a wound packing under section 513(f)(2) of the act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in 513(a)(1) of the act. Devices are to be classified into class II if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the petition, FDA determined that the wound dressing with pDADMAC additive can be classified into class II with the establishment of special controls. FDA believes that these special controls, in addition to general controls, are adequate to provide reasonable assurance of the safety and effectiveness of the device. The device is assigned the generic name ''Wound Dressing with pDADMAC Additive.'' A wound dressing with pDADMAC additive is a medical device that is used as a primary dressing for exuding wounds, 1st and 2d degree burns, and surgical wounds, to secure and prevent movement of a primary dressing, and as a wound packing.

FDA has identified the following risks to health associated with this type of device as:

1. Infection,
2. Adverse tissue reactions,
3. Leaching (of the pDADMAC into the wound),
4. Degradation (of materials leading to device failure), and
5. Necrosis and pain.

FDA believes that the class II special controls guidance document will aid in mitigating the potential risks to health as described in Table 1 of this document.

TABLE 1.—RISKS TO HEALTH AND MITIGATION MEASURES

Identified Risk	Recommended Mitigation Measures
Infection	Sterility Biochemical testing
Adverse tissue reaction	Biocompatibility
Leaching (of the additive pDADMAC into the wound)	Non-leachability
Degradation (of materials leading to device failure)	Shelf life testing
Necrosis or pain	Labeling

FDA believes that the special controls, in addition to general controls, address the risks to health identified previously and provide reasonable assurances of the safety and effectiveness of the device type. Thus, on February 25, 2009, FDA issued an order to the petitioner classifying the device into class II. FDA is codifying this classification at 21 CFR 878.4015.

Following the effective date of the final classification rule, manufacturers will need to address the issues covered in the special controls guidance. However, the manufacturer need only show that its device meets the recommendations of the guidance or in some other way provides equivalent assurance of safety and effectiveness.

Section 510(m) of the act provides that FDA may exempt a class II device from the premarket notification requirement under section 510(k) of the act, if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. There is no such exemption for this type of device. Persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the wound dressing with pDADMAC additive they intend to market.

II. What Is the Environmental Impact of This Rule?

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Thus, neither an environmental assessment nor an environmental impact statement is required.

III. What Is the Economic Impact of This Rule?

FDA has examined the impacts of the final rule under Executive Order 12866, 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). The agency believes that this final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because classification of this device into class II will relieve manufacturers of the cost of complying with the premarket approval requirements of section 515 of the act (21 U.S.C. 360e), and may permit small potential competitors to enter the marketplace by lowering their costs, the agency certifies 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) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

IV. Does This Final Rule Have Federalism Implications?

FDA has analyzed this final 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 the Federal statute.'' Federal law includes an express preemption provision that preempts certain State requirements ''different from or in addition to'' certain federal requirements applicable to devices (21 U.S.C. 360k; *Medtronic* v. *Lohr*, 518 U.S. 470 (1996); *Riegel* v. *Medtronic*, 128 S. Ct. 999 (2008)).

The special controls established by this final rule create ''requirements'' for specific medical devices under 21 U.S.C. 360k, even though product sponsors have some flexibility in how they meet those requirements (*Papike* v. *Tambrands, Inc.*, 107 F.3d 737, 740–42 (9th Cir. 1997)).

V. How Does This Rule Comply With the Paperwork Reduction Act of 1995?

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 is not required. Elsewhere in this issue of the **Federal Register**, FDA is issuing a notice announcing the guidance for the final rule. This guidance, ''Class II Special Controls Guidance Document: Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) (pDADMAC) Additive,'' references previously approved collections of information found in FDA regulations.

VI. What References Are on Display?

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Petition from Quick-Med Technologies, Inc., May 10, 2007.

List of Subjects in 21 CFR Part 878

Medical devices.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878 is amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

■ 1. The authority citation for 21 CFR part 878 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Section 878.4015 is added to subpart E to read as follows:

§ 878.4015 Wound dressing with poly (diallyl dimethyl ammonium chloride) (pDADMAC) additive.

(a) *Identification*. A wound dressing with pDADMAC additive is intended for use as a primary dressing for exuding wounds, 1st and 2d degree burns, and surgical wounds, to secure and prevent movement of a primary dressing, and as a wound packing.

(b) *Classification*. Class II (special controls). The special control is: the FDA guidance document entitled ''Class II Special Controls Guidance Document: Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) (pDADMAC) Additive.'' See § 878.1(e) for availability of this guidance document.

Dated: October 2, 2009.

Jeffrey Shuren,

Acting Director, Center for Devices and Radiological Health.

[FR Doc. E9–24963 Filed 10–15–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0455(a); FRL–8969–9]

Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the South Carolina State Implementation Plan (SIP) submitted by the State of South Carolina through the South Carolina Department of Health and Environmental Control on December 4, 2008. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR) and the transition of the State's Nitrogen Oxides (NO_X) Budget Trading Program to the State's CAIR NO_X Ozone Season Program. Although the District of Columbia Circuit Court (D.C. Circuit Court) found CAIR to be flawed, the rule was remanded without vacatur and thus remains in place. Thus, EPA is continuing to approve CAIR provisions into SIPs as appropriate. CAIR, as promulgated, requires states to reduce emissions of sulfur dioxide (SO_2) and NO_X that significantly contribute to, or interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates and/or ozone in any downwind state. CAIR establishes budgets for SO_2 and NO_X for states that significantly contribute or interfere with maintenance and requires such states to submit SIP revisions that implement these budgets. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participation in EPA-administered cap-and-trade programs

addressing SO_2, NO_X annual, and NO_X ozone season emissions. EPA is approving the full SIP revision, as interpreted and clarified herein, as fully implementing the CAIR requirements for South Carolina through participation in these cap-and-trade programs. Consequently, this action will also cause the CAIR Federal Implementation Plans (CAIR FIPs) concerning SO_2, NO_X annual, and NO_X ozone season emissions by South Carolina sources to be automatically withdrawn.

DATES: This direct final rule will be effective November 30, 2009, unless EPA receives adverse comments by November 16, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0455, by one of the following methods:

1. *http://www.regulations.gov:* Follow the online instructions for submitting comments.
2. *E-mail: benjamin.lynorae@epa.gov.*
3. *Fax:* 404–562–9019.
4. *Mail:* EPA–R04–OAR–2009–0455, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2009–0455. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Steven Scofield, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9034. Mr. Scofield can also be reached via electronic mail at *scofield.steve@epa.gov.*

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I. What Action Is EPA Taking?

EPA is taking direct final action to approve the full SIP revision submitted by South Carolina on December 4, 2008, as interpreted and clarified herein, as meeting the applicable CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered CAIR cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. This action also approves the addition of non-EGUs (from the State's NO_X Budget Trading Program) to the CAIR NO_X Ozone Season Trading Program. Since EPA will no longer administer the NO_X Budget Trading Program and the requirements of that program are now addressed by the State's CAIR NO_X Ozone Season Program (Regulations 61–62.96, Subparts AAAA through IIII), South Carolina chose to terminate the State's NO_X Budget Program (Regulation 61–62.96, Subparts A through I), which was established to meet the requirements of the NO_X SIP Call. EPA is, therefore, approving provisions which terminate the State's NO_X Budget Trading Program (Regulation 61–62.96, Subparts A through I). As a consequence of the SIP approval, the CAIR FIPs concerning SO_2, NO_X annual, and NO_X ozone season emissions for South Carolina are automatically withdrawn. This notice deletes and reserves the provisions in Part 52 that establish the CAIR FIPs for South Carolina sources.

On October 9, 2007, EPA approved an ''abbreviated SIP'' for South Carolina, primarily consisting of rules governing allocation of NO_X allowances to EGUs for use in the trading programs established pursuant to CAIR and rules allowing sources to opt into the CAIR programs (72 FR 57209). The abbreviated SIP was implemented in

conjunction with a FIP for the State that specified requirements for emissions monitoring, permit provisions, and other elements of CAIR programs. EPA is now approving the addition of non-EGUs to the CAIR NO_X Ozone Season Trading Program and is issuing a ''full SIP'' approval under which various CAIR implementation provisions will be governed by State rules rather than FIP rules. EPA finds that South Carolina's rules meet the applicable CAIR requirements by requiring certain EGUs to participate in the EPA-administered CAIR cap-and-trade programs addressing SO_2, NO_X annual and NO_X ozone season emissions and by requiring the non-EGUs from the State's NO_X Budget Trading Program to participate in the CAIR program for NO_X ozone season emissions.

II. What Is the Regulatory History of the CAIR and the CAIR FIPs?

EPA published CAIR on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 states and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the NAAQS for fine particles ($PM_{2.5}$) and/or 8-hour ozone in downwind states in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual State-wide emission reduction requirements (*i.e.,* budgets) for SO_2 and annual State-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements or budgets for NO_X for the ozone season (May 1st to September 30th). Under CAIR, states may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective on May 25, 2005, that the states had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, 3 years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS. These findings started a two-year clock for EPA to promulgate a FIP to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

On April 28, 2006, EPA promulgated FIPs for all states covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. The CAIR FIPs require EGUs to participate in the EPA-administered CAIR SO_2, NO_X annual, and NO_X ozone season trading programs, as appropriate. The CAIR FIP SO_2, NO_X annual, and NO_X ozone season trading programs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the FIP and SIP trading programs means that these trading programs will work together to effectively create a single trading program for each regulated pollutant (SO_2, NO_X annual, and NO_X ozone season) in all states covered by the CAIR FIP or SIP trading program for that pollutant. Further, as provided in a rule published by EPA on November 2, 2007, a State's CAIR FIP is automatically withdrawn when EPA approves a SIP revision, in its entirety and without any conditions, as fully meeting the requirements of CAIR. Where only portions of the SIP revision are approved, the corresponding portions of the FIP are automatically withdrawn, and the remaining portions of the FIP stay in place. Finally, the CAIR FIPs also allow states to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement certain CAIR FIP provisions (*e.g.,* the methodology for allocating NO_X allowances to sources in the State), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006, EPA published two additional CAIR-related final rules that added the States of Delaware and New Jersey to the list of states subject to CAIR for $PM_{2.5}$ and announced EPA's final decisions on reconsideration of five issues, without making any substantive changes to the CAIR requirements. On October 19, 2007, EPA amended the CAIR model trading rules and the CAIR FIPs to clarify the definition of ''cogeneration unit'' and thus the applicability of the CAIR trading programs to cogeneration units.

EPA was sued by a number of parties on various aspects of CAIR, and on July 11, 2008, the U.S. Court of Appeals for the DC Circuit issued its decision to vacate and remand both CAIR and the associated CAIR FIPs in their entirety. *North Carolina* v. *EPA,* 531 F.3d 836 (DC Cir. Jul. 11, 2008). However, in response to EPA's petition for rehearing, the Court issued an order remanding CAIR to EPA without vacating either CAIR or the CAIR FIPs. *North Carolina* v. *EPA,* 550 F.3d 1176 (DC Cir. Dec. 23, 2008). The Court thereby left CAIR in place in order to ''temporarily preserve the environmental values covered by CAIR'' until EPA replaces it with a rule consistent with the Court's opinion. *Id.* at 1178. The Court directed EPA to ''remedy CAIR's flaws'' consistent with its July 11, 2008 opinion, but declined to impose a schedule on EPA for completing that action. *Id.* Therefore, CAIR and the CAIR FIP are currently in effect in South Carolina.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. CAIR requires states to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO_2 and NO_X budgets.

The May 12, 2005, and April 28, 2006 CAIR rules provide model rules that states must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs. With two exceptions, only states that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for states that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for states that include all non-EGUs from their NO_X SIP Call trading program in their CAIR NO_X ozone season trading program.

IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR. EPA notes that all states chose to meet the CAIR requirements by selecting an

option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. EPA provided states two approaches for submitting and obtaining approval for CAIR SIP revisions implementing that option. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the CAIR FIPs. Alternatively, states may submit abbreviated SIP revisions. These SIP revisions will not replace the CAIR FIPs; however, the CAIR FIPs provide that, when approved, the provisions in these abbreviated SIP revisions will be used instead of or in conjunction with, as appropriate, the corresponding provisions of the CAIR FIPs (*e.g.,* the NO_X allowance allocation methodology).

A State submitting a full SIP revision may either adopt regulations that are substantively identical to the model rules or incorporate by reference the model rules. CAIR provides that states may only make limited changes to the model rules if the states want to participate in the EPA-administered trading programs. A full SIP revision may change the model rules only by altering their applicability and allowance allocation provisions to:

1. Include all NO_X SIP Call trading sources that are not EGUs under CAIR in the CAIR NO_X ozone season trading program;
2. Provide for State allocation of NO_X annual or ozone season allowances using a methodology chosen by the State;
3. Provide for State allocation of NO_X annual allowances from the compliance supplement pool (CSP) using the State's choice of allowed, alternative methodologies; or
4. Allow units that are not otherwise CAIR units to opt individually into the CAIR SO_2, NO_X annual, or NO_X ozone season trading programs under the opt-in provisions in the model rules.

An approved CAIR full SIP revision addressing EGUs' SO_2, NO_X annual, or NO_X ozone season emissions will replace the CAIR FIP for that State for the respective EGU emissions. As discussed above, EPA approval in full, without any conditions, of a CAIR full SIP revision causes the CAIR FIPs to be automatically withdrawn.

V. Analysis of South Carolina's CAIR SIP Submittal

A. Elements of South Carolina's SIP Submittal

The rulemaking EPA completed on October 9, 2007 (72 FR 57209), granting South Carolina abbreviated SIP approval, addressed annual and ozone season NO_X allocations and opt-in provisions. EPA is today acting on South Carolina's full set of rules, submitted on December 4, 2008, and constituting a full SIP that will supersede the FIPs that are currently in effect in South Carolina. Although some rules approved on October 9, 2007, have not changed, and thus arguably need not be approved again, EPA is acting again on these rules in conjunction with the remainder of South Carolina's rule for the purposes of clarity and administrative convenience.

B. State Budgets for Allowance Allocations

The CAIR NO_X annual and ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 pounds per million British thermal unit (lb/mmBtu) for phase 1, and 0.125 lb/mmBtu, for phase 2, to obtain regional NO_X budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO_X annual and ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors.

The CAIR State SO_2 budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated in the Acid Rain Program for the years in phase 1 of CAIR (2010 through 2014) authorizes 0.50 ton of SO_2 emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in phase 2 of CAIR (2015 and thereafter) authorizes 0.35 ton of SO_2 emissions in the CAIR trading program.

In today's action, EPA is approving South Carolina's SIP revision that adopts the budgets established for the State in CAIR. These budgets are 32,662 tons for NO_X annual emissions from 2009 through 2014, and 27,219 tons from 2015 and thereafter; 15,249 tons for NO_X ozone season emissions from 2009 through 2014, and 12,707 tons from 2015 and thereafter; and 57,271 tons for SO_2 annual emissions from 2010 through 2014, and 40,089 tons from 2015 and thereafter. Additionally, because South Carolina has chosen to include all non-EGUs in the State's NO_X Budget Trading Program, the CAIR NO_X ozone season budget will be increased annually by 3,479 tons to account for such NO_X SIP Call trading sources. This results in a total budget of 18,728 tons for NOx ozone season emissions from 2009 through 2014 and 16,186 tons from 2015 and thereafter. South Carolina's SIP revision sets these budgets as the total amounts of allowances available for allocation for each year under the EPA-administered cap-and-trade programs.

EPA notes that, in *North Carolina,* 531 F.3d at 916–21, the Court determined, among other things, that the State SO_2 and NO_X budgets established in CAIR were arbitrary and capricious.[1] However, as discussed above, the Court also decided to remand CAIR but to leave the rule in place in order to ''temporarily preserve the environmental values covered by CAIR'' pending EPA's development and promulgation of a replacement rule that remedies CAIR's flaws. *North Carolina,* 550 F.3d at 1178. EPA had indicated to the Court that development and promulgation of a replacement rule would take about two years. *Reply in Support of Petition for Rehearing or Rehearing en Banc* at 5 (filed Nov. 17, 2008, in *North Carolina* v. *EPA,* Case No. 05–1224, D.C. Cir.). The process at EPA of developing a proposal that will undergo notice and comment and result in a final replacement rule is ongoing. In the meantime, consistent with the Court's orders, EPA is implementing CAIR by approving State SIP revisions that are consistent with CAIR (such as the provisions setting State SO_2 and NO_X budgets for the CAIR trading programs) in order to temporarily preserve the environmental benefits achievable under the CAIR trading programs.

C. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone-season model trading rules both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR Part 96, subparts A through I. While the provisions of the NO_X annual and ozone-season model rules are similar, there are some differences. For example, the NO_X annual model rule (but not the NO_X ozone season model rule) provides for a CSP, which is discussed below and under which allowances may be awarded for early reductions of NO_X annual emissions. As a further example, the NO_X ozone season model rule

[1] The Court also determined that the CAIR trading programs were unlawful (*Id.* at 906–8) and that the treatment of CAA title IV allowances in CAIR was unlawful (*Id.* at 921–23). For the same reasons that EPA is approving the provisions of South Carolina's SIP revision that use the SO_2 and NO_X budgets set in CAIR, EPA is also approving, as discussed below, South Carolina's SIP revision to the extent the SIP revision adopts the CAIR trading programs, including the provisions addressing applicability, allowance allocations, and use of title IV allowances.

reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program after the 2008 ozone season and is coordinated with the NO_X SIP Call program. The NO_X ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone-season trading program. In addition, states have the option of continuing to meet their NO_X SIP Call requirement by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program.

The provisions of the CAIR SO_2 model rule are also similar to the provisions of the NO_X annual and ozone season model rules. However, the SO_2 model rule is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under CAA title IV. The SO_2 model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing 1 ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

EPA also used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with changes made to account for federal rather than state implementation. The CAIR model SO_2, NO_X annual, and NO_X ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO_2, NO_X annual, and NO_X ozone season trading programs.

In the SIP revision, South Carolina chooses to implement its CAIR budgets by requiring EGUs to participate in EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. South Carolina adopted a full SIP revision that adopts, with certain allowed changes discussed below, the CAIR model cap-and-trade rules for SO_2, NO_X annual, and NO_X ozone season emissions. Finally, South Carolina's rules provide that non-EGUs that were required to participate in the NOx Budget Trading Program must participate in the CAIR NO_X Ozone Season Trading Program.

D. Applicability Provisions

In general, the CAIR model trading rules apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 megawatt electrical (MWe) producing electricity for sale.

States have the option of bringing in, for the CAIR NO_X ozone season program only, those units in the State's NO_X SIP Call trading program that are not EGUs as defined under CAIR. Under this option, the CAIR NO_X ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (*i.e.* units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO_X SIP Call trading program.

South Carolina chose to expand the applicability provisions of the CAIR NO_X ozone season trading program to include all non-EGUs in the State's NO_X SIP Call trading program. Additionally, South Carolina has initiated rulemaking to revise the applicability section in its CAIR NO_X ozone season rule in order to clarify that, as intended by the State, all non-EGUs subject to its NO_X Budget Trading Program are brought into its CAIR NOx ozone season trading program and are to be treated as CAIR NO_X ozone season units and that certain definitions (such as the definition of ''fossil-fuel-fired'') from Regulation 61–62.96, Subparts A through I apply to the applicability provisions that bring these units into the CAIR program. EPA determined after review of South Carolina's CAIR rules, including the amended rules submitted on December 4, 2008, that these provisions need clarification. However, while the clarifications are needed, EPA interprets South Carolina's current rules to provide that all non-EGUs covered by the State's NOx Budget Trading Program are subject to the requirements for CAIR NO_X ozone season units and that the NO_X Budget Trading Program definitions are used in applying the applicability provisions that bring in those non-EGUs.

South Carolina has also initiated rulemaking to further revise the definitions of ''commence commercial operation'' and ''commence operation'' in its CAIR NO_X ozone season rule in order to clarify that, for non-EGUs brought into the CAIR trading program, those definitions shall be consistent with the corresponding definitions in the NOx SIP Call model trading rule (40 CFR 96.2). EPA determined after review of South Carolina's CAIR rules that these provisions needed clarification.

EPA received a letter from South Carolina dated October 8, 2009, concurring with EPA's interpretation of the current applicability provisions concerning non-EGUs and provides a commitment to make these revisions in its CAIR rules. In the October 8, 2009, letter, South Carolina commits to make the revisions discussed above to its CAIR NO_X Ozone Season trading rule, Regulation 61–62.96. However, while the clarifications are needed, EPA interprets South Carolina's current rules to apply to non-EGUs the definitions in 40 CFR 96 of these terms.

Finally, as discussed above, EPA amended the definition of ''cogeneration unit'' in CAIR on October 19, 2007. South Carolina's SIP revision incorporates by reference the definitions in the CAIR model trading rules as of October 19, 2007, consistent with the change.

E. NO_X Allowance Allocations

Under the NO_X allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_X annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_X allowance allocation methodology that will be used to allocate allowances to sources in the states if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_X allowance allocation methodologies, states have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;
2. The frequency of allocations;
3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and
4. The use of allowance set-asides and, if used, their size.

South Carolina chose to distribute NO_X annual and NO_X ozone season allowances with its own methodology. South Carolina chose to distribute NO_X

allowances by largely adopting, with certain revisions, the CAIR NO_X annual and CAIR NO_X ozone season trading program model rule provisions. The State's NO_X ozone season allocation provisions have been further modified to add requirements associated with South Carolina's option to bring its non-EGUs into the CAIR NO_X ozone season trading program. Specifically, the State chose to distribute CAIR NO_X ozone season allowances to non-EGU's in accordance with South Carolina's Regulation 61–62.96.342(e). Additionally, South Carolina chose to allocate in four-year blocks of time rather than adding one additional year of allowances each year. EPA finds these modifications consistent with the flexibility given to states in CAIR.

In South Carolina's Regulation 61–62.96, Subparts FF and FFFF, the State largely incorporates by reference the model rule language for allowance recordation and adopts a minor modification to Sections 96.153(c) and 96.353(c). The timing for recordation of allowances by EPA in the recordation schedules, as referenced and modified, do not exactly match the timing for the State's submission to EPA of allowance allocations as set forth in Sections 96.141(b) and 96.341(b) for existing units. EPA interprets, and South Carolina confirms in a letter dated October 8, 2009, that the allowance recordation should occur in 4 year blocks every four years to match up with the allocation submissions to EPA. In other words, EPA will record allowance allocations for existing sources by December 1 of the year in which the allocations are determined by the State and submitted to EPA. South Carolina commits in its October 8, 2009, letter to revise its CAIR rules to make the allowance and recordation dates match.

F. Allocation of NO_X Allowances From Compliance Supplement Pool

The CAIR establishes a CSP to provide an incentive for early reductions in NO_X annual emissions. The CSP consists of 200,000 CAIR NO_X annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_X reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR annual NO_X model trading rule establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the states.

Consistent with the flexibility given to states in the model trading rule, South Carolina has chosen to modify the provisions of the CAIR NO_X annual model trading rule concerning the allocation of allowances from the CSP. South Carolina has chosen to distribute CSP allowances by essentially adopting the CAIR NO_X annual CSP provisions in the model rule at 40 CFR 96.143.

G. Individual Opt-in Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (*i.e.,* boilers, combustion turbines, and other stationary fossil-fuel-fired devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (*i.e.,* opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions at all.

Consistent with the flexibility given to states in the FIPs, South Carolina has chosen to allow non-EGUs meeting the requirements in the CAIR model trading rule's opt-in provisions to participate in the CAIR NO_X annual, NO_X ozone season, and SO_2 trading programs. The South Carolina rule allows for both of the opt-in allocation methods as specified in the CAIR model rules.

VI. Final Action

EPA is approving, as interpreted and clarified herein, South Carolina's full CAIR SIP revision submitted on December 4, 2008. Under the approved SIP revision, South Carolina is providing for continued participation in the EPA-administered CAIR cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. The SIP revision, as interpreted and clarified herein, meets the applicable requirements of CAIR, which are set forth in 40 CFR 51.123(o) and (aa), with regard to NO_X annual and NO_X ozone season emissions, and 40 CFR 51.124(o), with regard to SO_2 emissions. EPA is also approving provisions that terminate the State's NO_X Budget Trading Program (Regulation 61–62.96, Subparts A through I) because those requirements are now addressed by the CAIR NO_X ozone season trading program, as clarified herein. In accordance with 40 CFR 52.35 and 52.36, as an automatic consequence of the approval of South Carolina's full SIP revision, EPA is also withdrawing the CAIR FIPs for SO_2, NO_X annual, and NO_X ozone season emissions for South Carolina sources.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve South Carolina's SIP revision if adverse written comments on this direct final rule are filed. This direct final rule will be effective on November 30, 2009 without further notice unless we receive relevant adverse written comments by November 16, 2009. If EPA receives such comments, EPA will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective November 30, 2009. EPA also notes that, if an adverse comment is timely received, that may be insufficient time for EPA to respond and issue a subsequent final rule before the 2009 compliance deadline (November 30, 2009) for the CAIR NO_X ozone season trading program. In that event, EPA may determine that the

applicability provisions of that trading program cannot be expanded for 2009 to include non-EGUs and that non-EGUs cannot be allocated CAIR NO_X ozone season allowances for 2009.

VII. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 30, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Electric utilities, Intergovernmental relations, Incorporation by Reference, Carbon monoxide, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated: October 9, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

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

Subpart PP—South Carolina

■ 2. Section 52.2120(c) is amended by revising the entry for ''Regulation No. 62.96: to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(c) * * *

AIR POLLUTION CONTROL REGULATIONS FOR SOUTH CAROLINA

State citation	Title/subject	State effective date	EPA approval date	Federal register notice
* *	* * *		*	*
Regulation No. 62.96	Nitrogen Oxides (NO_X) and Sulfur Dioxide (SO_2) Budget Trading Program General Provisions.	10/24/2009 ...	*10/16/2009* ...	[Insert citation of publication]
* *	* * *		*	*

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[FR Doc. E9–25055 Filed 10–15–09; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2009–0076; FRL–8794–4]

Azoxystrobin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation amends the established tolerances for residues of azoxystrobin in or on barley bran; barley grain; and barley straw. Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective October 16, 2009. Objections and requests for hearings must be received on or before December 15, 2009, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2009–0076. All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Laura Nollen, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7390; e-mail address: *nollen.laura@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to those engaged in the following activities:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing electronically available documents at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR cite at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2009–0076 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk as required by 40 CFR part 178 on or before December 15, 2009.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit this copy, identified by docket ID number EPA–HQ–OPP–2009–0076, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

II. Petition for Tolerance

In the **Federal Register** of April 8, 2009 (74 FR 15971) (FRL–8407–4), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 8E7474) by Interregional Research Project Number 4 (IR-4), IR-4 Project Headquarters, 500 College Rd. East, Suite 201 W., Princeton, NJ 08540. The petition requested that 40 CFR 180.507 be amended by increasing established tolerances for residues of the fungicide azoxystrobin, [methyl(*E*)-2-(2-(6-(2-cyanophenoxy) pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate] and the Z-isomer of azoxystrobin, [methyl(*Z*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3 methoxyacrylate], in or on barley, grain from 0.1 parts per million (ppm) to 3.0 ppm and barley, straw from 4.0 ppm to 7.0 ppm. That notice referenced a summary of the petition prepared on behalf of IR-4 by Syngenta Crop Protection, Inc., the registrant, which is available to the public in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

Based upon review of the data supporting these petitions, EPA has determined that the currently established tolerance in or on barley bran should also be increased and has

determined that the tolerance expression should be revised. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

Consistent with section 408(b)(2)(D) of FFDCA, and the factors specified in section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for the petitioned-for tolerances for residues of azoxystrobin on barley bran at 6.0 ppm; barley grain at 3.0 ppm; and barley straw at 7.0 ppm. EPA's assessment of exposures and risks associated with establishing tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Azoxystrobin has a low acute toxicity via the oral, dermal and inhalation routes of exposure. It is not an eye or skin irritant and is not a skin sensitizer. Dietary administration of azoxystrobin to rats resulted in decreased body weights, decreased food intake and utilization, increased diarrhea and other clinical toxicity observations (increased urinary incontinence, hunched postures and distended abdomens). In dogs, effects on liver/biliary function were found after oral administration. In the acute neurotoxicity study in rats, increased incidence of diarrhea was observed at all dose levels tested including the lowest-observed-adverse-effect-level (LOAEL). Decreased body weight/weight gain and food utilization was noted in the rat subchronic neurotoxicity study. There were no consistent indications of treatment-related neurotoxicity in either the acute or subchronic neurotoxicity studies.

In the rat developmental toxicity study, diarrhea, urinary incontinence and salivation were observed in maternal animals; in the rabbit developmental toxicity study, maternal animals exhibited decreased body weight gain. No adverse treatment-related developmental effects were seen in either study. In the rat reproduction study, offspring and parental effects (decreased body weights and increased adjusted liver weights) were observed at the same dose.

There was no evidence of carcinogenicity in rats and mice at acceptable dose levels. As a result, EPA has classified azoxystrobin as ''not likely to be carcinogenic to humans.'' Azoxystrobin induced a weak mutagenic response in the mouse lymphoma assay, but the activity expressed *in vitro* is not expected to be expressed in whole animals.

Specific information on the studies received and the nature of the adverse effects caused by azoxystrobin as well as the no-observed-adverse-effect-level (NOAEL) and the LOAEL from the toxicity studies can be found at *http://www.regulations.gov* in document ''Azoxystrobin. Human Health Risk Assessment for a Section 3 Amendment to Reduce the Preharvest Interval for Barley Grain and Straw and to Add Seed Treatment Uses on Head and Stem *Brassica* Vegetables (Subgroup 5A) and Sorghum, Grain.'', pages 48–51 in docket ID number EPA–HQ–OPP–2009–0076.

B. Toxicological Endpoints

For hazards that have a threshold below which there is no appreciable risk, a toxicological point of departure (POD) is identified as the basis for derivation of reference values for risk assessment. The POD may be defined as the highest dose at which no adverse effects are observed (the NOAEL) in the toxicology study identified as appropriate for use in risk assessment. However, if a NOAEL cannot be determined, the lowest dose at which adverse effects of concern are identified (the LOAEL) or a Benchmark Dose (BMD) approach is sometimes used for risk assessment. Uncertainty/safety factors (UFs) are used in conjunction with the POD to take into account uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. Safety is assessed for acute and chronic dietary risks by comparing aggregate food and water exposure to the pesticide to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). The aPAD and cPAD are calculated by dividing the POD by all applicable UFs. Aggregate short-term, intermediate-term, and chronic-term risks are evaluated by comparing food, water, and residential exposure to the POD to ensure that the margin of exposure (MOE) called for by the product of all applicable UFs is not exceeded. This latter value is referred to as the Level of Concern (LOC).

For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect greater than that expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm*.

A summary of the toxicological endpoints for azoxystrobin used for human risk assessment can be found at *http://www.regulations.gov* in document ''Azoxystrobin. Human Health Risk Assessment for a Section 3 Amendment to Reduce the Preharvest Interval for Barley Grain and Straw and to Add Seed Treatment Uses on Head and Stem *Brassica* Vegetables (Subgroup 5A) and Sorghum, Grain.'', pages 19–20 in docket ID number EPA–HQ–OPP–2009–0076.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses*. In evaluating dietary exposure to azoxystrobin, EPA considered exposure under the petitioned-for tolerances as well as all existing azoxystrobin tolerances in 40 CFR 180.507. EPA assessed dietary exposures from azoxystrobin in food as follows:

i. *Acute exposure*. Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure.

In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 1994–1996 and 1998 Nationwide Continuing Surveys of Food Intake by Individuals (CSFII). As to residue levels in food, EPA used tolerance-level residues and assumed 100 percent crop treated (PCT).

ii. *Chronic exposure*. In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 1994–1996 and 1998 CSFII. As to residue levels in food, EPA used tolerance-level residues, incorporated PCT data for some existing uses and assumed 100 PCT for the remaining crops including barley.

iii. *Cancer*. Based on the absence of carcinogenicity in two adequate rodent carcinogenicity studies, EPA has classified azoxystrobin as ''not likely to be carcinogenic to humans;'' therefore, a quantitative exposure assessment to evaluate cancer risk is unnecessary.

iv. *Percent crop treated (PCT) information*. Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

• Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.

• Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.

• Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

Almonds, 25%; apricot, 15%; artichoke, 25%; asparagus, 2.5%; blackberries, 5%; blueberries, 10%; broccoli, 5%; cabbage, 5%; cantaloupes, 10%; carrot, 10%; cauliflower, 2.5%; celery, 10%; cherry, 5%; cottonseed, 5%; cucumber, 15%; dried beans/peas, 1%; field corn, 2.5%; filbert (hazelnut), 5%; garlic, 60%; grape, 5%; grapefruit, 25%; green beans, 5% lettuce, 2.5%; mustard greens, 15%; onion, 10%; orange, 5%; green peas, 2.5%; peach, 5%; peanut, 15%; pecan, 2.5%; pepper, 15%; pistachio, 20%; potato, 30%; pumpkin, 20%; raspberry, 5%; rice, 35%; soybean, 2.5%; spinach, 10%; squash, 15%; strawberry, 30%; sugar beets, 5%; sweet corn, 10%; tangerine, 20%; tomato, 15%; walnut, 1%; watermelon, 20%; and wheat, 2.5%.

In most cases, EPA uses available data from USDA/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which azoxystrobin may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for azoxystrobin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of azoxystrobin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Based on the First Index Reservoir Screening Tool (FIRST) and Screening Concentration in Ground Water (SCI-GROW) models, the estimated drinking water concentrations (EDWCs) of azoxystrobin for surface water are estimated to be 173 parts per billion (ppb) for acute exposures and 33 ppb for chronic exposures. For ground water, the estimated drinking water concentration is 3.1 ppb.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 173 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 33 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Azoxystrobin is currently registered for the following uses that could result in residential exposures: Turf grass, ornamentals, indoor surfaces, and treated paints (preservative incorporation). EPA assessed residential exposure using the following assumptions: Adults were assessed for short-term inhalation exposures when mixing, loading and applying azoxystrobin. For short-term and intermediate-term postapplication exposures, toddlers and children were assessed for incidental oral exposure (hand-to-mouth exposure, object-to-mouth exposure and exposure through incidental ingestion of soil) from contact with treated foliage and surfaces. Adults were not assessed for intermediate-term risk, as intermediate-term residential handler scenarios are not expected to occur. A dermal exposure assessment was not conducted for residential handlers or for postapplication activities because no dermal endpoint was identified.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other

substances that have a common mechanism of toxicity.''

EPA has not found azoxystrobin to share a common mechanism of toxicity with any other substances, and azoxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that azoxystrobin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

1. *In general*. Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA SF. In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicity database for azoxystrobin is complete and includes prenatal developmental toxicity studies in rats and rabbits and a 2–generation reproduction study in rats. In these studies, offspring toxicity was observed at equivalent or higher doses than those resulting in parental toxicity; thus, there is no evidence of increased susceptibility and there are no residual uncertainties with regard to prenatal and/or postnatal toxicity.

3. *Conclusion*. EPA has reduced the FQPA SF to 3X in assessing acute dietary risk. An additional safety factor is needed for acute risk assessment to account for the use of a LOAEL from the acute neurotoxicity study in rats in deriving the acute reference dose used for assessing acute dietary exposure for all populations including infants and children. EPA has determined that reliable data show that it would be safe for infants and children to reduce the FQPA safety factor to 1X. To account for the use of a LOAEL from the acute neurotoxicity study in rats the Agency believes that a 3X FQPA SF (as opposed to a 10X) will be adequate to extrapolate a NOAEL in assessing acute risk and that no additional safety factor is needed for short-term, intermediate-term, and chronic risk assessment based on the following considerations:

i. The concern is low for the use of a LOAEL to extrapolate a NOAEL, given the relatively insignificant nature of the effect (transient diarrhea seen in the rat); the fact that diarrhea was only seen in studies involving gavage dosing in the rat but not in repeat dosing through dietary administration in rats, mice, rabbits, and dogs; the very high dose level needed to reach the acute oral lethal dose $(LD)_{50}$ (>5000 milligrams/kilogram (mg/kg)), and the overall low toxicity of azoxystrobin. NOAELs were used for short-term, intermediate-term, and chronic risk assessments.

ii. The toxicity database for azoxystrobin is complete except for immunotoxicity testing. Recent changes to 40 CFR part 158 make immunotoxicity testing (OPPTS Guideline 870.7800) required for pesticide registration; however, the existing data are sufficient for endpoint selection for exposure/risk assessment scenarios, and for evaluation of the requirements under the FQPA. There are no indications in the available studies that organs associated with immune function, such as the thymus and spleen, are affected by azoxystrobin and azoxystrobin does not belong to a class of chemicals (e.g., the organotins, heavy metals, or halogenated aromatic hydrocarbons) that would be expected to be immunotoxic. Based on the above considerations in this unit, EPA does not believe that conducting the immunotoxicity study will result in a dose less than the point of departure already used in this risk assessment, and an additional database uncertainty factor for potential immunotoxicity does not need to be applied.

iii. Clinical signs noted in the acute and subchronic neurotoxicity studies were not considered treatment related because of a lack of dose-response, inconsistency of observations at different time points, variability of pretreatment values and/or small magnitude of response. There is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iv. There is no evidence that azoxystrobin results in increased susceptibility to *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2–generation reproduction study.

v. The acute and chronic dietary exposure assessments were performed based on tolerance-level residues. The acute dietary assessment incorporated 100 PCT information, and the chronic dietary exposure assessment was somewhat refined using PCT information for selected crops. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to azoxystrobin in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by azoxystrobin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic pesticide exposures are safe by comparing aggregate exposure estimates to the aPAD and cPAD. The aPAD and cPAD represent the highest safe exposures, taking into account all appropriate SFs. EPA calculates the aPAD and cPAD by dividing the POD by all applicable UFs. For linear cancer risks, EPA calculates the probability of additional cancer cases given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the POD to ensure that the MOE called for by the product of all applicable UFs is not exceeded.

1. *Acute risk*. An acute aggregate risk assessment takes into account exposure estimates from acute dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to azoxystrobin will occupy 70% of the aPAD for children 1–2 years old, the population group receiving the greatest exposure.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to azoxystrobin from food and water will utilize 9.6% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of azoxystrobin is not expected.

3. *Short-term and intermediate-term risk*. Short-term and intermediate-term aggregate exposure takes into account short-term and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Azoxystrobin is currently registered for uses that could result in short-term and intermediate-term residential exposure and the Agency has determined that it

is appropriate to aggregate chronic exposure through food and water with short-term and intermediate-term residential exposures to azoxystrobin.

Using the exposure assumptions described in this unit for short-term and intermediate-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in an aggregate MOE of 240 for children 1–2 years old (the population group receiving the greatest exposure), and has concluded the combined intermediate-term food, water, and residential exposures result in an aggregate MOE of 340 for children 1–2 years old (the population group receiving the greatest intermediate-term exposure). As the aggregate MOEs for short-term and intermediate-term exposure are greater than 100 (the LOC) for all population subgroups assessed, short-term and intermediate-term aggregate exposures to azoxystrobin are not of concern to EPA.

4. *Aggregate cancer risk for U.S. population*. Based on the lack of evidence of carcinogenicity in mice and rats in two adequate carcinogenicity studies, azoxystrobin was classified as ''not likely to be carcinogenic to humans,'' and is not expected to pose a cancer risk to humans.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to azoxystrobin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodologies are available to enforce the tolerance expression and have been submitted to FDA for inclusion in the Pesticide Analytical Manual (PAM) Volume II: A gas chromatography method with nitrogen-phosphorus detection (GC/NPD), RAM 243/04, for the enforcement of tolerances for residues of azoxystrobin and its Z-isomer in crop commodities; and a GC/NPD method, RAM 255/01, for the enforcement of tolerances of azoxystrobin in livestock commodities. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

Codex Maximum Residue Limits (MRLs) have been established for azoxystrobin in or on barley grain at 0.5 ppm; and straw and fodder of cereal grains (except maize) at 15 ppm. The Codex MRLs for barley grain and straw are based on field trials conducted in Europe and on residues present at a 35–42 day pre-harvest interval (PHI). The recommended U.S. tolerances on barley grain (3.0 ppm) and straw (7.0 ppm) are based on residues present at a 14–day PHI. The U.S. tolerance for barley grain is higher due to the shorter PHI; thus, the barley grain tolerance and MRLs cannot be harmonized between the U.S. and Codex. Codex MRLs for forages, straws and the like are set on a dry-weight basis, whereas U.S. tolerances are set on an as-fed basis; therefore, the U.S. tolerance on barley straw cannot be harmonized with the Codex MRL for straw and fodder of cereal grains (including barley, oats, rice and wheat data) at this time.

C. Revisions to Petitioned-For Tolerances

Based upon review of the data supporting the petition, EPA has revised the existing tolerance for barley bran from 0.2 ppm to 6.0 ppm. Based on previously-submitted wheat processing data, a tolerance for barley bran was established at 0.2 ppm; however, the proposed PHI reduction for barley grain results in higher residues in barley grain and the potential for increased residues in barley bran. Using the highest average field trial data for barley grain harvested at the 14–day PHI (1.85 ppm) and the concentration factor for wheat bran (3x), expected residues in barley bran would be 5.55 ppm. The expected barley bran residues exceed the proposed tolerance increase for barley grain at 3.0 ppm and the existing tolerance for barley bran at 0.2 ppm. Therefore, the Agency is increasing the established tolerance for azoxystrobin in or on barley bran from 0.2 ppm to 6.0 ppm.

Additionally, EPA has revised the tolerance expression to clarify:

1. That, as provided in FFDCA section 408(a)(3), the tolerance covers metabolites and degradates of azoxystrobin not specifically mentioned; and

2. That compliance with the specified tolerance levels is to be determined by measuring only the specific compounds mentioned in the tolerance expression. This change was made to both the tolerance expressions for plant commodities and animal commodities because it makes no substantive change to the meaning of the tolerance but rather only clarifies the existing language.

V. Conclusion

Therefore, established tolerances are amended for residues of azoxystrobin, [methyl(*E*)-2-(2-(6-(2-cyanophenoxy) pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate] and the Z-isomer of azoxystrobin, [methyl(*Z*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3 methoxyacrylate], in or on barley, bran at 6.0 ppm; barley, grain at 3.0 ppm; and barley, straw at 7.0 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under section 408(d) of FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the

various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 7, 2009.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.507 is amended in paragraph (a)(1) by revising the introductory text and by revising the entries for ''Barley, bran''; ''Barley, grain''; and ''Barley, straw'' in the table; and in paragraph (a)(2) by revising the introductory text to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the fungicide, azoxystrobin, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the table is to be determined by measuring only the sum of azoxystrobin, [methyl(*E*)-2-(2-(6-(2-cyanophenoxy) pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate], and the Z-isomer of azoxystrobin [methyl(*Z*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3 methoxyacrylate] in or on the commodity.

Commodity	Parts per million
* * * * *	
Barley, bran	6.0
* * * * *	
Barley, grain	3.0
* * * * *	
Barley, straw	7.0
* * * * *	

(2) Tolerances are established for residues of the fungicide, azoxystrobin, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the table is to be determined by measuring only the sum of azoxystrobin, [methyl(*E*)-2-(2-(6-(2-cyanophenoxy) pyrimidin-4-yloxy)phenyl)-3-methoxyacrylate], and the Z-isomer of azoxystrobin [methyl(*Z*)-2-(2-(6-(2-cyanophenoxy)pyrimidin-4-yloxy)phenyl)-3 methoxyacrylate] in or on the commodity.

* * * * *

[FR Doc. E9–24813 Filed 10–15–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2008–0020; Internal Agency Docket No. FEMA–8099]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.**

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The

date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Virginia:				
Halifax, Town of, Halifax County	510301	March 6, 1975, Emerg; October 8, 1982, Reg; October 16, 2009, Susp.	October 16, 2009 ...	October 16, 2009.
Halifax County, Unincorporated Areas.	510188	April 4, 1973, Emerg; August 1, 1978, Reg; October 16, 2009, Susp.	*.....do	do.
South Boston, Town of, Halifax County.	510153	December 13, 1973, Emerg; March 15, 1978, Reg; October 16, 2009, Susp.	.....do	do.
Region IV				
Alabama:				
Brantley, Town of, Crenshaw County.	010055	July 5, 2005, Emerg; NA, Reg; October 16, 2009, Susp.	.....do	do.
Crenshaw County, Unincorporated Areas.	010246	December 15, 1975, Emerg; July 17, 1986, Reg; October 16, 2009, Susp.	.....do	do.
Dozier, Town of, Crenshaw County	010056	May 4, 1990, Emerg; March 1, 1995, Reg; October 16, 2009, Susp.	.....do	do.
Glenwood, Town of, Crenshaw County.	010057	December 30, 2003, Emerg; NA, Reg; October 16, 2009, Susp.	.....do	do.
Luverne, City of, Crenshaw County	010058	July 9, 1975, Emerg; June 24, 1977, Reg; October 16, 2009, Susp.	.....do	do.
Macon County, Unincorporated Areas.	010148	May 29, 1975, Emerg; April 1, 1982, Reg; October 16, 2009, Susp.	.....do	do.
Notasulga, Town of, Macon County	010149	July 2, 1975, Emerg; November 24, 1978, Reg; October 16, 2009, Susp.	.....do	do.
Tuskegee, City of, Macon County ...	010150	August 8, 1975, Emerg; January 6, 1982, Reg; October 16, 2009, Susp.	.....do	do.
Kentucky:				
Princeton, City of, Caldwell County	210031	June 30, 1975, Emerg; August 19, 1986, Reg; October 16, 2009, Susp.	.....do	do.
Region V				
Illinois:				
Hamilton, City of, Hancock County ..	170271	February 24, 1975, Emerg; October 18, 1983, Reg; October 16, 2009, Susp.	.....do	do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region VII				
Missouri:				
Fayette, City of, Howard County	290163	May 19, 1975, Emerg; January 19, 1983, Reg; October 16, 2009, Susp.	.....do	do.
Franklin, City of, Howard County	290482	July 7, 1975, Emerg; March 2, 1983, Reg; October 16, 2009, Susp.	.....do	do.

* Do. = Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: October 7, 2009.

Edward L. Connor,

Acting Assistant Administrator, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E9–24913 Filed 10–15–09; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–1838; MB Docket No. 09–54; RM–11520]

Table of Allotments, FM Broadcast Stations; Waverly, Alabama

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division, at the request of Auburn Network, Inc., LLC, substitutes FM Channel 262A for Channel 232A at Waverly, Alabama. Channel 262A can be allotted at Waverly, Alabama, in compliance with the Commission's minimum distance separation requirements with a site restriction of 13 kilometers (8.1 miles) northwest of Waverly. The coordinates for Channel 262A at Waverly, Alabama are 32–48–14 North Latitude and 85–41–28 West Longitude.

DATES: Effective November 16, 2009.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, 202–418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket 09–54, adopted August 19, 2009, and released August 21, 2009. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. 20554.

The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY–B402, Washington, DC 20554, 800–378–3160 or via the company's website, http://www.bcpiweb.com.

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 does 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 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BRAODCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

Section 73.202 [Amended]

■ 2. Section 73.202 (b), the Table of Allotments under Alabama is amended by removing Channel 232A and by adding Channel 262A at Waverly.

Federal Communications Commission

John A. Karousos,

Assistant Chief.

[FR Doc. E9–24942 Filed 10–15–09; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[MB Docket No. 07–172; FCC 09–59]

Service and Eligibility Rules for FM Broadcast Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Final Rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with FCC Form 349. Therefore, the form will take effect on [UPON PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER]. On September 1, 2009, the Commission published the summary document of the Report and Order, In the Matter of the Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 09–59, at 74 FR 45126. The Ordering Clause of the Report and Order stated that the Commission would publish a notice in the Federal Register announcing when OMB approval for the information collection requirements (revisions to FCC Form 349) have been received and when the revised requirements will take effect. This notice is consistent with the statement in the Report and Order.

DATES: Effective October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, cathy.williams@fcc.gov or on (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on October 8, 2009, OMB approved, for a period of three years, the information collection requirements which are the revisions to FCC Form 349. The Commission publishes this notice to announce the effective date of the requirements (Form 349). If you have any comments on the burden estimates listed below, or how

the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW, Washington, DC 20554. Please include OMB Control Number, 3060–0029 (Form 349) in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e–mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

SYNOPSIS

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on October 8, 2009, for the information collection requirements (revisions to FCC Form 349).

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB 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 that does not display a valid OMB Control Number.

The OMB Control Number is 3060–0029 and the total annual reporting burdens for respondents for this information collection are as follows:

OMB Control Number: 3060–0029.

OMB Approval Date: October 8, 2009.

Expiration Date: October 31, 2012.

Title: Application for DTV Broadcast Station License, FCC Form 302–DTV; Application for Construction Permit for Reserved Channel Noncommercial Educational Broadcast Station, FCC Form 340; Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station, FCC Form 349.

Form Number: FCC Forms: 302–DTV, 340 and 349.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit entities; Not–for–profit institutions; State, local or tribal government.

Number of Respondents and Responses: 5,170 respondents and 5,170 responses.

Estimated Time per Response: 1–4 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 11,080 hours.

Total Annual Costs: $19,096,297.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On June 29, 2009, the Commission adopted a Report and Order, Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations, MB Docket No. 07–172, FCC 09–59. In the Report and Order, the Commission adopted changes to the FM translator rules that would allow AM stations to use authorized FM translator stations to rebroadcast the AM signal locally, retransmitting their AM programming as a ''fill–in'' service. The adopted cross service translating rules limit FM translators to providing ''fill–in'' service only, specifically within the AM primary station's authorized service area. In addition, the Commission limited the cross–service rule changes to ''currently authorized FM translators,'' that is, those translators with licenses or permit in effect as of May 1, 2009. Therefore, the rule changes affecting this information collection will add a new universe of filers – AM stations – to this information collection. AM stations will use Form 349 to apply for authorizations to operate such FM translator stations.

Consistent with actions taken by the Commission in the Report and Order, the following changes are made to Form 349: Sections II and III of Form 349 include new certifications concerning compliance with the AM station ''fill–in'' service requirements. Specifically, in the AM service, applicants certify that the coverage contour of the FM translator station is contained within the lesser of: (a) the 2 mV/m daytime contour of the AM primary station being rebroadcast, or (b) a 25–mile radius centered at the AM station's transmitter site. The instructions for Sections II and III have been revised to assist applicants with completing the new questions.

FCC Form 349 is used to apply for authority to construct a new FM translator or FM booster broadcast station, or to make changes in the existing facilities of such stations. This form also includes the third party disclosure requirement of 47 CFR 73.3580 requires local public notice in a newspaper of general circulation of all application filings for new or major change in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three–week period. A copy of this notice must be placed in the public inspection file along with the application.

FCC Form 302–DTV is used by licensees and permittees of Digital TV (''DTV'') broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of those stations. It may be used: (1) To cover an authorized construction permit (or auxiliary antenna), provided that the facilities have been constructed in compliance with the provisions and conditions specified on the construction permit; or (2) To implement modifications to existing licenses as permitted by 47 CFR 73.1675(c) or 73.1690(c).

FCC Form 340 is used by licensees and permittees to apply for authority to construct a new noncommercial educational (''NCE'') FM, TV, and DTV broadcast station, or to make changes in the existing facilities of such a station. The FCC Form 340 is only used if the station will operate on a channel that is reserved exclusively for noncommercial educational use, or in the situation where applications for NCE stations on non–reserved channels are mutually exclusive only with one another.

Revisions to this information collection are due to revisions being made only to FCC Form 349.

Federal Communications Commission

William F. Caton,

Deputy Secretary.

[FR Doc. E9–24857 Filed 10–15–09; 8:45 am]

BILLING CODE 6712–01–S

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 107, 171, 172, 173, 174, 180

[Docket No. PHMSA–2009–0237 (HM–244B)]

RIN 2137–AE50

Hazardous Materials: Minor Editorial Corrections and Clarifications

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes and, in response to requests for

clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations. The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the regulations. The amendments contained in this rule are non-substantive changes and do not impose new requirements.

DATES: Effective date: October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Steven Andrews, Office of Hazardous Materials Standards, 202–366–8553, PHMSA, East Building, PHH–10, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The Pipeline and Hazardous Materials Safety Administration (PHMSA) (''we'') annually reviews the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) to identify typographical and other errors, outdated addresses or other contact information, and similar errors. In this final rule, we are correcting typographical errors, incorrect CFR references and citations, an incomplete office address, inconsistent use of terminology, misstatements of certain regulatory requirements and inadvertent omissions of information. Because these amendments do not impose new requirements, notice and public comment procedures are unnecessary. By making these amendments effective without the customary 30-day delay following publication, the changes will appear in the next revision of the 49 CFR.

II. Section by Section Review

The following is a summary by section of the more substantive changes made in this final rule. The summary does not include minor editorial corrections such as punctuation errors or similar minor revisions.

Part 107

Appendix A to Subpart D of Part 107: In Appendix A to Subpart D of Part 107, in part II ''List of Frequently Cited Violations,'' under the heading ''Manufacturing, Reconditioning, Retesting Requirements,'' under ''F. Cylinder Requalification'' entry 7, in the second column, we are correcting the reference to ''§ 178.205(c)'' to ''§ 180.205(c).''

Section 107.705

This section prescribes requirements for persons who file registrations, reports, and applications for approval. We are updating the office mailing address in paragraph (a)(1) for submitting these documents.

Part 171

Section 171.8

This section contains definitions for certain terms used in the HMR. We are revising the definition for ''commerce'' in § 171.8 to align it with the definition contained in the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*), as amended by the Hazardous Materials Safety and Security Reauthorization Act of 2005 (the Act; Title VII of Public Law 109–59, 119 Stat. 1144 (August 10, 2005)). The revised definition adds transportation on a United States-registered aircraft to clarify that such transportation is considered transportation in commerce for purposes of Federal hazmat law and the HMR. In this final rule, we are revising the definition of ''commerce'' in the HMR to read: ''Commerce means trade or transportation in the jurisdiction of the United States within a single state; between a place in a state and a place outside of the state; that affects trade or transportation between a place in a state and place outside of the state; or on a United States-registered aircraft.'' In addition, we are revising the definition of ''material poisonous by inhalation'' to clarify that the term is synonymous with ''material toxic by inhalation.''

Section 171.12

This section prescribes requirements for hazardous materials shipments transported to or from Canada or Mexico. Paragraph (a)(1) provides that these shipments must meet the applicable requirements in §§ 171.22 and 171.23; these sections are contained in Subpart C of Part 171. Therefore, we are also revising the introductory language in the last sentence in paragraph (a)(1) to include compliance with the applicable requirements in ''subpart C of this part.''

Section 171.15

This section prescribes requirements for the immediate telephonic notification of certain hazardous materials incidents. In this final rule, we are revising paragraph (a) to permit notifications to the National Response Center to be submitted electronically through an Internet site.

Section 171.22

This section contains authorizations and conditions for the use of international standards and regulations for the transportation of hazardous materials to, from, or within the United States. As stated earlier in the preamble discussion to § 171.8, the definition of ''commerce'' is revised in this final rule to recognize that the term includes the transportation of hazardous materials aboard any United States-registered aircraft. Consistent with the revision made to the definition of ''commerce,'' we are revising paragraph (a) in § 171.22 to clarify that the authorization provided in this section for use of international standards applies to transportation on U.S.-registered aircraft anywhere in the world, not just to transportation in commerce of hazardous materials ''to, from, or within the United States.''

Part 172

Section 172.101

This section contains the Hazardous Materials Table (HMT) and explanatory text for each of the columns in the table. In this final rule, we are removing the entries ''*Nitrous oxide and carbon dioxide mixtures, see* Carbon dioxide and nitrous oxide mixtures,'' ''*Oxygen and carbon dioxide mixtures, see* Carbon dioxide and oxygen mixtures,'' and ''*Oxygen, mixtures with rare gases, see* Rare gases and oxygen mixtures'' because the HMT entries to which the reader is directed are no longer in the HMT. These entries, ''Carbon dioxide and nitrous oxide mixtures, UN1015,'' ''Carbon dioxide and oxygen mixtures, compressed, UN1014,'' and Rare gases and oxygen mixtures, compressed, UN1980, were removed in a final rule published under Docket HM–215I (71 FR 78596; December 29, 2006).

Section 172.320

This section prescribes marking requirements for packages of Class 1 (explosive) materials. We are removing paragraph (e)(4) because it contains an obsolete provision and the paragraph designation is reserved.

Part 173

Section 173.62

This section prescribes the specific packaging requirements for explosives. We are correcting the formatting of Packing Instruction 134 in the Table of Packing Methods to move the fibreboard (4G) package from the column headed ''Inner packagings'' to the column headed ''Outer packagings.'' This reformatting error occurred in the printing of a previous rulemaking.

Section 173.124

This section prescribes the definitions for Class 4, Divisions 4.1, 4.2 and 4.3 materials. Due to a printing error, the test procedure for assigning a self-reactive material to a generic type was

inadvertently printed in multiple locations and the definition of a type C self-reactive material was inadvertently omitted from this section. Therefore, to correct this printing error, we are revising paragraphs (a)(2)(ii)(C) and (a)(2)(iii)(C) to delete the duplicate test procedure and reinstate the definition of a type C self-reactive material.

Section 173.133

This section prescribes the assignment of packing group and hazard zones for Division 6.1 materials. We are revising the table in § 173.133(a)(1) to correct the reference to § 172.203(m)(2) to read § 172.203(m).

Section 173.168

This section specifies requirements for transportation of chemical oxygen generators. Paragraph (d)(2)(i) contains the test procedure and acceptance criteria for the Flame Penetration Resistance Test. In a September 28, 2007 final rule (72 FR 55091), we moved the entire test procedure to new Appendix E to Part 178 but failed to remove the corresponding language in paragraph (d)(2)(i). In this final rule, we are revising paragraph (d) to remove the duplicative language.

Section 173.304

This section prescribes filling requirements for cylinders of liquefied compressed gases. We are revising paragraph (f)(3)(ii) to correct ''part 78'' to read ''part 178.''

Part 174

Section 174.59

This section prescribes marking and placarding requirements for rail cars offered for transportation. In the last sentence, we are correcting a reference to § 171.12a to read § 171.12.

Part 176

Section 176.415

This section prescribes requirements for the transportation by vessel of Division 1.5, ammonium nitrates, and certain ammonium nitrate fertilizers. We are correcting paragraph (c)(4) to remove the word ''and'' at the end of the sentence.

Part 180

Section 180.209

This section, which prescribes requalification requirements for DOT specification cylinders, contains a paragraph (a)(1) but no (a)(2). We are correcting this formatting inconsistency by removing the paragraph designation ''(1)'' preceding the first full sentence.

Section 180.407

This section prescribes periodic requalification requirements for specification cargo tanks. Paragraphs (c) and (h) require each cargo tank to be tested for leaks, to include the product piping with all valves and accessories in place and operative. Paragraph (h)(2) permits cargo tanks equipped with vapor collection equipment and used to transport petroleum distillate fuels to be leakage tested in accordance with the Environmental Protection Agency's (EPA's) Method 27 in place of the HMR requirement and specifies that the test must be conducted in accordance with the test methods and procedures prescribed in 40 CFR 63.425(e)(1). However, the paragraph inadvertently fails to reference the required cargo tank internal valve test procedures in paragraph (e)(2). Therefore, in this final rule, we are revising paragraph (h)(2) in § 180.407 of the HMR to reference 40 CFR 63.425(e)(2).

Section 180.605

This section prescribes requalification requirements for specification and UN portable tanks. Paragraph (h)(1) prescribes the pressure test procedures for specification 51, 56, and 57 portable tanks; however, the paragraph heading does not reference specification 56 portable tanks. In this final rule, are revising paragraph (h) heading to include the specification 56 portable tanks.

III. Regulatory Analyses and Notices

A. Statutory Authority

This final rule is published under authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to prescribe regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce. The purpose of this final rule is to remove unnecessary cross references to the hazardous materials table, correct mailing addresses, grammatical and typographical errors, and, in response to requests for clarification, improve the clarity of certain provisions in the Hazardous Materials Regulations.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not reviewed by the Office of Management and Budget. This rule is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). This final rule does not impose new or revised requirements for hazardous materials shippers or carriers; therefore, it is not necessary to prepare a regulatory impact analysis.

C. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 13132 (''Federalism''). This final rule does not adopt any regulation that: (1) Has substantial direct effects on the states, the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government; or (2) imposes substantial direct compliance costs on state and local governments. PHMSA is not aware of any state, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

D. Executive Order 13175

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs on Indian tribal governments, and does not preempt tribal law, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses, or other organizations.

F. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $141.3 million or more to either state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule.

G. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

H. Environmental Impact Analysis

There are no environmental impacts associated with this final rule.

I. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 107

Hazardous materials transportation program procedures.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 174

Hazardous materials transportation, Carriage by rail.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

■ 1. The authority citation for part 107 is revised to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–121 sections 212–213; Pub. L. 104–134 section 31001; 49 CFR 1.45, 1.53.

Appendix A to Subpart D of Part 107—[Amended]

■ 2. In Appendix A to Subpart D of Part 107, in the List of Frequently Cited Violations (Part II), under the heading ''Manufacturing, Reconditioning, and Retesting Requirements,'' under ''F. Cylinder Requalification:'', revise entry 7 to read as follows:

II—LIST OF FREQUENTLY CITED VIOLATIONS

Violation description	Section or cite	Baseline assessment
Manufacturing, Reconditioning, and Retesting Requirements		
* * * *	* *	*
F. Cylinder Requalification: * * * ..... 7. Representing, marking, or certifying a cylinder as meeting the requirements of an exemption or special permit when the cylinder was not maintained or retested in accordance with the exemption or special permit.	171.2(c), (e), 180.205(c), Applicable Exemption or Special Permit.	$2,000 to $6,000.
* * * *	* *	*

■ 3. In § 107.705, revise paragraph (a)(1) to read as follows:

§ 107.705 Registrations, reports, and applications for approval.

(a) * * *

(1) File the registration, report, or application with the Associate Administrator for Hazardous Materials Safety (Attention: Approvals, PHH–32), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, 2nd Floor, E23–406, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Alternatively, the document with any attached supporting documentation in an appropriate format may be filed by facsimile (fax) to: (202) 366–3753 or (202) 366–3308 or by electronic mail (e-mail) to: *approvals@dot.gov*.

* * * * *

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

■ 4. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45 and 1.53; Pub. L. 101–410 section 4 (28 U.S.C. 2461 note); Pub. L. 104–134 section 31001.

■ 5. In § 171.8, revise the definitions for ''commerce'' and ''materials poisonous by inhalation'' to read as follows:

§ 171.8 Definitions and Abbreviations

* * * * *

Commerce means trade or transportation in the jurisdiction of the United States within a single state; between a place in a state and a place outside of the state; that affects trade or transportation between a place in a state and place outside of the state; or on a United States-registered aircraft.

* * * * *

Material poisonous by inhalation or *Material toxic by inhalation* means:

(1) A gas meeting the defining criteria in § 173.115(c) of this subchapter and assigned to Hazard Zone A, B, C, or D in accordance with § 173.116(a) of this subchapter;

(2) A liquid (other than as a mist) meeting the defining criteria in § 173.132(a)(1)(iii) of this subchapter and assigned to Hazard Zone A or B in accordance with § 173.133(a) of this subchapter; or

(3) Any material identified as an inhalation hazard by a special provision in column 7 of the § 172.101 table.

* * * * *

■ 6. In § 171.12, revise paragraph (a)(1) to read as follows:

§ 171.12 North American Shipments.

(a) * * *

(1) A hazardous material transported from Canada to the United States, from the United States to Canada, or transiting the United States to Canada or a foreign destination may be offered for transportation or transported by motor carrier and rail in accordance with the Transport Canada TDG Regulations (IBR, see § 171.7) as authorized in § 171.22, provided the requirements in §§ 171.22 and 171.23, as applicable, and this section are met. In addition, a cargo tank motor vehicle, portable tank or rail tank car authorized by the Transport Canada TDG Regulations may be used for transportation to, from, or within the United States provided the cargo tank motor vehicle, portable tank or rail tank car conforms to the applicable requirements of this section. Except as otherwise provided in this subpart and subpart C of this part, the requirements in parts 172, 173, and 178 of this subchapter do not apply for a material transported in accordance with the Transport Canada TDG Regulations.

* * * * *

■ 7. In § 171.15, revise paragraph (a) introductory text to read as follows:

§ 171.15 Immediate notice of certain hazardous materials incidents.

(a) *General*. As soon as practical but no later than 12 hours after the occurrence of any incident described in paragraph (b) of this section, each person in physical possession of the hazardous material must provide notice to the National Response Center (NRC) by telephone at 800–424–8802 (toll free) or 202–267–2675 (toll call) or online at *http://www.nrc.uscg.mil*. Notice involving an infectious substance (etiologic agent) may be given to the Director, Centers for Disease Control and Prevention (CDC), U.S. Public Health Service, Atlanta, GA, 800–232–0124 (toll free), in place of notice to the NRC. Each notice must include the following information:

* * * * *

■ 8. In § 171.22, revise paragraph (a) to read as follows:

§ 171.22 Authorization and conditions for the use of international standards and regulations.

(a) *Authorized international standards and regulations*. This subpart authorizes, with certain conditions and limitations, the offering for transportation and the transportation in commerce of hazardous materials in accordance with the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air (ICAO Technical Instructions), the International Maritime Dangerous Goods Code (IMDG Code), Transport Canada's Transportation of Dangerous Goods Regulations (Transport Canada TDG Regulations), and the International Atomic Energy Agency Regulations for the Safe Transport of Radioactive Material (IAEA Regulations) (IBR, see § 171.7).

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

■ 9. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 44701; 49 CFR 1.53.

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, TRAINING REQUIREMENTS, AND SECURITY PLANS

■ 10. In § 172.101, in the Hazardous Materials Table, remove the following entries.

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions (§ 172.102)	(8) Packaging (§ 173.***)			(9) Quantity limitations (See §§ 173.27 and 175.75)		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REMOVE]												
		*		*	*	*	*		*	*			
	Nitrous oxide and carbon dioxide mixtures, see Carbon dioxide and nitrous oxide mixtures.												
		*		*	*	*	*		*	*			
	Oxygen and carbon dioxide mixtures, see Carbon dioxide and oxygen mixtures.												
		*		*	*	*	*		*	*			
	Oxygen, mixtures with rare gases, see Rare gases and oxygen mixtures.												
		*		*	*	*	*		*	*			

* * * * *

■ 11. In § 172.320, revise paragraph (e) to read as follows:

§ 172.320 Explosive hazardous materials.

* * * * *

(e) The requirements of this section do not apply to the following Class 1 materials:

(1) Those being shipped to a testing agency in accordance with § 173.56(d) of this subchapter;

(2) Those being shipped in accordance with § 173.56(e) of this subchapter, for the purposes of developmental testing;

(3) Those which meet the requirements of § 173.56(h) of this subchapter and therefore are not subject to the approval process of § 173.56 of this subchapter;

(4) [Reserved];

(5) Those that are transported in accordance with § 173.56(c)(2) of this subchapter and, therefore, are covered by a national security classification currently in effect.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

■ 12. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5128, 44701; 49 CFR 1.45, 1.53.

■ 13. In § 173.62, in paragraph (c), revise Packing instruction 134 in the Table of Packing Methods to read as follows:

§ 173.62 Specific packaging requirements for explosives.

* * * * *

(c) * * *

TABLE OF PACKING METHODS

Packing instruction	Inner packagings	Intermediate packagings	Outer packagings
*	*	*	*
134	Bags water resistant Receptacles fibreboard metal plastics wood Sheets fibreboard, corrugated Tubes fibreboard	Not necessary	Boxes. steel (4A). aluminium (4B). wood, natural, ordinary (4C1). wood, natural, sift proof walls (4C2). plywood (4D). reconstituted wood (4F). fibreboard (4G). plastics, expanded (4H1). plastics, solid (4H2). Drums. fibreboard (1G). plastics, removable head (1H2). steel, removable head (1A2). aluminium, removable head (1B2). plywood (1D).
*	*	*	*

* * * * *

■ 14. In § 173.124, revise paragraphs (a)(2)(ii)(C) and (a)(2)(iii)(C) to read as follows:

§ 173.124 Class 4, Divisions 4.1, 4.2 and 4.3—Definitions.

(a) * * *

(2) * * *

(ii) * * *

(C) *Type C.* Self-reactive material type C is a self-reactive material which, as packaged for transportation, neither detonates nor deflagrates rapidly and cannot undergo a thermal explosion.

* * * * *

(iii) * * *

(C) Performance of the self-reactive material under the test procedures specified in the UN Manual of Tests and Criteria (IBR, see § 171.7 of this subchapter) and the provisions of paragraph (a)(2)(iii) of this section; and

* * * * *

■ 15. In § 173.133, in paragraph (a)(2)(i), revise Note 2 following the table to read as follows:

§ 173.133 Assignment of packing group and hazard zones for Division 6.1 materials.

(a) * * *

(2) * * *

(i) * * *

Note 2: A liquid in Division 6.1 meeting criteria for Packing Group I, Hazard Zones A or B stated in paragraph (a)(2) of this section is a material poisonous by inhalation subject to the additional hazard communication requirements in §§ 172.203(m), 172.313 and table 1 of § 172.504(e) of this subchapter.

* * * * *

■ 16. In § 173.168, revise paragraph (d)(2) to read as follows:

§ 173.168 Chemical oxygen generators.

* * * * *

(d) * * *

(2) After September 30, 2009, with its contents, is capable of meeting the following additional requirements when transported by cargo-only aircraft:

(i) The Flame Penetration Resistance Test specified in Appendix E to part 178 of this subchapter.

(ii) The Thermal Resistance Test specified in Appendix D to part 178 of this subchapter.

* * * * *

■ 17. In § 173.304, revise paragraph (f)(3)(ii) to read as follows:

§ 173.304 Filling of cylinders with liquefied compressed gases.

* * * * *

(f) * * *

(3) * * *

(ii) After September 30, 2009, is capable of passing, as demonstrated by design testing, the Flame Penetration Resistance Test specified in part III of Appendix E to part 178 of this subchapter; and

* * * * *

PART 174—CARRIAGE BY RAIL

■ 18. The authority citation for part 174 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 19. Revise § 174.59 to read as follows:

§ 174.59 Marking and placarding of rail cars.

No person may transport a rail car carrying hazardous materials unless it is marked and placarded as required by this subchapter. Placards and car certificates lost in transit must be replaced at the next inspection point, and those not required must be removed at the next terminal where the train is classified. For Canadian shipments, required placards lost in transit, must be replaced either by those required by part 172 of this subchapter or by those authorized under § 171.12.

PART 176—CARRIAGE BY VESSEL

■ 20. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 21. In § 176.415, make the following amendments:

■ a. At the end of paragraph (c)(2), remove the period and add a semi-colon in its place;

■ b. At the end of paragraph (c)(3), remove the semi-colon and add ''; and'' in its place; and

■ c. Revise paragraph (c)(4).

The revision reads as follows:

§ 176.415 Permit requirements for Division 1.5, ammonium nitrates, and certain ammonium nitrate fertilizers.

* * * * *

(c) * * *

(4) Each facility at which the material is to be loaded or unloaded must be located so that each vessel to be loaded or unloaded has an unrestricted passage to open water. Each vessel must be moored bow to seaward, and must be maintained in a mobile status during loading, unloading, or handling operations by the presence of tugs or the readiness of engines. Each vessel must have two wire towing hawsers, each having an eye splice, lowered to the water's edge, one at the bow and the other at the stern.

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

■ 22. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 23. In § 180.209, revise paragraph (a)(1) introductory text to read as follows:

§ 180.209 Requirements for requalification of specification cylinders.

(a) *Periodic qualification of cylinders.* Each specification cylinder that becomes due for periodic requalification, as specified in the following table, must be requalified and marked in conformance with the requirements of this subpart. Requalification records must be maintained in accordance with § 180.215. Table 1 follows:

* * * * *

■ 24. In § 180.407, revise paragraph (h)(2) to read as follows:

§ 180.407 Requirements for test and inspection of specification cargo tanks.

* * * * *

(h) * * *

(2) Cargo tanks used to transport petroleum distillate fuels that are equipped with vapor collection equipment may be leak tested in accordance with the Environmental Protection Agency's ''Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test,'' as set forth in Appendix A to 40 CFR part 60. Test methods and procedures and maximum allowable pressure and vacuum changes are in 40 CFR 63.425(e). The hydrostatic test alternative, using liquid in Environmental Protection Agency's ''Method 27—Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test,'' may not be used to satisfy the leak testing requirements of this paragraph. The test must be conducted using air.

* * * * *

■ 25. In § 180.605, revise the heading to paragraph (h) to read as follows:

§ 180.605 Requirements for periodic testing, inspection and repair of portable tanks.

* * * * *

(h) *Pressure test procedures for specification 51, 56, 57, 60, IM or UN portable tanks.* * * *

* * * * *

Issued in Washington, DC, on October 1, 2009, under authority delegated in 49 CFR part 1.

Cynthia Douglass,

Acting Deputy Administrator, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. E9–24807 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–60–P

Proposed Rules

Federal Register

Vol. 74, No. 199

Friday, October 16, 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 ENERGY

10 CFR Part 851

Worker Safety and Health Program: Safety-Conscious Work Environment

AGENCY: Office of the General Counsel, Department of Energy (DOE).

ACTION: Petition for rulemaking; request for comment.

SUMMARY: The Department of Energy received a petition from the Hanford Challenge on August 18, 2009, requesting the initiation of a rulemaking regarding safety policies at DOE's nuclear facilities. The petition calls for DOE to establish by regulation a safety program using the Nuclear Regulatory Commission's ''Safety-Conscious Work Environment'' guidelines as a model. Public comment is requested on whether DOE should grant the petition and proceed with a rulemaking procedure on this matter.

DATES: Comments must be postmarked no later than December 15, 2009.

ADDRESSES: Any comments submitted must reference the petition for rulemaking. Comments may be submitted using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: steve.krahn@em.doe.gov.* Include ''Petition for Rulemaking'' in the subject line of the message.
- *Postal Mail:* Steven L. Krahn, Acting Deputy Assistant Secretary, Safety Management and Operations, Environmental Management Office, U.S Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed original paper copy.
- *Hand Delivery/Courier:* Steven L. Krahn, Acting Deputy Assistant Secretary, Safety Management and Operations, Environmental Management Office, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121. Please submit one signed original paper copy.

FOR FURTHER INFORMATION CONTACT: Steven L. Krahn, Acting Deputy Assistant Secretary, Safety Management and Operations, Environmental Management Office, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–2281, e-mail: *steve.krahn@em.doe.gov.*

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* provides among other things, that ''[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.'' (5 U.S.C. 553(e)) Pursuant to this provision of the APA, the Hanford Challenge petitioned DOE for the issuance of a new rule, as set forth below. In promulgating this petition for public comment, the Department of Energy is seeking views on whether it should grant the petition and undertake a rulemaking to consider the proposal contained in the petition. By seeking comment on whether to grant this petition, the Department of Energy takes no position at this time regarding the merits of the suggested rulemaking.

The proposed rulemaking sought by the Hanford Challenge would institute a ''Safety-Conscious Work Environment'' in DOE's nuclear facilities, similar to that used by the Nuclear Regulatory Commission (NRC). The NRC's ''Safety-Conscious Work Environment'' program encourages employees to report their concerns by guaranteeing that there will not be any adverse professional repercussions resulting from such reporting. The Department of Energy seeks public comment on whether DOE should grant the petition and proceed with a rulemaking procedure on this issue.

Issued in Washington, DC, on October 8, 2009.

Scott Blake Harris,

General Counsel.

Set forth below is the full text of the Hanford Challenge petition:

Before the U.S. Department of Energy

August 18, 2009

Petition for Rulemaking

Pursuant to the provisions of the Administrative Procedure Act (APA), 5 U.S.C. 553(e), Hanford Challenge hereby submits a Petition for Rulemaking to institute procedures and policies to further the Department's mission of protecting the health and safety of the public and the workforce by ensuring that employees of the Department of Energy (DOE) and its contractors and subcontractors are free to raise concerns without fear of retaliation and reprisal against them.

Specifically, this Petition calls for DOE to take positive steps to implement a ''Safety Conscious Work Environment'' in its facilities, using guidelines issued by the Nuclear Regulatory Commission (NRC) for evaluating and achieving the presence of a ''Safety-Conscious Work Environment.'' *See, NRC Regulatory Issue Summary 2005–18,* ''Guidance for Establishing and Maintaining a Safety Conscious Work Environment'', Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Office of Nuclear Material Safety and Safeguards, August 25, 2005, and 10 CFR 50.7.

A Safety Conscious Work Environment (SCWE) is defined as a work environment in which employees are encouraged to raise concerns and where such concerns are promptly reviewed, given the proper priority based on their potential safety significance, and appropriately resolved with timely feedback to employees. Attributes of a Safety Conscious Work Environment include (1) a management attitude that promotes employee involvement and confidence in raising and resolving concerns; (2) a clearly communicated management policy where safety has the utmost priority, overriding, if necessary, the demands of production and project schedules; (3) a strong, independent quality assurance organization and program; (4) a training program that encourages a positive attitude toward safety; and (5) a safety ethic at all levels that is characterized by an inherently questioning attitude, attention to detail, prevention of complacency, a commitment to excellence, and personal accountability in safety matters.

Hanford Challenge requests that the Department—

- Establish Departmental policy that calls for the positive presence of a Safety Conscious Work Environment in its nuclear facilities;
- Institute rules, procedures and regulations requiring and incentivizing DOE managers, supervisory personnel as well as contractor and subcontractor

employers to achieve and maintain Safety Conscious Work Environment programs at nuclear sites within at DOE nuclear sites within two years;

• Require the Department of Energy to ascertain, through its normal inspection duties or upon good cause, whether a demonstrative ''Safety-Conscious Work Environment'' program exists at a specific facility or within any DOE division, and to order corrective actions to remedy departures from such an environment;

• Provide appropriate incentives within existing and new contracts that reward contractors and managers who take early and effective action to implement such a program.

DOE's enabling statute, 42 U.S.C. 2201(p), authorizes the Department to ''make, promulgate, issue, rescind and amend such rules and regulations as may be necessary to carry out purposes of this chapter.'' 42 U.S.C. 7254 authorizes the Secretary to prescribe ''such procedural and administrative rules and regulations as he may deem necessary or appropriate to administer and manage the functions now or hereafter vested in him.'' Additionally, the policy and purpose of the Department of Energy includes advancing ''the goals of restoring, protecting, and enhancing environmental quality, and to assure public health and safety.'' 42 U.S.C. 5801(a). *Also see,* 42 U.S.C. 7101 (Department of Energy Organization Act) and 42 U.S.C. 2011, (the Atomic Energy Act of 1954, as amended.)

Introduction

Hanford Challenge seeks a future that secures human health and safety, advances accountability of the government and corporate actors at the site, and promotes a sustainable environmental and economic legacy for Hanford and all affected communities. Hanford Challenge provides legal counseling and support for concerned employees (*i.e.,* whistleblowers), particularly those who allege reprisal for voicing concerns about environment, safety, and health (ES&H) deficiencies in their places of employment. We work to ensure that worker's ES&H concerns are addressed internally through existing processes, such as the Hanford Concerns Council, or through public exposure in the media, Congress, and the courts.

Hanford Challenge's Work With DOE Employees and Contractor Employees

It has been repeatedly demonstrated that workers are the key ingredient to protecting the health and safety of the public and workers. Agency and contractor officials alike rely upon employees to exercise sound judgment in their work, and also as an early warning system for problems that have the potential to escalate and cause injuries and fatalities, threats to the environment, and waste of resources. Occasionally, employees who have raised environmental, safety and health concerns (whistleblowers) have subsequently experienced significant workplace reprisal that has impacted their careers, financial stability, and personal and familial relationships. Frequently, they are courageous people of integrity who have observed and documented health-threatening safety and environmental hazards, and refused to remain silent despite adverse consequences. Too often, concerned employees are turned into whistleblowers, who take their concerns up the chain of command and often to government agencies, the news media, Congress and the public in an effort to bring attention and reform to an issue that involves safety, health, protection of the environment, management of fiscal resources, security and other vital public policy concerns. Too often, such employees have fallen victim to harassment, intimidation, retaliation, and discrimination. Many have been terminated from their jobs, and their careers effectively ruined. The last 25 years has seen hundreds of cases from DOE sites brought by such workers who have resorted to litigation in courts and before administrative agencies. These cases have cost contractors, the government, and the employees literally millions of dollars in attorney fees and judgments, fines and penalties.[1] More to the point, operations at DOE facilities have been adversely affected in a multitude of ways because of these cases. A systemic approach is needed to institute and encourage a culture at DOE nuclear facilities that assures the prompt and safe reporting of concerns in a manner that protects the disclosure and the person making the disclosure, and results in a timely and effective review of the allegations.

It is fundamental to the missions of the Department of Energy that it protect the public safety and health in the regulation and control of its nuclear weapons production facilities. It is also crucial that DOE and DOE contractor employees be encouraged to voice ES&H concerns without experiencing reprisal.

More importantly, a ''chilling effect'' message is sent to the workforce at large when an employee is terminated for raising a concern. Such actions suppress the reporting of concerns because employees understandably become fearful of suffering reprisal were they to report a concern. As a result, the work environment destabilizes, morale among the employees dampens, and the atmosphere becomes charged.

The NRC Model

The commercial nuclear industry has a long history of dealing with the issue of employee concerns, and during the past 20 years has evolved principles and procedures that establish work environments encouraging safety reports and prohibiting retaliatory conduct that could chill such reports. The Nuclear Regulatory Commission (NRC) defines its mission as the protection of the public safety and health in its regulation of commercial nuclear facilities.

One example of the NRC's approach to its regulation of licensees in the area of employee concerns involves a Connecticut nuclear station called Millstone, which has three reactors. In the late 1980s, Millstone Nuclear Power Station was the source of a high volume of employee concerns and allegations related to safety of plant operations and harassment and intimidation of employees. Following a *TIME* magazine cover story in March 1995 about the situation, in which the NRC Inspector General faulted the NRC for not recognizing that the reactors had been operating outside their license requirement for many years, the Nuclear Regulatory Commission (NRC) concluded that the large number of deficiencies identified at all three Millstone sites implied that some employees were reluctant to identify safety issues.

In an Order issued on August 14, 1996, the NRC mandated independent, third party oversight to address licensee noncompliance with regulatory requirements concerning, among other things, employee safety concerns. In this Order, the NRC directed that, prior to resumption of power operations, the Licensee should develop, submit to the NRC, and implement a comprehensive plan for reviewing and dispositioning safety issues raised by plant employees and ensuring that employees who raise safety concerns are not subject to discrimination. Additionally, the Licensee was ordered to retain the independent third party, subject to the approval of the NRC, to oversee its implementation of a comprehensive

[1] For example, in October 2007, the Washington Supreme Court affirmed a jury verdict in the case of 11 pipefitters, whistleblowers at Hanford, and an award of $7.3 million. Internal agency records indicate that the contractor charged the Department millions of dollars in attorney fees and costs in addition to the award—effectively putting the Department in the position of subsidizing illegal retaliation.

plan. The plan for independent third party oversight was required until the Licensee demonstrated by its performance that the conditions which led to the requirement of that oversight had been corrected to the satisfaction of the NRC.

The NRC has made a clear and cogent determination that the ability of employees to raise concerns is integral to the protection of public health and safety. The hazards at DOE nuclear facilities are no less dangerous, and yet throughout the DOE complex, reprisals against employees continue unabated, and hostile working environments are instituted without challenge from the DOE. This Petition urges the prompt incorporation of the NRC methodology for protecting employee concerns at its facilities. This Proposed Rulemaking seeks to assist the DOE in improving its operations consistent with its mission and in accomplishing a work environment that has a ''zero tolerance for reprisal'' in fact and not just in rhetoric.

In 2005, the NRC issued a Regulatory Issue Summary, (RIS 2005–18, ''Guidance for Establishing and Maintaining a Safety Conscious Work Environment'') which identified effective practices for licensees and contractors ''for ensuring problem identification and resolution essential to ensuring the safe use of nuclear materials and operations of facilities.'' (RIS 2005–18 at 3.) These included:

- Establishing a Policy Statement published to all employees and asserts that it is ''everyone's responsibility to promptly raise concerns'' and ''makes clear that retaliation for doing so will not be tolerated.'' (*Id.* At 4) This includes allowing and encouraging workers to use work hours to report concerns, sanctions for retaliation, setting expectations for management behaviors that fosters employee confidence in raising concerns, providing information on the various avenues for raising concerns, making clear that employees have the right to raise concerns externally and a commitment to training.
- The training program helps reinforce the principles and practices of SCWE and should include clear explanations of the legal definition for protected activity, adverse action and retaliation, as well as consequences for deviation from applicable laws and regulations. Training can also include defining gateways to identify concerns, appeal processes, and alternative processes for raising concerns. Training can also emphasize appropriate management behaviors, including the importance of protecting confidentiality, fostering good listening skills and identifying countervailing pressures (goals and deadlines) that may interfere with appropriate listening and responses.
- Important aspects of an effective SCWE include conducting the necessary open inquiry to identify the full scope of the concern(s) being brought forward, and assuring that concerns are promptly prioritized, reviewed, and resolved. Employees who bring forth concerns should be provided feedback, and appeal avenues made available for employees who continue to hold a concern.
- Management should establish an alternative process to raising concerns with line management.
- The program requires assessment, including lessons learned evaluations, benchmarking, the establishment of performance indicators, survey and interview tools, direct observations, exit interviews and 360-degree appraisals.
- Contractors should be required to flow down expectations and requirement of the SCWE program to sub-contractors.
- Senior management should be involved in reviewing employment actions when there is any indication that it involves an employee who raised a concern.

Proposed Rulemaking

1. Establish Departmental policy in the Code of Federal Regulations that mandates the establishment of a ''Safety-Conscious Work Environment'' program which actively encourages employees to report health, safety or environmental and other employee concerns at DOE-owned sites;

This procedural step is necessary to clarify and formalize DOE's policy on prohibition of reprisals against employees who raise concerns. The Nuclear Regulatory Commission codifies its policy in 10 CFR Part 50.7. The NRC's statement of policy could easily be modified to suit the purposes of the Department of Energy. A DOE version of this policy could read like this: [2]

Employee protection.

(a) Discrimination by an **agency official, or a contractor or subcontractor of the Department** against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, **and in Departmental regulations codified at 10 CFR Part 708** and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

(1) The protected activities include but are not limited to:

(i) Providing the **Department** or his or her employer information about alleged violations of either of the statutes named in paragraph (a) introductory text of this section or possible violations of requirements imposed under either of those statutes;

(ii) Refusing to engage in any practice made unlawful under either of the statutes named in paragraph (a) introductory text or under these requirements if the employee has identified the alleged illegality to the employer;

(iii) Requesting the **Department** to institute action against his or her employer for the administration or enforcement of these requirements;

(iv) Testifying in any **Department** proceeding, or before Congress, or at any Federal or State proceeding regarding any provision (or proposed provision) of either of the statutes named in paragraph (a) introductory text.

(v) Assisting or participating in, or is about to assist or participate in, these activities.

(2) These activities are protected even if no formal proceeding is actually initiated as a result of the employee assistance or participation.

(3) This section has no application to any employee alleging discrimination prohibited by this section who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of the Energy Reorganization Act of 1974, as amended, or the Atomic Energy Act of 1954, as amended.

(b) Any employee who believes that he or she has been discharged or otherwise discriminated against by any person for engaging in protected activities specified in paragraph (a)(1) of this section may seek a remedy for the discharge or discrimination through an administrative proceeding **as provided in Departmental regulations codified at 10 CFR 708 or** in the Department of Labor. The administrative proceeding must be initiated within **60 days** after an alleged violation occurs **with the DOE, and within** 180 days with the Labor Department. The employee may do this by filing a complaint alleging the violation with the Department of Labor, **Occupational Safety and Health Administration.** In either proceeding, the **agency** may order reinstatement, back pay, and compensatory damages.

(c) A violation of paragraph (a), (e), or (f) of this section by a contractor or subcontractor of **the Department** may be grounds for—

(4) Denial, revocation, or suspension of the **contract.**

(2) Imposition of a civil penalty on the **contractor or subcontractor.**

(3) Other enforcement action.

(d) Actions taken by an employer, or others, which adversely affect an employee may be predicated upon

[2] The language that is in bold typeface is different than that already appearing in the NRC's Statement of Policy at 10 CFR Part 50.7.

nondiscriminatory grounds. The prohibition applies when the adverse action occurs because the employee has engaged in protected activities. An employee's engagement in protected activities does not automatically render him or her immune from discharge or discipline for legitimate reasons or from adverse action dictated by non-prohibited considerations.

(e)(1) Each **contractor or subcontractor** shall prominently post the **provisions of this policy at DOE-owned facilities.** This form must be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work.

(f) No agreement affecting the compensation, terms, conditions, or privileges of employment, including an agreement to settle a complaint filed by an employee with **either** the Department of Labor pursuant to section 211 of the Energy Reorganization Act of 1974, as amended, **or pursuant to a proceeding initiated under the provisions of 10 CFR Part 708** may contain any provision which would prohibit, restrict, or otherwise discourage an employee from participating in protected activity as defined in paragraph (a)(1) of this section including, but not limited to, providing information to the **DOE** or to his or her employer on potential violations or other matters within **DOE's** regulatory responsibilities.

2. Hanford Challenge calls upon DOE to reestablish the position of Assistant Secretary for Environment, Safety and Health (EH) within the DOE, and give EH the authority and the resources to set DOE policy on the issue of all agency and contractor employee concerns. Specifically, the EH Assistant Secretary—

- **Should report directly to the Secretary of Energy, and should seek to standardize DOE policy across the complex.**
- **Should be given adequate funding and staffing and the authority to implement policy, conduct investigations, levy sanctions, and order corrective actions to abate violations.**
- **Should institute rules, procedures and regulations incentivizing DOE managers and supervisory personnel as well as contractor and subcontractor employers to maintain a safety conscious work environment where employees are free to raise employee concerns without fear of reprisal.**
- **Should incentivize facilities to conduct independent and reliable employee surveys to measure whether employees feel free to raise concerns free of reprisal on a company-by-company basis (including at DOE) to use as a basis for determining whether corrective actions should be undertaken.**

EH should be responsible primarily for setting and enforcing Departmental policy. Other duties should include—

- Developing language to insert into the Department of Energy Acquisition Regulations incentivizing contractors to maintain a safety conscious work environment;
- Developing posters and employee communication vehicles to distribute for posting around the complex;
- Inspecting and evaluating each facility in the complex to ascertain that the standards set by the DOE in the area of employee concerns are being reached;
- Investigating and correcting extraordinary cases of hostile and chilled work environments, high-profile cases, or facilities experiencing a large number of discrimination complaints alleging reprisals for raising concerns.

A revitalized and effective EH is of paramount importance for achieving employee protection and safer work environments.

3. Amend existing contract(s) at its nuclear weapons production and former nuclear materials production sites to incentivize the establishment and maintenance of a safety-conscious work environment, and to put contractors on notice that the contract can be conditioned, suspended and/or revoked upon a finding by the DOE that a company has engaged in a pattern and practice of whistleblower reprisals or has failed to maintain a safety-conscious work environment;

This proposal follows the lead of the NRC, which has put licensees on notice that the license to operate the facility hinges upon maintaining a retaliation-free work environment. As the Department moves away from the Management and Operating (M&O) contracting model, and towards the performance-based contracts, there is a greater need to spell out DOE's policies in relation to prohibition against reprisals in contract language to tie specific awards to this performance.

Contractual financial incentives and penalties are necessary to encourage a climate free of reprisals. A substantial portion of every DOE contract in the nuclear complex should depend upon employee freedom to report and resolve employee concerns.

4. Address "hot spots" where the chilling effect now exists, based upon the investigative reports of the Labor Department, Office of Special Counsel, MSPB, OCEP, or OHA and where there may be a strong perception among employees that there will be reprisal. Corrective actions could include:

- **Training of supervisory employees and workers by employee concerns experts;**
- **Developing guidelines for use of the "holding period" concept recommended by the Nuclear Regulatory Commission for contested proposed job actions;**
- **Instituting a "personal accountability" rule to hold individual managers accountable for reprisals.**

Conclusion

The current Rulemaking proposal seeks to bring the agency's actions and policies in line with its statutory mandate to protect the public health and safety by requiring the establishment of policies, rules and practices that encourage employees of the Department and its contractors to raise and resolve employee concerns, especially when such concerns impact health and safety, security, or the environment. Our proposal draws heavily from the practices of the Nuclear Regulatory Commission, and seeks to adopt such policies for use at the Department.

We urge swift consideration and thorough deliberation of our proposal, and look forward to a response from your office.

[FR Doc. E9–24929 Filed 10–15–09; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0704; FRL–8969–5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Volatile Organic Compound Emission Control Measures for Lake and Porter Counties in Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On September 4, 2009, the Indiana Department of Environmental Management (IDEM) submitted several volatile organic compound (VOC) rules for approval into its State Implementation Plan (SIP). The purpose of these rules is to satisfy the VOC reasonably available control technology (RACT) requirements for the Lake and Porter portion of the Chicago-Gary-Lake County, IL-IN, 8-hour ozone nonattainment area. These rules are approvable because they satisfy the

control and enforceability requirements of the Clean Air Act (Act), including Indiana's requirement to adopt VOC RACT rules for the Control Technique Guideline (CTG) documents issued by EPA in 2006, 2007 and 2008.

DATES: Comments must be received on or before November 16, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0704, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 692–2551.
4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0704. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Steven Rosenthal at (312) 886–6052 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

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

I. What Should I Consider as I Prepare My Comments for EPA?
II. What Action Is EPA Taking Today?
III. What Is the Purpose of This Action?
IV. What Is EPA's Analysis of Indiana's Submitted VOC Rules and Negative Declaration?
V. Statutory and Executive Order Reviews

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Action Is EPA Taking Today?

EPA is proposing to approve several new VOC rules into Indiana's SIP because they are consistent with the Act, including its VOC RACT requirements. These include source categories for which IDEM had previously indicated it had no sources (negative declarations) and rules intended to satisfy CTGs issued in 2006, 2007 and 2008. EPA is also approving a negative declaration for the 2008 CTG ''Control Technique Guidelines for Fiberglass Boat Manufacturing Materials'' in which IDEM documents that it has no sources subject to this CTG.

III. What Is the Purpose of This Action?

The primary purpose of these rules is to satisfy the requirement in section 182(b) of part D of title I of the Act that VOC RACT rules be adopted for ozone nonattainment areas. This would include the Chicago-Gary-Lake County, IL–IN, 8-hour ozone nonattainment area. These rules satisfy the requirement for VOC RACT rules for existing, pre-2006, CTG and major non-CTG source categories which were due on September 15, 2006, as well as the requirement to adopt VOC RACT rules for the CTG documents issued by EPA in 2006, 2007 and 2008. Section 182(b)(2)(A) of the Act provides that for nonattainment areas classified as moderate or above, States must revise their SIPs to include RACT for each category of VOC sources covered by a CTG document issued between November 15, 1990, and the date of attainment.

On March 24, 2008 (73 FR 15416), EPA made a finding that Indiana failed to submit those VOC RACT rules which were due on September 15, 2006, for the Chicago-Gary-Lake County, IL–IN, 8-hour ozone nonattainment area. Indiana submitted the fully adopted required

VOC RACT rules to EPA on September 4, 2009. Failure to submit a complete VOC RACT submittal would have triggered the offset sanction identified in section 179(b)(2) of the Act on September 24, 2009, and the highway funding sanction in accordance with section 179(b)(1) of the Act on March 24, 2010.

EPA would be required by section 110(c) of the Act to promulgate a Federal Implementation Plan (FIP) if it has not approved these VOC RACT rules into Indiana's SIP by March 24, 2010. Finalization of the action proposed here would end any obligation for EPA to promulgate a FIP addressing this VOC RACT requirement.

IV. What Is EPA's Analysis of Indiana's Submitted VOC Rules and Negative Declaration?

Indiana's VOC rules for Lake and Porter Counties are consistent with the Act and EPA VOC RACT guidance, and are all approvable. A brief description of the rules that IDEM has submitted is provided below. This description contains information on the applicability cutoffs, control requirements and the relevant EPA VOC RACT guidance. These rules all have appropriate compliance test methods and recordkeeping requirements. Compliance with these rules is required by April 11, 2011.

(A) 326 IAC 8–2–2—Automobile and Light Duty Truck Coating Operations

This rule requires application of new coating limits, development of work practice plans for coating and cleaning operations, and is applicable to facilities with uncontrolled emissions exceeding 15 pounds per day of VOC. These revised requirements are based on and consistent with the 2008 CTG document ''Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.'' IDEM's Compliance methods, in 326 IAC 8–1–2, have also been revised to reference EPA's 2008 revised Automobile Topcoat Protocol in the document ''Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations.''

(B) 326 IAC 8–2–5—Paper Coating

This rule has been revised to add more stringent coating limits that apply to individual coating lines with potential emissions of at least 25 tons per year. The new limits can either be achieved through the use of low VOC compliant coatings or installation of VOC control devices to achieve a 90 percent overall VOC control efficiency, or a combination of the two options that is equivalent to the low VOC coating limit. Additional solvent cleaning work practices apply to facilities emitting at least 15 pounds per day of uncontrolled VOC emissions from all coating lines and related cleaning activities at the facility. These revisions are based on and consistent with EPA's 2007 CTG ''Control Techniques Guidelines for Paper, Film and Foil Coatings.''

(C) 326 IAC 8–2–6 Metal Furniture Coating Operations

This rule has been revised to add more stringent coating limits by coating type for metal furniture coating facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls. As an alternative to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. There are also application equipment standards, including the use of high volume low-pressure (HVLP) spray equipment and other application methods equivalent to or better than HVLP. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2007 ''Control Techniques Guidelines for Metal Furniture Coatings.''

(D) 326 IAC 8–2–7 Large Appliance Coating Operations

This rule has been revised to add more stringent coating limits by coating type for large appliance coating facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls. As an alternative to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. There are also application equipment standards, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2007 ''Control Techniques Guidelines for Large Appliance Coatings.''

(E) 326 IAC 8–2–9 Miscellaneous Metal and Plastic Parts Coating Operation

This rule has been revised to add VOC limits for a number of different miscellaneous metals and plastic parts coating limitations at facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls, from all such coating operations. The categories covered include metal parts and products (not covered by another metal coating rule for a specific source category, *e.g.* can coating), plastic parts and products, automotive/transportation coatings, business machines, motor vehicle materials, and pleasure craft surface coating. As alternatives to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. The two low-VOC options also require the use of specific application methods, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2008 ''Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings.''

(F) 326 IAC 8–2–10 Flat Wood Panel

This rule has been revised to add more stringent coating limits by coating type for flat wood panel manufacturing facilities in which actual VOC emissions equal or exceed 15 pounds per day, before add-on controls. As an alternative to complying with low VOC coating limits, compliance can be achieved with a capture and control device that achieves an overall control efficiency of at least 90 percent or by using a combination of lower VOC coatings and add-on control that is equivalent to the low VOC coating limit. Work practices must be implemented that minimize VOC emissions from mixing operations and storage tanks and handling operations for cleaning and coating related materials. These revisions are based on and consistent with EPA's 2006 ''Control Techniques Guidelines for Flat Wood Paneling Coatings.''

(G) 326 IAC 8–5–5 Flexible Package Printing

IDEM's Graphic Arts rule has been revised to include work practices to minimize VOC emissions from cleaning operations from all sources in which the total VOC emissions from all flexible printing lines equal or exceed 15 pounds per day, before add-on controls. This rule has also been revised to include more stringent capture and control systems for flexible packaging printing presses at facilities with potential emissions of 25 tons or greater per year, prior to controls, from inks, coatings, and adhesives combined. The overall control requirements vary from 65 percent to 80 percent depending on the installation date of the press and by the first installation date of the add-on control device controlling the flexible packaging printing press. This rule is based on and consistent with EPA's 2006 ''Control Techniques Guidelines for Flexible Package Printing.''

(H) 326 IAC 8–16 Offset Lithographic Printing and Letterpress Printing

This new rule applies to offset lithographic and letterpress printing operations that emit three tons or more of VOC per 12-month rolling average before controls. Those lithographic presses that exceed this cutoff must control the fountain solution by reducing the VOC content and alcohol content of the fountain solution. Also, both lithographic and letterpresses that exceed this cutoff must restrict the use of cleaning materials that exceed both a 70 percent VOC content and a VOC composite pressure vapor pressure of 10 millimeters of Mercury (mmHg). Individual heatset web offset lithographic printing presses and heatset web letterpresses with potential emissions from the dryer ink of 25 tons of VOC per year or greater must operate a control system that reduces emissions from each dryer by 90 percent or 95 percent, if installed on or after January 1, 2010, or maintain a maximum VOC outlet concentration of 20 parts per million by volume. Any presses that are claimed to be exempt must keep records documenting that their emissions are below the applicability cutoffs. These revisions are based on and consistent with EPA's 2006 CTG ''Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.''

(I) 326 IAC 8–17 Industrial Solvent Cleaning Operations

This new rule applies to sources that emit three tons of VOC (or more) per 12-month rolling average from all solvent cleaning operations. This rule limits the VOC content of specific solvent cleaning operations, including a general product cleaning limit of 0.42 pounds per gallon. As an alternative to these VOC content limits, sources may use solvents for industrial cleaning operations that have a VOC composite partial vapor pressure at or below 8 mmHG. This rule also specifies the types of cleaning devices and methods that can be used, including wipe cleaning, the use of closed containers as well as nonatomized solvent flow. Atomizing any solvent is generally prohibited. Work practices are required to minimize VOC emissions from the use, handling, storage, and disposal of cleaning solvents and shop towels. This rule is based on and consistent with EPA's 2006 ''Control Techniques Guidelines for Industrial Cleaning Solvents.''

(J) 326 IAC 8–22 Miscellaneous Industrial Adhesives

This new rule applies to sources that emit three tons of VOC (or more) per 12-month rolling average from all miscellaneous industrial adhesive application processes and related cleaning activities, before consideration of controls. This rule contains VOC content limits for adhesives and adhesive primers and specific limits based upon the substrate. Compliance with these adhesive and adhesive primer limits can also be achieved by the use of add-on control equipment if it achieves an overall capture and control efficiency of at least 85 percent and if the add-on control equipment is continuously monitored. This rule also specifies work practices to minimize VOC emissions from mixing operations, storage tanks and handling operations for adhesives, adhesive primers and cleaning materials. Specific application methods, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP, are also required. There are also specific recordkeeping requirements for sources subject to the coating limits and add-on control requirements and for exempt sources. This rule is based on and consistent with EPA's 2008 ''Control Techniques Guidelines for Miscellaneous Industrial Adhesives.''

(K) 326 IAC 8–18 Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation, Distillation, and Reactor Processes

This new rule applies to (1) any vent stream originating from an air oxidation process unit that produces one or more of the chemicals listed in 40 CFR 60.617, which is a list of chemicals affected by the New Source Performance Standards (NSPS) for SOCMI Air Oxidation Unit Processes and (2) any vent stream originating from a reactor or distillation process unit that produces one or more of the chemicals listed in Appendix A of the 1993 CTG ''Control of VOC Emissions from Reactor Processes and Distillation Operations in (SOCMI).'' SOCMI refers to those facilities which produce organic compounds through industrial synthesis. The control measures in this rule largely involve the destruction of VOC emissions by combustion devices such as boilers, incinerators or flares. EPA has issued both NSPS and CTGs for the control of VOCs from SOCMI air oxidation, distillation and reactor operations. IDEM has incorporated portions of the NSPS SOCMI requirements into its rule because they reflect the requirements in the CTGs and are already in a regulatory framework. This rule is based on and consistent with the 1984 CTG ''Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry'' and the 1993 CTG ''Control of VOC Emissions from Reactor Processes and Distillation Operations in (SOCMI).''

(L) 326 IAC 8–19 Control of VOC Emissions From Process Vents in Batch Operations

This new rule applies to process vents associated with batch operations at sources identified by specified standard industrial classification codes at sources that have the potential to emit greater than or equal to 100 tons per year of VOC from batch processing operations and any other non-CTG source category combined. Unit operations with uncontrolled total annual emissions of less than or equal to 500 pounds per year of VOCs and batch process trains containing process vents that have, in the aggregate, uncontrolled total annual emissions of less than 30,000 pounds per year of VOCs from all products manufactured in the batch process train are exempt from the control requirements in this rule. Any unit operations and batch process trains with an average flow rate (the lower the flow rate the lower the control cost) below the value calculated by the applicability equations in this rule must reduce uncontrolled VOC emissions from such unit operations and process trains by at least 90 percent or to 20 parts per million volume. This rule is based on and consistent with the 1994 ''Control of VOC Emissions from Batch Process Alternative Control Techniques (ACT)'' document.

(M) 326 IAC 8–20 Industrial Wastewater

This new rule applies to sources that have potential VOC emissions greater than or equal to 100 tons per year from industrial wastewater operations and any other non-CTG source category without a final CTG, such as batch operations. The VOC emissions from industrial wastewater collection and treatment processes evaporate from the waste stream when exposed to the ambient air. Consequently, the VOC RACT requirements consist of implementing technologies and work practice standards that combine to substantially suppress the exposure of the VOC-laden waste stream to the ambient air. More specifically, the requirements include:

(1) Oil-water separators must be provided with either a floating cover equipped with seals or a fixed cover, equipped with a closed vent system vented to a pollution control device;

(2) All sewer lines must be completely enclosed so that no liquid surface is exposed to the air;

(3) All process drains must be equipped with water seal controls or a cover or vented to a process or through a closed vent system to a control device; and

(4) All junction boxes must be equipped with a tightly fitting solid cover or vented to a process or to a control device.

This rule is based on and consistent with EPA's 1992 draft CTG ''Control of VOC Emissions from Industrial Wastewater'' and EPA's 1994 ''Industrial Wastewater ACT.''

(N) 326 IAC 8–21 Aerospace Manufacturing and Rework Operations

This new rule applies to coating application and cleaning at aerospace manufacturing and rework operations at sources that have the potential to emit 25 tons of VOC per year from all coating and cleaning operations combined. This rule consists primarily of aerospace coating limits for primers, topcoats, chemical milling maskants and for a number of specialty coatings, including adhesives and maskants. There are also application equipment standards, including the use of HVLP spray equipment and other application methods equivalent to or better than HVLP as well as solvent cleaning work practices. Air pollution control equipment with an overall capture and control efficiency of 81 percent can be used as an alternative to the VOC content coating limits. This rule is based on and consistent with EPA's 1997 CTG ''Control of VOC Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.''

(O) Negative Declaration for Fiberglass Boat Manufacturing Materials

On May 26, 2009, Indiana submitted a Negative Declaration for Fiberglass Boat Manufacturing Materials. This source category is the subject of a 2008 CTG. IDEM has determined that there are no subject sources (i.e., that construct the molds or tools that are used to build the separate parts of fiberglass boats) from this source category in Lake and Porter Counties. In order to determine if any such sources were located within the two-county area, IDEM reviewed the following sources of information:

(1) Indiana's inventory of sources in Lake and Porter Counties subject to the Boat Manufacturing National Emission Standards for Hazardous Air Pollutants.

(2) The emission inventory database that identifies companies and emission units within the two county area.

(3) Indiana's Computer Assisted Approval and Tracking System that identifies companies within Lake and Porter Counties that are registered in IDEM's permitting system.

(4) The Harris Directory that provides Standard Industrial Classification information for Boat Building and Repairing.

(5) Two business search engines, Websters Online and Manta.

After reviewing all of the above sources of information, Indiana did not find any company that would be subject to the 2008 CTG ''Control Technique Guidelines for Fiberglass Boat Manufacturing Materials.'' EPA agrees that IDEM did a thorough evaluation of whether there were any potentially subject sources and is proposing to approve the negative declaration for this source category.

V. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 7, 2009.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E9–24925 Filed 10–15–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0455(b); FRL–8969–8]

Approval and Promulgation of Air Quality Implementation Plans; South Carolina; Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the South Carolina State Implementation Plan (SIP) submitted by the State of South Carolina through the South Carolina Department of Health and Environmental Control on December 4, 2008. This revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR). Although the District of Columbia Circuit Court found CAIR to be flawed, the rule was remanded without vacatur and thus remains in place. Thus, EPA is continuing to approve CAIR provisions into SIPs as appropriate. CAIR, as promulgated, requires states to reduce emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) that significantly contribute to, or interfere with maintenance of, the national ambient air quality standards for fine particulates and/or ozone in any downwind state. CAIR establishes budgets for SO_2 and NO_X for states that contribute significantly to nonattainment in downwind States and requires the significantly contributing states to submit SIP revisions that implement these budgets. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participation in EPA-administered cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. In the full SIP revision that EPA is proposing to approve, South Carolina will meet CAIR requirements by participating in these cap-and-trade programs. EPA is proposing to approve the full SIP revision, as interpreted and clarified herein, as fully implementing the CAIR requirements for South Carolina. Consequently, this action will also cause the CAIR Federal Implementation Plans (CAIR FIPs) concerning SO_2, NO_X annual, and NO_X ozone season emissions by South Carolina sources to be automatically withdrawn. This action is being taken pursuant to section 110 of the Clean Air Act.

DATES: Written comments must be received on or before November 16, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0455, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: benjamin.lynorae@epa.gov.*
3. *Fax:* 404–562–9019.
4. *Mail:* EPA–R04–OAR–2009–0455, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Steven Scofield, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9034. Mr. Scofield can also be reached via electronic mail at *scofield.steve@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register.** In the Final Rules Section of this **Federal Register,** EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

Dated: *October 9, 2009.*

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E9–25052 Filed 10–15–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2009–0338; FRL–8968–9]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; North Carolina: Redesignation of Great Smoky Mountains National Park 1997 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of North Carolina through the North Carolina Department of Environment and Natural Resources, Division of Air Quality (NC DAQ) submitted, on July 24, 2009, a request to redesignate the Great Smoky Mountains National Park (GSMNP) 1997 8-hour ozone nonattainment area to attainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS); and to approve a State Implementation Plan (SIP) revision containing a maintenance plan with a 2020 end year for the GSMNP Area. The GSMNP Area is composed of portions of Haywood and Swain Counties in North Carolina. In this action, EPA is proposing to approve the 1997 8-hour ozone redesignation request for the GSMNP Area. Additionally, EPA is proposing to approve the emission inventory and the 1997 8-hour ozone maintenance plan for the GSMNP Area, including motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and an insignificance determination for conformity for volatile organic compounds (VOC) emissions from motor vehicles. Further, in this action, EPA is also describing the status of its transportation conformity adequacy determination for the new 2011 and 2020 MVEBs for NO_X, and for the insignificance determination for VOC contribution from motor vehicle emissions to the 8-hour ozone pollution for the 1997 NAAQS, that are contained in the 1997 8-hour ozone maintenance plan for the GSMNP Area. On March 12,

2008, EPA issued a revised ozone standard. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS. Requirements for the GSMNP Area under the 2008 standard will be addressed in the future.

DATES: Written comments must be received on or before November 16, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2009–0338, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: benjamin.lynorae@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2009–0338 Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

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FOR FURTHER INFORMATION CONTACT: Jane Spann or Nacosta Ward, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Jane Spann may be reached by phone at (404) 562–9029 or via electronic mail at *spann.jane@epa.gov.* The telephone number for Ms. Ward is (404) 562–9140 and the electronic mail at *ward.nacosta@epa.gov.*

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I. What Proposed Actions Is EPA Taking?

EPA is proposing to take several related actions, which are summarized below and described in greater detail throughout this notice of proposed rulemaking: (1) To redesignate the GSMNP Area to attainment for the 1997 8-hour ozone NAAQS; (2) to approve the emissions inventory submitted with the maintenance plan (under the Clean Air Act (CAA) section 172(c)(3)); and (3) to approve North Carolina's 1997 8-hour ozone maintenance plan into the North Carolina SIP, including the associated MVEBs for NO_X and the VOC insignificance determination for VOC emission contribution from motor vehicles. In addition, and related to today's proposed actions, EPA is also notifying the public of the status of EPA's adequacy determination for the GSMNP Area NO_X MVEBs.

First, EPA is proposing to determine that the GSMNP Area has attained the 1997 8-hour ozone standard, and that the GSMNP Area has met the other requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is now proposing to approve a request to change the legal designation of the GSMNP Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS.

Second, EPA is proposing to approve North Carolina's 1997 emissions inventory (under section 172(c)(3)). North Carolina selected 2005 as ''the attainment year'' for the GSMNP Area for the purpose of demonstrating attainment of the 1997 8-hour ozone NAAQS. This attainment inventory identifies the level of emissions in the area, which is sufficient to attain the 1997 8-hour ozone standard.

Third, EPA is proposing to approve North Carolina's 1997 8-hour ozone maintenance plan for the GSMNP Area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the GSMNP Area in attainment of the 1997 8-hour ozone

NAAQS through 2020. Consistent with the CAA, the maintenance plan that EPA is proposing to approve today also includes 2011 and 2020 MVEBs for NO_X, and a VOC insignificance determination for transportation conformity. Today, EPA is proposing to approve (into the North Carolina SIP) the 2011 and 2020 NO_X MVEBs, and the VOC insignificance determination for conformity, that are included as part of North Carolina's maintenance plan for the GSMNP Area for the 1997 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the newly-established 2011 and 2020 NO_X MVEBs, and of its insignificance determination for VOC for transportation conformity purposes for the GSMNP Area.

Today's notice of proposed rulemaking is in response to North Carolina's May 15, 2009, proposed SIP submittal, which was submitted in draft form for parallel processing, and then again in final form on July 24, 2009. The July 24, 2009, submittal requests redesignation of the GSMNP Area, and includes a SIP revision addressing the specific issues summarized above and the necessary elements for redesignation described in section 107(d)(3)(E) of the CAA.

II. What Is the Background for EPA's Proposed Actions?

Ground level ozone is not directly emitted by sources. Rather, emissions of NO_X and VOC react in the presence of sunlight to form ground-level ozone. NO_X and VOC are referred to as precursors of ozone. The CAA establishes a process for air quality management through the NAAQS. On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). The 1997 standard was more stringent than the previous 1-hour ozone standard. Under EPA's regulations at 40 CFR part 50, the 1997 8-hour ozone standard is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). (See 69 FR 23857, April 30, 2004, for further information.) Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50. Specifically, section 2.3 of 40 CFR part 50, Appendix I, ''*Comparisons with the Primary and Secondary Ozone Standards''* states:

''The primary and secondary ozone ambient air quality standards are met at an ambient air quality monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm. The number of significant figures in the level of the standard dictates the rounding convention for comparing the computed 3-year average annual fourth-highest daily maximum 8-hour average ozone concentrations with the level of the standard. The third decimal place of the computed value is rounded, with values equal to or greater than 5 rounding up. Thus, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm.''

The CAA required EPA to designate as nonattainment any area that was violating the 1997 8-hour ozone NAAQS based on the three most recent years of ambient air quality data. The GSMNP 1997 8-hour ozone nonattainment area was designated using 2001–2003 ambient air quality data. The **Federal Register** document making these designations was signed on April 15, 2004, and published on April 30, 2004 (69 FR 23857).

The CAA contains two sets of provisions, subpart 1 and subpart 2 that address planning and control requirements for ozone nonattainment areas. (Both are found in title I, part D.) Subpart 1 (which EPA refers to as ''basic'' nonattainment) contains general, less prescriptive, requirements for nonattainment areas for any pollutant, including ozone, governed by a NAAQS. Subpart 2 (which EPA refers to as ''classified'' nonattainment) provides more specific requirements for certain ozone nonattainment areas. Some 1997 8-hour ozone nonattainment areas were subject only to the provisions of subpart 1. Other 1997 8-hour ozone nonattainment areas were classified as subpart 2 areas and were subject to the provisions of subpart 2 in addition to subpart 1. Under EPA's phase 1 8-hour ozone implementation rule (69 FR 23857) (Phase 1 Rule), signed on April 15, 2004, and published April 30, 2004, an area was classified under subpart 2 based on its 8-hour ozone design value (i.e., the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations), if it had a 1-hour design value at or above 0.121 ppm (the lowest 1-hour design value in Table 1 of subpart 2). All other areas were covered under subpart 1, based upon their 8-hour ambient air quality design values.

The GSMNP Area was designated attainment for the 1-hour ozone standard. On April 30, 2004, EPA designated the GSMNP Area as a ''basic'' 8-hour ozone nonattainment area or subpart 1 nonattainment area (see, 69 FR 23857, April 30, 2004). When North Carolina submitted its redesignation request, the GSMNP Area was attaining the 1997 8-hour ozone standard. The area has continued to attain since that time.

Various aspects of EPA's Phase 1 Rule were challenged in court. On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) vacated EPA's Phase 1 Rule (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist. (SCAQMD)* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006). On June 8, 2007, in response to several petitions for rehearing, the D.C. Circuit Court clarified that the Phase 1 Rule was vacated only with regard to those parts of the Rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of title I, part D of the CAA as 1997 8-hour nonattainment areas, the 1997 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 1997 8-hour ozone NAAQS remain effective. The June 8th decision left intact the Court's rejection of EPA's reason for implementing the 1997 8-hour ozone standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8th decision reaffirmed the December 22, 2006, decision that EPA had improperly failed to retain measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) section 185 penalty fees for 1-hour severe or extreme nonattainment areas; and (3) measures to be implemented pursuant to section 172(c)(9) or 182 (c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS. The June 8th decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of 1-hour motor vehicle

emissions budgets until 8-hour budgets were available for 8-hour conformity determinations, which is already required under EPA's conformity regulations. The Court thus clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

This section sets forth EPA's views on the potential effect of the Court's rulings on this proposed redesignation action. For the reasons set forth below, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from proposing or ultimately finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of the GSMNP Area to attainment, because even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

With respect to the 1997 8-hour standard, the Court's ruling rejected EPA's reasons for classifying areas under subpart 1 for the 1997 8-hour standard, and remanded that matter to the Agency. In its January 16, 2009, proposed rulemaking in response to the *SCAQMD* decision, EPA has proposed to classify GSMNP under subpart 2 as a marginal area. See 74 FR 2936, 2944. If EPA finalizes this rulemaking, the requirements under subpart 2 will become applicable when they are due, a deadline that EPA has proposed to be one year after the effective date of a final rulemaking classifying areas as marginal or moderate. See 74 FR 2940–41. Although the final rulemaking to classify this area under subpart 2 has not yet been made, EPA believes that this does not mean that redesignation cannot now go forward. This belief is based upon (1) EPA's longstanding policy of evaluating requirements in accordance with the requirements due at the time the request is submitted and (2) consideration of the inequity of applying retroactively any requirements that might in the future be applied.

First, at the time the redesignation request was submitted, the GSMNP Area was not classified under subpart 2, nor were there any subpart 2 requirements yet due for this Area. Under EPA's longstanding interpretation of section 107(d)(3)(E) of the CAA, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to submittal of a complete redesignation request. September 4, 1992, Calcagni Memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division). (See also Michael Shapiro Memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (Redesignation of Detroit—Ann Arbor, Michigan). See *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004) (upholding this interpretation). See also 68 FR 25418, 25424, 25427 (May 12, 2003) (redesignation of St. Louis, Missouri).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the request was submitted. The D.C. Circuit Court has recognized the inequity in such retroactive rulemaking (See *Sierra Club* v. *Whitman* 285 F.3d 63 (D.C. Cir. 2002)), in which the Court upheld a district court's ruling refusing to make retroactive, an EPA determination of nonattainment that was past the statutory due date. Such a determination would have resulted in the imposition of additional requirements on the area. The Court stated: ''Although EPA failed to make the nonattainment determination within the statutory frame, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the states, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time.'' *Id.* at 68. Similarly here, it would be unfair to penalize the area by applying to it for purpose of redesignation, additional SIP requirements under subpart 2 that were not in effect or yet due at the time it submitted its redesignation request, or the time that the Area attained the standard.

With respect to the requirements under the 1-hour ozone standard, the GSMNP Area was designated attainment. The D.C. Circuit Court's decisions do not impact redesignation requests for these types of areas, except to the extent that the Court, in its June 8th decision, clarified that for those areas with 1-hour MVEBs in their maintenance plans, anti-backsliding requires that those 1-hour budgets must be used for 8-hour budgets. Since this Area was attainment for the 1-hour ozone standard, there were no preexisting 1-hour MVEBs to consider for 8-hour conformity requirements.

First, there are no conformity requirements relevant for the GSMNP Area request, such as a transportation conformity SIP. It is EPA's longstanding policy that it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation, and Federal conformity rules apply where state rules have not been approved. See 40 CFR 51.390; see also *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding EPA's interpretation); 60 FR 62748 (Dec. 7, 1995) (Redesignation of Tampa, Florida).

Second, with regard to the three other anti-backsliding provisions for the 1-hour ozone standard that the D.C. Circuit Court found were not properly retained, the GSMNP Area has always been an attainment area for the 1-hour ozone standard, and the NSR, contingency measures pursuant to section 172(c)(9) or 182(c)(9), and fee provision requirements do not apply to this area. As a result, the decisions in *SCAQMD* should not alter any requirements that would preclude EPA from finalizing the redesignation of the GSMNP Area to attainment for the 1997 8-hour ozone standard.

As noted earlier, in 2008, the ambient ozone data for the GSMNP Area indicated no further violations of the 1997 8-hour ozone NAAQS, using the data from the 3-year period of 2006–2008 to demonstrate attainment. As a result, on May 15, 2009, North Carolina requested parallel processing of its request for redesignation of the GSMNP Area to attainment for the 1997 8-hour ozone NAAQS. The redesignation request included three years of complete, quality-assured ambient air quality data for the ozone seasons (April 1st until October 31st) of 2006–2008, indicating that the 1997 8-hour ozone NAAQS had been achieved for the entire GSMNP Area. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-assured data is available for the Administrator to determine that the area has attained the standard and the area meets the other CAA redesignation requirements in section 107(d)(3)(E). While EPA did not have the opportunity to parallel process this draft submittal, EPA did begin the adequacy process for the newly-established MVEBs. Also, while EPA can initiate the adequacy process with a draft submittal, EPA cannot conclude this process until a final submittal is received. On July 24, 2009, North Carolina submitted to EPA a final SIP revision. This final submittal included MVEBs for 2011 and 2020.

III. What Are the Criteria for Redesignation?

The CAA provides the requirements for redesignating a nonattainment area

to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and, (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the ''Calcagni Memorandum'');
5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. ''Technical Support Documents (TSD's) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why Is EPA Proposing These Actions?

North Carolina submitted a final SIP revision on July 24, 2009, with a request for redesignation of the GSMNP Area to attainment for the 1997 8-hour ozone standard. EPA's preliminary evaluation indicates that North Carolina has demonstrated that the GSMNP Area has attained the standard and has met the requirements for redesignation set forth in section 107(d)(3)(E) of the CAA. EPA is also announcing the status of its adequacy determination for the 2011 and 2020 NOx MVEBs, and the VOC insignificance determination, which are relevant to the requested redesignation.

V. What Is the Effect of EPA's Proposed Actions?

EPA's proposed actions establish the bases upon which EPA may take final action on the issues being proposed for approval today. Final approval of the emissions inventory would determine that it satisfies the requirements of section 172(c)(3) of the CAA. Approval of North Carolina's redesignation request would change the legal designation for the portions of Haywood and Swain Counties included in the GSMNP Area for the 1997 8-hour ozone NAAQS found at 40 CFR part 81. Approval of North Carolina's request would also incorporate into the North Carolina SIP, a plan for the GSMNP Area for maintaining the 1997 8-hour ozone NAAQS in the Area through 2020. This maintenance plan includes contingency measures to remedy future violations of the 1997 8-hour ozone NAAQS. The maintenance plan also establishes regional NO_X MVEBs and provides a VOC insignificance determination for the GSMNP Area. The following Table identifies the NO_X MVEBs for the years 2011 and 2020 for this Area.

TABLE 1—GSMNP AREA MVEBS

[Kilograms per day [1]]

	2011	2020
NO_X MVEB	179.9	127.0

[1] North Carolina has provided the conversion factor of 907.1847 kilograms per ton, rounded to two decimal places for tons to allow for comparison of the MVEBs to the emissions inventory (expressed in tons per day) in this Area.

Approval of North Carolina's maintenance plan would also result in approval of the regional NO_X MVEBs, and the VOC insignificance determination for conformity purposes. Additionally, EPA is notifying the public of the status of its adequacy determination for the 2011 and 2020 NO_X MVEBs, and its VOC insignificance determination for conformity, pursuant to 40 CFR 93.118(f)(1).

VI. What Is EPA's Analysis of the Request?

EPA is proposing to make the determination that the GSMNP Area has attained the 1997 8-hour ozone standard, and that all other redesignation criteria have been met for the GSMNP Area. The basis for EPA's determination for this Area is discussed in greater detail below.

Criteria (1)—The GSMNP Area Has Attained the 8-Hour Ozone NAAQS

EPA is proposing to determine that the GSMNP Area has attained the 1997 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 1997 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

EPA reviewed ozone monitoring data from the ambient ozone monitoring

station in the GSMNP Area for the ozone season from 2006–2008. These data have been quality assured and is recorded in AQS. The fourth highest 8-hour averages for 2006, 2007 and 2008, and the 3-year average of these values (i.e., design values), are summarized in the following table:

TABLE 2—ANNUAL 4TH HIGHEST MAXIMUM AND DESIGN VALUE CONCENTRATION FOR 8-HOUR OZONE FOR THE GSMNP AREA

Year	Fourth highest 8-hour ozone value (ppm)	Design value (ppm) 2006–2008
2006	0.073	0.077
2007	0.078	.....
2008	0.080	.....

As discussed above, the design value for an area is the 3-year average of the annual 4th highest 8-hour ozone value recorded at the monitor in the area. Therefore, the design value for the GSMNP Area is 0.077 ppm, which meets the standard as described above. Currently available data show that the Area continues to attain the standard. If the Area does not continue to attain until EPA finalizes the redesignation, EPA will not go forward with the redesignation. It is important to note that this area has been in attainment of the 1997 standard since 2004. The design value for the Area with 2002–2004 data was 0.082 ppm. See below for a historical trend of design values for this Area.

TABLE 3—GSMNP AREA HISTORIC DESIGN VALUES

[1999–2007]

Monitor	Design value (ppm)						
	99–01	00–02	01–03	02–04	03–05	04–06	05–07
Purchase Knob, AIRS ID #37–087–0036, Haywood County	**0.087**	**0.087**	**0.085**	0.082	0.078	0.076	0.078

Note: **Bolded** values represent violations of the 8-hour ozone standard.

As is discussed in more detail below, North Carolina has committed to continue monitoring in this Area in accordance with 40 CFR part 58. The data submitted by North Carolina provides an adequate demonstration that the GSMNP Area has attained the 1997 8-hour ozone NAAQS.

Criteria (2)—North Carolina Has a Fully Approved SIP Under Section 110(k) for the GSMNP Area and Criteria (5)—Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

Below is a summary of how these two criteria were met.

EPA has determined that North Carolina has met all applicable SIP requirements for the GSMNP Area under section 110 of the CAA (general SIP requirements). EPA has also determined that the North Carolina SIP satisfies the criterion that it meet applicable SIP requirements under part D of title I of the CAA (requirements specific to subpart 1 basic 8-hour ozone nonattainment areas) in accordance with section 107(d)(3)(E)(v) and 110(l). In addition, EPA has determined that the SIP is fully approved with respect to all applicable requirements in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the area and that if applicable, they are fully approved under section 110(k). SIPs must be fully approved only with respect to applicable requirements.

a. The GSMNP Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

The September 4, 1992, Calcagni Memorandum describes EPA's interpretation of section 107(d)(3)(E). Under this interpretation, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant CAA requirements that come due prior to the submittal of a complete redesignation request. See also Michael Shapiro Memorandum, (''SIP Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide NAAQS On or After November 15, 1992,'' September 17, 1993); and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA; *Sierra Club,* 375 F.3d 537; see also 68 FR 25424, 25427 (May 12, 2003) (redesignation of St. Louis, Missouri).

General SIP requirements. Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the transport of air pollutants (the NO_X SIP Call, the Clean Air Interstate Rule (CAIR)). EPA has also found, generally, that states have not submitted timely SIPs under section 110(a)(1) to meet the interstate transport requirements of section 110(a)(2)(D)(i). However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and

classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, we do not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for the purpose of redesignation.

In addition, EPA believes that other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania redesignation (66 FR 50399, October 19, 2001).

EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. EPA notes it has previously approved provisions in the North Carolina SIP addressing section 110 elements under the 1-hour ozone NAAQS (See 51 FR 19834, June 3, 1986). The State has submitted a letter, dated December 12, 2007, setting forth its belief that the section 110 SIP approved for the 1-hour ozone NAAQS is also sufficient to meet the requirements under the 1997 8-hour ozone NAAQS. EPA has not yet approved these submissions, but such approval is not necessary for purposes of redesignation.

Part D requirements. EPA proposes that if EPA approves the base year emissions inventory, which is part of the maintenance plan submittal, the North Carolina SIP will meet applicable SIP requirements under part D of the CAA. The 2005 VOC and NO_X emissions, as well as the emissions for other years, for the GSMNP Area were developed consistent with EPA guidance for emission inventories and the choice of the 2005 base year is appropriate because it represents the 2004–2006 period when the 1997 8 hour ozone NAAQS was not violated.

Part D, subpart 1 applicable SIP requirements. For purposes of evaluating this redesignation request, the applicable part D, subpart 1 SIP requirements for all nonattainment areas are contained in sections 172–176. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498).

EPA is proposing here to determine that the Area has attained the 1997 8-hour ozone standard, under 40 CFR 51.918. If that determination is finalized, the requirements to submit certain planning SIPs related to attainment, including attainment demonstration requirements, the Reasonably Available Control Measure (RACM) requirement of section 172(c)(1) of the CAA, the Reasonable Further Progress (RFP) and attainment demonstration requirements of sections 172(c)(2) and (6) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA, would not be applicable to the Area as long as it continues to attain the NAAQS and would cease to apply upon redesignation. In addition, in the context of redesignations, EPA has interpreted requirements related to attainment as not applicable for purposes of redesignation. For example, in the General Preamble, EPA stated that: [t]he section 172(c)(9) requirements are directed at ensuring RFP and attainment by the applicable date. These requirements no longer apply to an area that has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provide specific requirements for contingency measures that effectively supersede the requirements of section 172 (c)(9) for these areas. ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990'' (''General Preamble''), 57 FR 13498, 13564 (April 16, 1992). See also Calcagni memorandum at page 6 (''The requirements for reasonable further progress and other measures for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.'') Since the GSMNP area was not classified under subpart 2 at the time the redesignation request was submitted, the subpart 2 requirements do not apply for purposes of redesignation. EPA believes it is reasonable to interpret the conformity and NSR requirements as not requiring approval prior to redesignation.

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other Federally supported or funded projects (general conformity). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required EPA to promulgate.

EPA believes it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. See *Wall,* 265 F.3d 426 (upholding this interpretation). See also 60 FR 62748 (December 7, 1995, Tampa, Florida).

NSR Requirements. EPA has also determined that areas being redesignated need not comply with the requirement that an NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without a part D NSR program in effect, since PSD requirements will apply after redesignation. The rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment.'' North Carolina has demonstrated that the GSMNP Area will be able to maintain the standard without a part D NSR program in effect, and therefore, North Carolina need not have a fully approved part D NSR program prior to approval of the redesignation request. Since there are no major sources in GSMNP and none planned, the Area has demonstrated maintenance without the need for a part D NSR program in this Area. North Carolina's PSD program will become effective in the GSMNP

Area upon redesignation to attainment. See rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorraine, Ohio (61 FR 20458, 20469–70, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Thus, the GSMNP Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of the CAA.

b. The GSMNP Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

If EPA issues a final approval of the base year emissions inventory under section 172(c)(3), EPA will have fully approved the applicable North Carolina SIP for the GSMNP Area, under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request, see Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426, plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, North Carolina has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various 1-hour ozone standard SIP elements applicable in the GSMNP Area (58 FR 47391, September 9, 1993; 59 FR 18300, April 18, 1994; 60 FR 34859, July 5, 1995; 69 FR 56163, September 20, 2004).

As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of redesignation. EPA also believes that since the part D subpart 2 requirements did not become due prior to submission of the redesignation request, they also are therefore not applicable requirements for purposes of redesignation. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004); 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis-East St. Louis Area to attainment of the 1-hour ozone NAAQS). With the approval of the emissions inventory, EPA will have approved all Part D subpart 1 requirements applicable for purposes of redesignation.

Criteria (3)—The Air Quality Improvement in the GSMNP Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

EPA believes that North Carolina has demonstrated that the observed air quality improvement in the GSMNP Area is due to permanent and enforceable reductions in emissions in the region surrounding the GSMNP Area resulting from implementation of the SIP, Federal measures, and other state adopted measures. Additionally, new emissions control programs for fuels and motor vehicles will help ensure a continued decrease in emissions throughout the region and continued maintenance of the ozone standard.

The overwhelming abundance of biogenic VOC emissions makes the majority of North Carolina a NO_X limited environment for the formation of ozone. This holds especially true in the North Carolina GSMNP nonattainment area. The NO_X emissions within the North Carolina GSMNP nonattainment area are extremely low; total manmade emissions are currently about a quarter ton per day (tpd) of NO_X. NC DAQ has provided a demonstration that the GSMNP man-made emissions are not the primary cause of the ozone exceedances within the GSMNP. North Carolina's demonstration indicates that emission reductions in the GSMNP itself have only a limited impact on the observed ozone values within the GSMNP; and thus concludes these reductions primarily must come from sources upwind of the nonattainment area.

There are numerous State and Federal measures that have been enacted in recent years that are resulting in permanent and enforceable regional emissions reductions. A list of those measures that contributed to the permanent and enforceable regional emission reductions that resulted in attainment or will contribute to future maintenance of the ozone standard are listed in Table 4.

TABLE 4—REGION-WIDE EMISSION REDUCTIONS PROGRAMS IN THE GSMNP AREA

Federal Control Measures
Tier 2 Vehicle Standards.
Heavy-Duty Gasoline and Diesel Highway Vehicles Standards.
Large Nonroad Diesel Engines Rule.
Nonroad Spark-Ignition Engines and Recreational Engines Standard.
NO_X SIP Call in Surrounding States.
Clean Air Interstate Rule in Surrounding States.
State Control Measures
Clean Air Bill.
NO_X SIP Call/Clean Air Interstate Rule.
Clean Smokestacks Act.
Open Burning Bans.
Air Toxics Control Program.
Prevention of Significant Deterioration.
Heavy Duty Diesel Engine Gap Filling Requirements.
Air Awareness Program.

Two of the measures of consideration included by North Carolina in its maintenance plan submittal were CAIR in surrounding states and the NO_X SIP Call in surrounding states. Because of the uncertainty introduced by the recent court actions affecting CAIR and the NO_X SIP Call, EPA undertook an analysis of the changes in NO_X expected during the ten year maintenance period across a broader region. Of particular significance are reductions in NO_X emissions from large power plants in the region since they were responsible for the preponderance of the NO_X in the GSMNP Area. There are seven facilities located in North Carolina and four facilities located in Tennessee in the Region around the GSMNP Area. Table 5 displays the NO_X emission reductions, as the result of the NO_X SIP Call rule, from power plants that most likely impact the North Carolina GSMNP nonattainment area in 2002 through 2007. This data is from the EPA's Clean Air Markets Division and represents the second and third quarters of the year (April through September), the period during which ozone levels are the highest. It is clearly demonstrated that the emissions from these facilities have significantly decreased during the ozone season since 2002, with 52,431 tons of NO_X reductions in the 2007 ozone season compared to 2002. This is a 67 percent reduction in utility NO_X emissions that are permanent and enforceable and implemented prior to CAIR coming into effect.

TABLE 5—APRIL–SEPTEMBER NO_X EMISSIONS FOR UTILITIES IMPACTING THE GSMNP AREA

[tons/period]

Facility	2002	2003	2004	2005	2006	2007
North Carolina Sources						
Asheville	2,252	2,158	2,205	2,156	1,931	598
Belews Creek	21,269	13,871	7,102	3,803	3,769	1,559
Buck	1,084	1,468	1,089	1,286	1,262	870
Cliffside	1,944	2,149	1,738	1,782	1,540	1,311
G G Allen	5,011	3,643	4,002	3,589	3,001	3,053
Marshall	9,283	9,101	8,243	7,558	6,370	7,253
River Bend	2,556	2,703	1,844	1,379	1,417	1,296
Total NC	43,399	35,093	26,223	21,553	19,290	15,940
Tennessee Sources						
Bull Run	10,554	9,234	1,670	2,468	692	1,513
Gallatin	5,894	6,043	4,556	3,933	3,647	3,124
John Sevier	5,438	4,911	5,343	4,437	4,504	4,187
Kingston	13,335	13,882	5,660	3,444	1,344	1,425
Total TN	35,221	34,070	17,229	14,282	10,187	10,249
Total Combined	78,620	69,163	43,452	35,835	29,477	26,189

These reductions are primarily the result of the NO_X SIP Call (63 FR 57356) that set ozone season NO_X budgets for the purpose of reducing regional transport of ozone. This rule called for ozone season controls to be put on utility and industrial boilers, as well as internal combustion engines in 22 states in the Eastern United States. A NO_X emissions budget was set for each state and the states were required to develop rules that would allow the state to meet their budget. The emission budgets were to be met by the beginning of 2004, prior to the adoption of CAIR. The amount of ozone season NO_X emissions from power plants has decreased significantly in and around North Carolina as a result and are expected to be maintained at these levels throughout the maintenance period.

Georgia power plants were the only ones in a nearby state not affected by the NO_X SIP Call. While no NO_X reductions were achieved during the period GSMNP demonstrated attainment, Georgia enacted regulations pursuant to the Georgia multi-pollutant bill in the summer 2007 to require coal fired power plants in Georgia to reduce NO_X, approximately 50 percent, by 2015. Reductions will affect 21 units at seven facilities. The rule requires specific controls on specific units according to a specific schedule and will assure that NO_X emissions will not increase during the maintenance period.

Besides controls on electrical generating units (EGUs), substantial additional reductions in NO_X are expected due to controls being imposed on fuels and off road and on road motor vehicles. To evaluate NO_X changes expected to occur during the maintenance period to other NO_X sources in the region, we reviewed projections made for Regional Haze for 2009 and 2018. This is the latest region-wide assessment available done for emissions for the regional area.

As summarized in Tables 6 and 7, all point sources are expected to further decrease during this period by 337,742 tons per year (tpy) or 24 percent. However mobile sources are projected to decrease by an even greater amount, decreasing by 751,038 tpy or 53 percent during this period and non-road emissions are expected to decrease 166,687 tpy or 22 percent. The only category showing an increase is area source emissions which are projected to grow 6 percent, an increase of 21,146 tpy. In total, non point source NO_X emissions in the region are expected to decrease by 896,579 tpy from 2009 to 2018. Region-wide, annual emissions of NO_X are expected to decrease 39 percent from 2009 to 2018. Every state in the 10 state Visibility Improvement State and Tribal Association of the Southeast (VISTAS) planning area projects reductions of NO_X emissions from 2009 to 2018.

Even if the projected point source reductions from CAIR are not considered and EGU emissions are held at 2009 levels, annual emissions of NO_X are still projected to decrease 23 percent. Since both North Carolina and Georgia have rules requiring EGUs to reduce NO_X independent of CAIR and a number of other facilities in the region are controlling NO_X emissions due to consent decrees, this assumption of no regional reductions in EGU emissions during this period is very conservative.

These regional projections of emissions data have only been prepared through 2018. However, since mobile and non-road emissions continue to decrease long after a rule is adopted as the engine population is gradually replaced by newer engines, it is reasonable to assume that this projected decrease in regional NO_X emissions from mobile and non-road sources should continue through 2020 and assure that ozone in the GSMNP will continue to decline throughout the 10-year maintenance period. Hence we believe the projected regional NO_X reductions are adequate to assure that the GSMNP will continue demonstrating maintenance throughout the 10-year maintenance period.

TABLE 6—VISTAS 2009 BASE ANNUAL EMISSION INVENTORY SUMMARY FOR NO_X *

States	Point	Non-road	Area	Mobile	Total
AL	151,714	56,862	35,831	101,831	346,238

TABLE 6—VISTAS 2009 BASE ANNUAL EMISSION INVENTORY SUMMARY FOR NO_X *—Continued

States	Point	Non-road	Area	Mobile	Total
FL	132,185	163,794	47,979	315,840	659,798
GA	148,809	85,733	51,925	209,349	495,816
KY	129,779	94,752	43,548	101,182	369,261
MS	92,409	80,567	8,048	70,743	251,767
NC	101,236	70,997	45,382	201,609	419,224
SC	86,934	43,235	25,259	92,499	247,927
TN	124,274	86,641	20,717	151,912	383,544
VA	288,213	54,993	53,596	134,232	531,034
WV	124,359	30,133	14,384	35,635	204,511
Total	1,379,912	767,707	346,669	1,414,832	3,909,120

TABLE 7—VISTAS 2018 BASE ANNUAL EMISSION INVENTORY SUMMARY FOR NO_X *

States	Point	Non-road	Area	Mobile	Total
AL	141,178	43,779	36,945	47,298	269,200
FL	110,243	127,885	50,499	150,180	438,807
GA	125,083	64,579	55,518	102,179	347,359
KY	100,774	79,392	45,806	52,263	278,235
MS	71,988	68,252	8,322	30,619	179,181
NC	94,276	49,046	49,514	87,791	280,627
SC	94,089	31,758	26,491	43,490	195,828
TN	93,443	70,226	21,810	69,385	254,864
VA	116,560	40,393	57,137	63,342	277,432
WV	94,536	25,710	15,773	17,247	153,266
Total	1,042,170	601,020	367,815	663,794	2,674,799

* From North Carolina Regional Haze Plan, December 17, 2007, pages Appendix D.3–10 & 11.

EPA has considered the relationship of the GSMNP Area's maintenance plan to the reductions currently required pursuant to CAIR. CAIR was remanded to EPA, and the process of developing a replacement rule is ongoing. However, the remand of CAIR does not alter the requirements of the NO_X SIP Call and the State has now demonstrated that the GSMNP Area can maintain without any additional requirements (beyond those required by the NO_X SIP Call). Therefore, EPA believes that the State's demonstration of maintenance under sections 175A and 107(d)(3)(E) remains valid.

The NO_X SIP Call requires states to make significant, specific emissions reductions. It also provides a mechanism, the NO_X Budget Trading Program, that states could use to achieve those reductions. When EPA promulgated CAIR, it discontinued (starting in 2009) the NO_X Budget Trading Program, 40 CFR 51.121(r), but created another mechanism—the CAIR ozone season trading program—which states could use to meet their SIP Call obligations, 70 FR 25289–90. EPA notes that a number of states, when submitting SIP revisions to require sources to participate in the CAIR ozone season trading program, removed the SIP provisions that required sources to participate in the NO_X Budget Trading Program. In addition, because the provisions of CAIR including the ozone season NO_X trading program remain in place during the remand, EPA is not currently administering the NO_X Budget Trading Program. Nonetheless, all states regardless of the current status of their regulations that previously required participation in the NO_X Budget Trading Program, will remain subject to all of the requirements in the NO_X SIP Call even if the existing CAIR ozone season trading program is withdrawn or altered. In addition, the anti-backsliding provisions of 40 CFR 51.905(f) specifically provide that the provisions of the NO_X SIP Call, including the statewide NO_X emission budgets, continue to apply after revocation of the 1-hour standard.

All NO_X SIP Call states have SIPs that currently satisfy their obligations under the NO_X SIP Call; the NO_X SIP Call reduction requirements are being met; and EPA will continue to enforce the requirements of the NO_X SIP Call even after any response to the CAIR remand. For these reasons, EPA believes that regardless of the status of the CAIR program, the NO_X SIP Call requirements can be relied upon in demonstrating maintenance. Here, the State has demonstrated maintenance based in part on those requirements.

Criteria (4)—The Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with its request to redesignate the GSMNP 1997 8-hour ozone nonattainment area to attainment status, NC DAQ submitted a SIP revision to provide for the maintenance of the 1997 8-hour ozone NAAQS in the GSMNP Area for at least 10 years after the effective date of redesignation to attainment.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State of North Carolina must submit a revised maintenance plan, which demonstrates that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation as EPA deems necessary to assure prompt

correction of any future 8-hour ozone violations. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni Memorandum provides additional guidance on the content of a maintenance plan. The Calcagni Memorandum explains that an ozone maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, North Carolina's maintenance plan includes all the necessary components and is approvable as part of the redesignation request.

b. Attainment Emissions Inventory

North Carolina selected 2005 as ''the attainment year'' for the GSMNP Area for the purpose of demonstrating attainment of the 1997 8-hour ozone NAAQS. This attainment inventory identifies the level of emissions in the area, which is sufficient to attain the 1997 8-hour ozone standard. North Carolina began development of this attainment inventory by first developing a baseline emissions inventory for the GSMNP Area. The year 2005 was chosen as the base year for developing a comprehensive ozone precursor emissions inventory for which projected emissions could be developed for 2008, 2011, 2014, 2017 and 2020. Non-road mobile emissions estimates were based on the EPA's NONROAD2005c model. On-road mobile source emissions were calculated using EPA's MOBILE6.2 emission factors model. The 2005 VOC and NO_X emissions, as well as the emissions for other years, for the GSMNP Area were developed consistent with EPA guidance, and are summarized in Tables 8 and 9.

TABLE 8—GSMNP AREA VOC EMISSIONS (TPD)

Source category	2005	2008	2011	2014	2017	2020
Area	0.17	0.17	0.17	0.17	0.17	0.17
Mobile	0.41	0.36	0.32	0.27	0.24	0.22
Nonroad	0.00	0.00	0.00	0.00	0.00	0.00
Total	0.58	0.53	0.49	0.44	0.41	0.39

TABLE 9—GSMNP AREA NO_X EMISSIONS (TPD)

Source category	2005	2008	2011	2014	2017	2020
Area	0.00	0.00	0.00	0.00	0.00	0.00
Mobile	0.26	0.23	0.20	0.17	0.15	0.14
Nonroad	0.00	0.00	0.00	0.00	0.00	0.00
Total	0.26	0.23	0.20	0.17	0.15	0.14

Biogenic emissions are estimated using models developed by EPA. The biogenic emissions were obtained from modeling using available data a typical summer day's emissions and 2002 meteorology. Biogenic emissions are not expected to vary significantly year to year. Since these emissions are reported at the county level, the biogenic emissions for the GSMNP Area were estimated by taking the county area fraction of the GSMNP Area in Haywood and Swain Counties, respectively. Biogenic VOC emissions are estimated to be 48.50 tpd.

c. Maintenance Demonstration

The July 24, 2009, submittal includes a maintenance plan for the GSMNP Area. This demonstration:

(i) Shows compliance with and maintenance of the 1997 8-hour ozone standard by providing information to support the demonstration that current and future emissions of VOC and NO_X remain at or below attainment year 2005 emissions levels. The year 2005 was chosen as the attainment year because it is one of the most recent three years (i.e. 2004, 2005, and 2006) for which the GSMNP Area has clean air quality data for the 1997 8-hour ozone standard.

(ii) Uses 2005 as the attainment year and includes future emission inventory projections for 2008, 2011, 2014, 2017 and 2020.

(iii) Identifies an ''out year,'' at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, regional NO_X MVEBs were established for the last year (2020) of the maintenance plan. Additionally, North Carolina chose, through interagency consultation, to establish MVEBs for the year 2011 for NO_X, and to determine insignificance for VOC for the GSMNP Area. See, section VII below.

(iv) Provides actual and projected emissions inventories, in tpd for the GSMNP Area. See Tables 8 and 9.

d. Monitoring Network

There is currently one monitor measuring ozone in the GSMNP Area. North Carolina has committed in the maintenance plan to continue the operation of this monitor in compliance with 40 CFR part 58, and has addressed the requirement for monitoring.

e. Verification of Continued Attainment

North Carolina has the legal authority to enforce and implement the requirements of the ozone maintenance plan for the GSMNP Area. This includes the authority to adopt, implement and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems. North Carolina will track the progress of the maintenance plan by performing future reviews of actual emissions for the Area using the latest emissions factors, models and methodologies. For these periodic inventories, North Carolina will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. If any of these assumptions appear to have changed substantially, North Carolina will re-project emissions.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct a violation of the NAAQS that occurs after redesignation. Section 175A of the CAA requires that a maintenance plan include such contingency measures as

EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the July 24, 2009, submittal, North Carolina affirms that all programs instituted by the State and EPA will remain enforceable, and there are no permitted point sources within the GSMNP Area. The contingency plan included in the submittal provides tracking and triggering mechanisms to determine when contingency measures are needed and a process of developing and adopting appropriate control measures. The primary trigger of the contingency plan will be a violation of the 1997 8-hour ozone NAAQS or when the three-year average of the fourth-highest value is equal to or greater than 0.085 ppm at the monitor. The trigger date will be 60 days from the date that the State observes a fourth-highest value that, when averaged with the two previous ozone seasons' fourth highest values, would result in a three-year average equal to or greater than 0.085 ppm.

The secondary trigger will apply where no actual violation of the 1997 8-hour ozone standard has occurred, but where the State finds monitored ozone levels indicating that an ozone NAAQS violation may be imminent. An imminent violation exists where there is a pattern. A pattern will be deemed to exist when there are two consecutive ozone seasons in which the fourth-highest values are 0.085 ppm or greater at the monitor within the GSMNP Area.

The trigger date will be 60 days from the date that the State observes a fourth-highest value of 0.085 ppm or greater at the monitor for which the previous season had a fourth-highest value of 0.085 ppm or greater. Once one of the triggers is activated, the Planning Section of the NC DAQ shall commence analyses including trajectory analyses of high ozone days, and emissions inventory assessment to determine the cause of the ozone transport into the GSMNP Area.

The NC DAQ considered what additional measures could be implemented; however, as mentioned earlier, exceedances are at night and are the result of ozone transported into the nonattainment area from outside regions. Additionally, the GSMNP Area is already taking measures to reduce emissions within the Park to include Stage I vapor recovery on gasoline stations located in the Park, along with having an Air Quality Action Day Program in place that includes the following measures:

a. Encouraging employees to decrease vehicle use by car pooling and reducing the number of non-essential trips;

b. Fuel switching using biodiesel;

c. Postponing or decreasing the use of mowers and other gasoline engine equipment until ozone levels drop;

d. Encouraging refueling of vehicles in the early morning or late evening hours. Additionally, should one of the triggers occur, the NC DAQ will commence discussion amongst the stakeholders in the maintenance area regarding additional measures that could be implemented before the next ozone season. Such measures would likely relate to mobile sources within the maintenance area.

Furthermore, the State will commence discussion with regulatory authorities responsible for upwind sources to determine additional actions to be implemented.

These actions may include one or more of the following measures:

* RACM for sources of NO_X
* Reasonably Available Control Technology for existing point sources of NO_X
* Mobile Source Measures
* Additional NO_X reduction measures yet to be identified.

If the cause of the ozone transport is due to sources within North Carolina, by May 1st of the year following the ozone season in which the trigger has been activated, North Carolina will complete sufficient analyses to begin adoption of necessary rules for ensuring attainment and maintenance of the 1997 8-hour ozone NAAQS. The rules would become State effective by the following January 1st, unless legislative review is required. It is the States' aim to ensure that at least one of these measures be implemented within 18 to 24 months from the trigger being activated.

If the cause of the ozone transport is from sources outside of North Carolina, then the NC DAQ will begin working with neighboring states to resolve the ozone transport issue. North Carolina has already filed a section 126 petition in order to ensure that adjacent states reduce their utility emissions in a timely manner.

VII. What Is EPA's Analysis of North Carolina's Proposed VOC Insignificance Determination for Conformity and the Proposed NO_X MVEBs for the GSMNP Area?

Today's actions address two related elements regarding on-road motor vehicle emissions and the requirement to establish MVEBs. First, EPA is proposing to find that the VOC emission contribution from motor vehicles to 8-hour ozone pollution for the 1997 standard in the GSMNP Area is insignificant for transportation conformity. The result of this finding, if finalized, is that North Carolina need not develop an MVEB for VOC for the GSMNP Area. See below for further information on the insignificance determination. Second, EPA is proposing to approve the NO_X MVEBs for the GSMNP Area.

A. Proposed VOC Insignificance Determination for Transportation Conformity

In certain instances, the Transportation Conformity Rule allows areas not to establish an MVEB where it is demonstrated that the regional motor vehicle emissions for a particular pollutant/precursor is an insignificant contributor to the air quality problem in an area. The general criteria for insignificance findings can be found in 40 CFR 93.109(k). Insignificance determinations are based on a number of factors, including (1) the percentage of motor vehicle emissions in context of the total SIP inventory; (2) the current state of air quality as determined by monitoring data for that NAAQS; (3) the absence of SIP motor vehicle control measures; and (4) historical trends and future projections of the growth of motor vehicle emissions. EPA's rationale for the providing for insignificance determinations is described in the July 1, 2004, revision to the Transportation Conformity Rule at 69 FR 40004. Specifically, the rationale is explained on page 40061 under the subsection entitled ''XXIII. B. Areas With Insignificant Motor Vehicle Emissions.'' Any insignificance determination under review of EPA is subject to the adequacy and approval process for EPA's action on the SIP.

Through the adequacy and SIP approval process, EPA may find that a SIP demonstrates that regional motor vehicle emissions are an insignificant contributor to the air quality problem for the pollutant/precursor at issue. In the case of the GSMNP Area, EPA intends to make its finding as part of

EPA's final action on this redesignation request of North Carolina for the GSMNP Area. Upon the effective date of EPA's adequacy finding or the publication date of the final rule for this SIP revision (*i.e.,* which includes the VOC insignificance determination), federal regulations waive the regional emissions analysis requirements (for the purpose of transportation conformity implementation) for the relevant pollutant or precursor. Areas with insignificant regional motor vehicle emissions for a pollutant or precursor are still required to make a conformity determination that satisfies other relevant requirements. Additionally, such areas are required to satisfy the regional emissions analysis requirements for pollutants or precursors for which EPA has not made a finding of insignificance.

The maintenance plan for the GSMNP Area, included as part of the SIP revision, contains MVEBs for NO_X and an insignificance determination for conformity for the VOC contribution from motor vehicles to the 8-hour ozone pollution for the 1997 standard in the GSMNP Area. As part of the preparation for its redesignation request, North Carolina consulted with the interagency consultation group for the GSMNP Area regarding the insignificance determination for transportation conformity for VOC. For the purposes of regional emissions analysis, the information provided by North Carolina supports EPA's proposal to determine VOC contribution to 8-hour ozone pollution from motor vehicles in the GSMNP Area as insignificant for conformity. The information provided by North Carolina to EPA as part of the SIP revision addresses each of the factors listed in 40 CFR 93.109(k), and is summarized below.

According to information provided by North Carolina, biogenic emissions account for approximately 99 percent of the VOC emissions in future years in the GSMNP Area. On-road VOC emissions are projected to decline by about 54 percent by 2020 despite vehicle miles traveled going up by about 25 to 30 percent by 2020 and total non anthropogenic VOC are projected to decline from 0.58 to 0.39 tpd by 2020. Similarly, the current state of air quality in the GSMNP Area is steadily improving. The current ozone design value in the GSMNP Area is 0.077 ppm based on data from 2006–2008. This is well below the NAAQS of 0.084 ppm.

In addition, North Carolina conducted a sensitivity analysis (a photochemical model) that indicated that 8-hour ozone levels in the GSMNP Area were not impacted by reductions in man-made VOC emissions (*i.e.,* reductions from motor vehicles). Specifically, the photochemical model was run with a modeled 30 percent reduction in man-made VOC emissions, which is equivalent to a 33 percent highway mobile VOC reduction in 2009 for a 39-day period (June 1–July 9). In all 39 days of the modeling simulation, the 8-hour ozone maximum concentrations were not changed in Haywood and Swain Counties, which is a clear indication that highway mobile VOC is an insignificant contributor to ozone formation in that Area. In comparison, biogenic emissions are expected to account for at least 98 percent of the total inventory for VOC emissions. As discussed in North Carolina's submittal, the biogenic sector is the most abundant source of VOC in North Carolina and accounts for approximately 98 percent of the total VOC emissions statewide. As a result, the information provided by North Carolina indicates that VOC contribution to 8-hour ozone pollution from motor vehicle emissions is insignificant.

With regard to the factor relating to the absence of motor vehicle control measures in the SIP, EPA considered the existence of an inspection and maintenance (I/M) program in the North Carolina SIP, and its implementation in the individual counties comprising the GSMNP Area. The I/M program was not added to the North Carolina SIP as a VOC control measure, but rather, a NO_X control measure. The I/M program is currently being implemented in one of the counties (*i.e.* Haywood County) in the GSMNP Area. Implementation of the I/M program in the GSMNP Area began from July 2005, and continues to be ongoing in the Area. In North Carolina's SIP submittal, the State explains that the I/M program was established to achieve additional reductions in NO_X emissions. As a result, the existence of this program in the SIP for the purpose of NO_X reductions does not prohibit EPA from finding the VOC contribution to 8-hour ozone pollution from motor vehicles insignificant.

After evaluating the information provided by North Carolina and weighing the factors for the insignificance determination outlined in 40 CFR 93.109(k), particularly the biogenic contribution to the overall VOC inventory, EPA is now proposing to approve North Carolina's determination that the VOC contribution from motor vehicle emissions to the 8-hour ozone pollution for the GSMNP Area is insignificant for purposes of conformity. If this finding is completed through the adequacy process (see Section VIII below) or approved through the final rulemaking on this SIP submission, the insignificance determination should be considered and specifically noted in the transportation conformity document that is prepared for this Area.

B. Proposed Regional NO_X MVEBs

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (reasonable further progress and attainment demonstration) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, an MVEB is established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. See, 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

North Carolina, after interagency consultation with the transportation partners for the GSMNP Area, has elected to develop regional MVEBs for NO_X. North Carolina is developing these MVEBs, as required, for the last year of its maintenance plan, 2020, and for an additional year, 2011. The NO_X MVEBs for the GSMNP Area are defined in Table 10 below.

TABLE 10—GSMNP AREA NO_X MVEBS (KILOGRAMS PER DAY)

	2011	2020
NO_X MVEB	179.9	127.0

Through this rulemaking, EPA is proposing to approve the 2011 and 2020 MVEBs for NO_X for the GSMNP Area because EPA has determined that the Area maintains the 1997 8-hour ozone standard with the emissions at the levels of the budgets. As mentioned above, these MVEBs are for the entire GSMNP Area in North Carolina. Once the new MVEBs for the GSMNP Area (the subject of this rulemaking) are approved or found adequate (whichever is done first), they must be used for future conformity determinations.

VIII. What Is an Adequacy Determination?

As discussed above, the MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB. Additionally, the transportation conformity rule (see 93.109(k)) allows for areas not to establish a MVEB for a particular pollutant or precursor if it can be demonstrated that motor vehicle emissions contributions do not significantly contribute to an area's pollution. North Carolina's submittal for this area establishes MVEBs for NO_X and provides an insignificance determination for VOC contribution.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (*i.e.,* be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. ''Conformity'' to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. If a transportation plan does not ''conform,'' most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with a maintenance plan for that NAAQS.

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB contained therein ''adequate'' for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB can be used by State and Federal agencies in determining whether proposed transportation projects ''conform'' to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining ''adequacy'' of an MVEB, including EPA's determination that an MVEB need not be established because of an insignificance determination, are set out in 40 CFR 93.118(e)(4). The process for determining ''adequacy'' consists of three basic steps: Public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999, guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; transportation conformity rule amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations. EPA must also use a similar process to determine the adequacy of an insignificance determination that is submitted by a state as a part of a control strategy SIP or maintenance plan. Additional information on the adequacy process for both MVEBs and insignificance determinations is available in the proposed rule entitled, ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003).

IX. What Is the Status of EPA's Adequacy Determination for the Regional NO_X MVEBs for the Years 2011 and 2020, and the VOC Insignificance Determination?

As discussed earlier, North Carolina's maintenance plan submission includes new NO_X MVEBs for the GSMNP Area for the years 2011 and 2020. Additionally, the maintenance plan included a VOC insignificance determination for the entire GSMNP Area, and therefore, no MVEB for VOC is included as part of the SIP revision. EPA is reviewing both the NO_X MVEBs and the VOC insignificance determination through the adequacy process. The North Carolina SIP submission, including the GSMNP Area NO_X MVEBs and the VOC insignificance determination, was open for public comment on EPA's adequacy Web site on May 18, 2009, found at: *http://www.epa.gov/ataq/stateresoures/transconf/currsips.htm.* The EPA public comment period on adequacy of the 2011 and 2020 NO_X MVEBs, and VOC insignificance determination closed on June 17, 2009. There were no comments on the North Carolina submission.

EPA intends to make its determination on the adequacy of the 2011 and 2020 NO_X MVEBs, and the VOC insignificance determination for the GSMNP Area for transportation conformity purposes in the final rulemaking on the redesignation of the GSMNP Area. If EPA finds the 2011 and 2020 NO_X MVEBs, and the VOC insignificance determination adequate or approves these MVEBs and the VOC insignificance determination in the final rulemaking action, the new MVEBs for NO_X must be used, and the VOC insignificance determination should be noted, for future transportation conformity determinations. If the new 2011 and 2020 NO_X MVEBs are found adequate, and both the NO_X MVEBs and the related VOC insignificance determination are approved in the final rulemaking, the NO_X MVEBs and the VOC insignificance determination will be effective on the date of publication of EPA's final rulemaking in the **Federal Register**. For required regional emissions analysis years that involve the year 2019 or before, the applicable budget for the purposes of conducting transportation conformity will be the new 2011 NO_X MVEBs for the GSMNP Area. For required regional emissions analysis years that involve 2020 or beyond, the applicable budgets will be the new 2020 NO_X MVEBs. Both the 2011 and 2020 NO_X MVEBs are defined in section VII of this proposed rulemaking. More detail on the VOC insignificance determination can be found in section VII of this proposed rulemaking as well.

X. Proposed Action on the Redesignation Request and Maintenance Plan SIP Revision Including Proposed Approval of the 2011 and 2020 NO_X MVEBs, and the Proposed VOC Insignificance Determination for the GSMNP Area

EPA is proposing to make the determination that the GSMNP Area has met the criteria for redesignation from nonattainment to attainment for the 1997 8-hour ozone NAAQS. This proposed approval of North Carolina's redesignation request is based on EPA's determination that North Carolina has demonstrated that the GSMNP Area has met the criteria for redesignation to attainment specified in the CAA, including the determination that the entire GSMNP 1997 8-hour ozone nonattainment area has attained the 1997 8-hour ozone NAAQS.

Specifically, EPA is proposing to approve the maintenance plan for the GSMNP Area included as part of the July 24, 2009, SIP revision. The maintenance plan includes NO_X MVEBs for 2011 and 2020, and a VOC insignificance determination for motor vehicles' contribution to the ozone pollution in this Area, among other requirements. EPA is proposing to approve the 2011 and 2020 regional NO_X MVEBs for the GSMNP Area because the maintenance plan demonstrates that even with expected emissions for all other source categories, the GSMNP Area will continue to maintain the 1997 8-hour ozone standard. EPA is also proposing to approve the insignificance determination for the VOC contribution from motor vehicle emissions to the 8-hour ozone pollution for the 1997 standard for the GSMNP Area.

Further as part of today's action, EPA is describing the status of its adequacy determination for the 2011 and 2020 NO_X MVEBs, and VOC insignificance determination, in accordance with 40 CFR 93.118(f)(1). If transportation conformity is needed to be implemented in this Area, the transportation partners will need to demonstrate conformity to the new NO_X MVEBs pursuant to 40 CFR 93.104(e). Additionally, the transportation partners should note EPA's finding of adequacy and approval for the VOC insignificance determination for future conformity determinations.

XI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely affects the status of a geographical area, does not impose any new requirements on sources, or allow a state to avoid adopting or implementing other requirements and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); because it is not economically significant and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: September 29, 2009

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. E9–24818 Filed 10–15–09; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 74, No. 199

Friday, October 16, 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

Secure Rural Schools Resource Advisory Committees

AGENCY: Office of the Secretary, USDA Forest Service.

ACTION: Notice; Charter Re-Establishment for the Secure Rural Schools Resource Advisory Committees

SUMMARY: The eight charters for the Secure Rural School Resource Advisory Committees (RACs) are being re-established and authorized to carry out the requirements of the Secure Rural Schools and Community Self-Determination Act of 2000 (the Act), Public Law 106–393, as amended by the Emergency Economic Stabilization Act of 2008, Energy Improvement and Extension Act of 2008, and Tax Extenders and Alternate Minimum Tax Relief Act of 2008 (Pub. L. 110–343). The re-establishment includes the implementation of Title II projects and recommendations.

FOR FURTHER INFORMATION CONTACT: Rick Alexander, Payments to States Coordinator, at *ralexander@fs.fed.us,* (202) 205–1780, or at USDA Forest Service, 1400 Independence Avenue, SW., Mailstop 1111, Washington, DC 20250. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.II), notice is hereby given that the Secretary of the U.S. Department of Agriculture intends to re-establish the eight charters for the Secure Rural Schools Resource Advisory Committees (RACs). The Secretary has determined the work of these Committees is in the public interest and relevant to the duties of the Department of Agriculture. The purpose of the RACs is to improve collaborative relationships and to provide advice and recommendations to the Forest Service consistent with the reauthorization of the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) as amended by the Emergency, Economic Stabilization Act of 2008, Energy Improvement and Extension Act of 2008, and Tax Extenders and Alternate Minimum Tax Relief Act of 2008 (Pub. L. 110–343). The re-established purpose of the RACs is to ensure that line officers responsible for implementing Title II projects have efficient and effective access to the advice from stakeholders. Equally important, the committee operations encourage early and continuous coordination among Forest Service officials, Tribal representatives, citizens, organizations, land management agencies, and others to participate openly and meaningfully in planning and implementing projects to benefit communities and forest health. The charters are as follows:

1. Alaska Region Resource Advisory Committees.
2. Southern Region Resource Advisory Committees.
3. Pacific Southwest Region Resource Advisory Committees.
4. Pacific Northwest Region Resource Advisory Committees.
5. Northern Region Resource Advisory Committees.
6. Intermountain Region Resource Advisory Committees.
7. Southwestern Region Resource Advisory Committees.
8. Rocky Mountain Region Resource Advisory Committees.

These Advisory Committees shall consist of 15 members appointed by the Secretary of Agriculture or the Secretary's designee and shall consist of members who represent the interests of the following three categories (16 U.S.C. 500 § 205 (d)):

(A) Five persons that—

i. Represent organized labor or non-timber forest product harvester group,

ii. Represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities,

iii. Represent energy and mineral development, or commercial or recreational fishing interests,

iv. Represent commercial timber industry, or

v. Hold Federal grazing permits or other land use permits or represent non-industrial private forest land owners, within the area for which the committee is organized.

(B) Five persons that represent—

i. Nationally recognized environmental organizations,

ii. Regionally or locally recognized environmental organizations,

iii. Dispersed recreational activities,

iv. Archaeological and historical interests, or

v. Nationally or regionally wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

(C) Five persons that—

i. Hold State elected office or a designee,

ii. Hold county or local elected office,

iii. Represent American Indian Tribes within or adjacent to the area for which the committee is organized,

iv. Are school officials or teachers, or

v. Represent affected public at large.

Equal opportunities practices, in line with USDA policies, will be followed in all appointments to the advisory committees. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership includes, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and person with disabilities.

Dated: October 1, 2009.

Pearlie S. Reed,

Assistant Secretary for Administration.

[FR Doc. E9–24974 Filed 10–15–09; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of the Fourth Dietary Guidelines Advisory Committee Meeting and Solicitation of Written Comments

AGENCY: U.S. Department of Agriculture (USDA), Food, Nutrition and Consumer Services (FNCS) and Research, Education and Economics (REE); and U.S. Department of Health and Human Services (HHS), Office of Public Health and Science (OPHS).

ACTION: Notice.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) (a) provide notice of the fourth meeting of the Dietary Guidelines Advisory Committee, and (b) solicit written comments pertinent to the *Dietary Guidelines for Americans.*

DATES: This Notice is provided to the public on October 16, 2009. (1) The Committee will meet on November 4, 2009, from 1–5 p.m. E.S.T. and on November 5, 2009, from 8 a.m.–4:30 p.m. E.S.T. (2) Written comments pertinent to the *Dietary Guidelines for Americans* must be received by 5 p.m. E.S.T. on October 28, 2009, to ensure transmission to the Committee prior to this meeting. Written comments continue to be accepted throughout the Committee deliberation process.

ADDRESSES: The fourth meeting will be held online, via Webinar format. Details regarding how to assure that your windows computer and browser are compatible with the Webinar format being used will be provided by e-mail following meeting registration and can also be found on the Dietary Guidelines Web site at *http://www.DietaryGuidelines.gov.* Written comments are encouraged to be submitted electronically at *http://www.DietaryGuidelines.gov.*

FOR FURTHER INFORMATION CONTACT: USDA Co-Executive Secretaries: Carole Davis, Designated Federal Officer to the Dietary Guidelines Advisory Committee (telephone 703–305–7600), Center for Nutrition Policy and Promotion, 3101 Park Center Drive, Room 1034, Alexandria, Virginia 22302; or Shanthy Bowman (telephone 301–504–0619), Agricultural Research Service (ARS), Beltsville Human Nutrition Research Center, 10300 Baltimore Avenue, Building 005, Room 125, BARC–WEST, Beltsville, Maryland 20705. HHS Co-Executive Secretaries: Kathryn McMurry (telephone 240–453–8280) or Holly McPeak (telephone 240–453–8280), Office of Disease Prevention and Health Promotion, Office of Public Health and Science, 1101 Wootton Parkway, Suite LL100, Rockville, Maryland 20852. Additional information is available on the Internet at *http://www.DietaryGuidelines.gov.*

SUPPLEMENTARY INFORMATION:

Dietary Guidelines Advisory Committee: The thirteen-member Committee appointed by the Secretaries of the two Departments is chaired by Linda V. Van Horn, Ph.D., R.D., L.D., Northwestern University, Chicago, Illinois. The Vice Chair of the Committee is Naomi K. Fukagawa, M.D., Ph.D., University of Vermont, Burlington, Vermont. Other members are: Cheryl Achterberg, Ph.D., The Ohio State University, Columbus, Ohio; Lawrence J. Appel, M.D., M.P.H., Johns Hopkins Medical Institutions, Baltimore, Maryland; Roger A. Clemens, Dr.P.H, The University of Southern California, Los Angeles, California; Miriam E. Nelson, Ph.D., Tufts University, Boston, Massachusetts; Sharon M. Nickols-Richardson, Ph.D., R.D., Pennsylvania State University, University Park, Pennsylvania; Thomas A. Pearson, M.D., Ph.D., M.P.H., University of Rochester, Rochester, New York; Rafael Pérez-Escamilla, Ph.D., University of Connecticut, Storrs, Connecticut; Xavier Pi-Sunyer, M.D., M.P.H., Columbia University College of Physicians and Surgeons, New York, New York; Eric B. Rimm, Sc.D., Harvard University, Boston, Massachusetts; Joanne L. Slavin, Ph.D., R.D., University of Minnesota, St. Paul, Minnesota; and Christine L. Williams, M.D., M.P.H., Columbia University (Retired), Healthy Directions, Inc., New York, New York.

Purpose of the Meeting: Section 301 of Public Law 101–445 (7 U.S.C. 5341, the National Nutrition Monitoring and Related Research Act of 1990, Title III) directs the Secretaries of USDA and HHS to publish the *Dietary Guidelines for Americans* at least every five years. After a thorough review of the most current scientific and applied literature and open Committee deliberations, the Committee will provide its recommendations in the form of an advisory report to the Secretaries of both Departments.

Meeting Agenda: The meeting will (a) allow individual subcommittees to provide updates on progress made within each subcommittee; and (b) allow for the continued formulation of plans for finalizing the Committee's work. Specific times for topic area discussions are subject to change upon the call of the Committee Chair.

Public Participation: Members of the public are invited to attend the online Dietary Guidelines Advisory Committee meeting. There will be no opportunity for oral public comments during this online meeting. Written comments, however, are welcome throughout the development process of the 2010 *Dietary Guidelines for Americans.* These can be submitted at *http://www.DietaryGuidelines.gov. See* below for more detailed instructions for submitting written comments.

To take part in the on-line Committee meeting, individuals must pre-register at the Dietary Guidelines Web site located at *http://www.DietaryGuidelines.gov.* A link for Meeting Registration will be available to click on. Registration for the meeting is limited. Registrations will be accepted until maximum Webinar capacity is reached and must be completed by 5 p.m. E.S.T on November 2, 2009. A waiting list will be maintained should registrations exceed Webinar capacity. Individuals on the waiting list will be contacted as additional Webinar space for the meeting becomes available. Registration questions may be directed to the meeting planner, Crystal Tyler, at 202–314–4701. Registration must include name, affiliation, phone number or e-mail, and days attending. Following pre-registration, individuals will receive a confirmation of registration via e-mail with instructions on how to access the Webinar and check for computer compatibility. Please call Crystal Tyler at 202–314–4701 by 5 p.m. E.S.T. on November 2, 2009 should you require assistance or any special accommodations.

Written Comments: By this notice, the Committee is soliciting submission of written comments, views, information and data pertinent to the review of the *Dietary Guidelines for Americans.* Written comments are encouraged to be submitted electronically at *http://www.DietaryGuidelines.gov.* A ''submit comments'' button is available for access to the public comments database. Lengthy comments (that exceed 2000 characters) or support materials can be uploaded as an attachment. Multiple attachments must be ''zip-filed''. Comments not submitted electronically can be mailed, faxed, or delivered to: Carole Davis, Co-Executive Secretary of the Dietary Guidelines Advisory Committee, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1034, Alexandria, VA 22302, 703–305–7600 (telephone), 703–305–3300 (fax). All comments for this meeting must be received by 5 p.m. E.S.T. on October 28, 2009 and will become part of the public comments database. Comments are welcome throughout the Committee's deliberations.

Public Documents: Documents pertaining to Committee deliberations will be available for public viewing from 8:30 a.m. to 4:30 p.m. E.S.T., Monday through Friday (except Federal holidays), at the Reference Desk of the National Agricultural Library, USDA/ARS, 10301 Baltimore Avenue, Beltsville, MD 20705. The Reference Desk telephone phone number is 301–504–5755; however, no advance appointment is necessary. Meeting materials (*i.e.,* agenda, meeting minutes, and transcript), once available, can be

found at *http://www.DietaryGuidelines.gov.*

Dated: October 5, 2009.

Rajen S. Anand,

Executive Director, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture.

Dated: October 9, 2009.

Edward B. Knipling,

Administrator, Agricultural Research Service, U.S. Department of Agriculture.

Dated: October 6, 2009.

Penelope Slade-Sawyer,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. E9–24946 Filed 10–15–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Lost River Subwatershed of the Potomac River Watershed, Hardy County, WV

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Louis Aspey, responsible Federal official for projects administered under the provisions of the Flood Control Act of 1944, Public Law 78–534, in the State of West Virginia, is hereby providing notification that a Record of Decision to proceed with the installation of the Lost River Site 16 project on Lower Cove Run is available. Single copies of this Record of Decision may be obtained from Louis Aspey at the address shown below.

FOR FURTHER INFORMATION CONTACT: Louis Aspey, Acting State Conservationist, Natural Resources Conservation Service, 1550 Earl Core Road, Suite 200, Morgantown, West Virginia 26505, telephone (304) 284–7540.

Dated: October 7, 2009.

Louis E. Aspey II,

Acting State Conservationist.

''(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10–904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)''

[FR Doc. E9–24820 Filed 10–15–09; 8:45 am]

BILLING CODE 3410–16–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: Wednesday, October 21, 2009, 9 a.m.–12:30 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. E9–25059 Filed 10–14–09; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–826]

Certain Cut-to-Length Carbon-Quality Steel Plate Products From Italy: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–0665.

Background

On February 10, 2000, the Department of Commerce (the Department) published an antidumping duty order on certain cut-to-length carbon-quality steel plate products from Italy. *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea,* 65 FR 6585 (February 10, 2000). We received a timely request for review from Evraz Palini Bertoli S.p.A. (Palini), an Italian producer of the subject merchandise. On March 24, 2009, the Department published a notice of initiation of an administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate products from Italy with respect to Palini for the period February 1, 2008, through January 31, 2009. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 74 FR 12310 (March 24, 2009). The preliminary results of this administrative review are currently due no later than October 31, 2009.

Extension of Time Limit for Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published in the **Federal Register**. If it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

We determine that it is not practicable to complete the preliminary results of this review by the current deadline of October 31, 2009. During the course of the review, Palini has requested several extensions of time to file its questionnaire and supplemental questionnaire responses, which we granted in whole or in part. Given the length of time that Palini requested to submit information we requested and the amount of time we granted Palini to respond to our questionnaires, we require additional time to analyze

Palini's responses prior to issuing the preliminary results. Therefore, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), we are extending the time period for issuing the preliminary results of this review by 86 days to January 25, 2010.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i)(1) of the Act.

Dated: October 8, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–24959 Filed 10–15–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS29

Endangered Species; File No. 14394

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Douglas Peterson, Ph.D., Warnell School of Forest Resources (Fisheries Division), University of Georgia, Athens, GA 30602, has been issued a permit to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Southeast Region, NMFS, 263 13th Ave South, St. Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Kate Swails, (301)713–2289.

SUPPLEMENTARY INFORMATION: On June 24, 2009, notice was published in the **Federal Register** (74 FR 30054) that a request for a scientific research permit to take shortnose sturgeon had been submitted by the above-named individual. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The purpose of the proposed research is to assess the current status of shortnose sturgeon in the Altamaha River, Georgia, studying the distribution, abundance, and movement of adults and sub-adults of the species. The permit authorizes non-lethal sampling methods on up to 500 shortnose sturgeon annually, not exceeding a total of 1,500 over the life of the permit. Research activities include gill and trammel netting, measuring (length, weight, photos), genetic and fin-ray tissue sampling, PIT and sonic tagging, anesthesia, laparoscopy, and gastric lavage. To document spawning in the river, up to 20 eggs or larvae are to be lethally collected with artificial substrates annually. Additionally, one unintentional mortality or serious injury of a shortnose sturgeon is authorized over the life of the permit.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: October 8, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–24840 Filed 10–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1646]

Expansion of Foreign-Trade Zone 65, Panama City, FL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Panama City Port Authority, grantee of Foreign-Trade Zone 65, submitted an application to the Board for authority to expand FTZ 65 to include two sites in Chipley, Florida, and expand existing Site 3 in Panama City, Florida, adjacent to and within the Panama City Customs and Border Protection port of entry, respectively (FTZ Docket 71–2008, filed 12/16/2008);

Whereas, notice inviting public comment has been given in the **Federal Register** (73 FR 79048, 12/24/2008) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 65 is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 25th day of September 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Pierre Duy,

Acting Executive Secretary.

[FR Doc. E9–24970 Filed 10–15–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 88–11A16]

Export Trade Certificate of Review

ACTION: Notice of Application (#88–11A16) to Amend the Export Trade Certificate of Review Issued to Wood Machinery Manufacturers of America, Application No. 88–00016.

SUMMARY: Export Trading Company Affairs (''ETCA'') of the International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Acting Director, Office of Competition and Economic Analysis, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions

for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021–X, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 88–11A16.''

The Wood Machinery Manufacturers of America's (''WMMA'') original Certificate was issued on February 3, 1989 (54 FR 6312, February 9, 1989), and last amended on July 9, 2008 (73 FR 41032, July 17, 2008). A summary of the current application for an amendment follows.

Summary of the Application:

Applicant: Wood Machinery Manufacturers of America (''WMMA''), 100 North 20th Street, 4th Floor, Philadelphia, PA 19103–1443.

Contact: Harold Zassenhaus, Export Consultant, *Telephone:* (301) 652–0693.

Application No.: 88–11A16.

Date Deemed Submitted: September 25, 2009.

Proposed Amendment: WMMA seeks to amend its Certificate to:

1. Add the following company as a new ''Member'' of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)): Saw Trax Mfg., Inc., Kennesaw, GA, and

2. Delete the following company as a Member of WMMA's Certificate: James L. Taylor Manufacturing Company, Poughkeepsie, NY.

Dated: October 1, 2009.

Jeffrey C. Anspacher,

Acting Director, Office of Competition and Economic Analysis.

[FR Doc. E9–24867 Filed 10–15–09; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2009–0044]

Grant of Interim Extension of the Term of U.S. Patent No. 4,919,140; Andara™ OFS™ System

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued a second certificate under 35 U.S.C. 156(d)(5) for a second one-year interim extension of the term of U.S. Patent No. 4,919,140.

FOR FURTHER INFORMATION CONTACT: Mary C. Till by telephone at (571) 272–7755; by mail marked to her attention and addressed to the Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450; by fax marked to her attention at (571) 273–7755, or by e-mail to *Mary.Till@uspto.gov.*

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On September 11, 2009, the patent owner, Purdue Research Foundation, timely filed an application under 35 U.S.C. 156(d)(5) for a second interim extension of the term of U.S. Patent No. 4,919,140. The patent claims the medical device Andara™ OFS™ System and a method of using the Andara™ OFS™ System. The application indicates that a Humanitarian Device Exemption, HDE 070002, for the medical device Andara™ OFS™ System has been filed and is currently undergoing regulatory review before the Food and Drug Administration for permission to market or use the product commercially.

Review of the application indicates that except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for an additional one year as required by 35 U.S.C. 156(d)(5)(B). Because it is apparent that the regulatory review period will continue beyond the extended expiration date of the patent (October 14, 2009), interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

A second interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 4,919,140 is granted for a period of one year from the extended expiration date of the patent, *i.e.,* until October 14, 2010.

Dated: October 9, 2009.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E9–24917 Filed 10–15–09; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS42

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of Scoping Meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a series of public hearings regarding Amendments 17A, 17B and 18 to the Snapper Grouper Fishery Management Plan (FMP) for the South Atlantic. See **SUPPLEMENTARY INFORMATION**.

DATES: The series of 7 public hearings will be held November 2, 2009 through November 16, 2009. With the exception of the hearing held in Virginia, all hearings will be open from 3 p.m. until 7 p.m.. The public hearing scheduled for November 16, 2009, in Newport News, VA, will be held at 6 p.m.. Members of the public will have an opportunity to go on record at any time during the meeting hours to record their comments on the public hearing topics for Council consideration. Written comments will be received in the South Atlantic Council's office (see

ADDRESSES) from October 19, 2009 until 5 p.m. on November 25, 2009.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for specific addresses of hearing locations. Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405, or via email to: For Amendment 17A *SGAmend17APH@safmc.net*; for Amendment 17B *SGAmend17BPH@safmc.net*; and for Amendment 18 *SGAmend18PH@safmc.net*.

Written comments must be received in the South Atlantic Council's office by 5 p.m. on November 25, 2009.

Copies of the public hearing documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366 or toll free at (866) SAFMC–10. Copies will also be available online at *www.safmc.net* as they become available.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; fax: (843) 769–4520; email address: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: Amendment 17A to the Snapper Grouper FMP contains the following management actions: (1) establish Annual Catch Limits (ACLs) and Accountability Measures (AMs) for red snapper with management measures to reduce the probability that catches will exceed the stock's ACL; (2) specify stock status determination criteria for red snapper; (3) Specify a stock rebuilding plan for red snapper; and 4) specify a monitoring program for red snapper. The South Atlantic red snapper stock is currently undergoing overfishing and is overfished. The Council is considering long-term management alternatives to end overfishing and rebuild the stock that include a closure of the red snapper fishery, area closures that would prohibit the harvest of all species in the snapper grouper management complex in order to address bycatch of red snapper, establishment of a permitted fishing zone with sector specific allocations, and various red snapper monitoring programs that include both fishery dependent and fishery independent alternatives.

The public hearings will also address Amendment 17B to the Snapper Grouper FMP. The amendment establishes ACLs and AMs as needed for nine other species currently listed as undergoing overfishing; golden tilefish, snowy grouper, speckled hind, warsaw grouper, black grouper, black sea bass, gag, red grouper, and vermilion snapper. The amendment includes management measures to reduce the probability that catches will exceed the stock's ACL pursuant to the reauthorized Magnuson-Stevens Fishery Conservation and Management Act. The amendment specifies allocations for golden tilefish and updates the framework procedure for specification of Total Allowable Catch (TAC). Management alternatives include a proposed deepwater closure for the South Atlantic Exclusive Economic Zone (EEZ) seaward of 240 feet. The deepwater closure would prohibit fishing for deepwater species as outlined in the amendment.

Amendment 18 to the Snapper Grouper Fishery Management Plan will also be addressed at the public hearings. Actions proposed in Amendment 18 include: extension of the range of the Snapper Grouper Fishery Management Plan northward (except for black sea bass, scup, and golden tilefish which are considered separate stocks and covered by Mid-Atlantic Council fishery management plans), limits on participation and effort in the golden tilefish fishery, modifications to management of the black sea bass pot fishery, separate snowy grouper quote into regions/states, separate the gag recreational allocation into regions/states, change the golden tilefish fishing year, improvements to the accuracy, timing, and quantity of fisheries statistics, and designation of Essential Fish Habitat (EFH).

NOTE: The public hearing scheduled for November 16, 2009, in Newport News, VA, will address only management alternatives appropriate to areas north of the Council's area of jurisdiction as contained in Amendment 17B and Amendment 18 to the Snapper Grouper FMP.

A complete listing of all management alternatives under consideration by the Council is included in the Public Hearing document for each amendment.

Meeting Dates and Locations:

The scoping meetings will be held at the following locations:

1. *November 2, 2009* - Hilton Garden Inn, 5265 International Blvd., North Charleston, SC 29418, telephone: (843) 308–9330;

2. *November 3, 2009* - Hilton New Bern Riverfront, 100 Middle Street, New Bern, NC 28562, telephone: (252) 638–3585;

3. *November 5, 2009* - Mighty Eighth Air Force Museum, 175 Bourne Avenue, Pooler, GA 31322, telephone: (912) 748–8888;

4. *November 10, 2009* - Key Largo Grande, 97000 South Overseas Highway, Key Largo, FL 33037, telephone: (305) 852–5553;

5. *November 11, 2009* - Radisson Resort at the Port, 8701 Astronaut Boulevard, Cape Canaveral, FL 32920, telephone: (321) 784–0000;

6. *November 12, 2009* - Crowne Plaza Jacksonville Riverfront, 1201 Riverplace Boulevard, Jacksonville, FL 32207, telephone: (904) 396–8800; and

7. *November 16, 2009* - Virginia Marine Resources Commission, 2600 Washington Avenue, 3rd Floor, Newport News, VA 23607, telephone: (757) 247–2200.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the start of each hearing.

Dated: October 13, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–24939 Filed 10–15–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 8–2009]

Termination of Review of Sourcing Change, Foreign-Trade Subzone 7M, Amgen Manufacturing Limited (Biotechnology and Healthcare Products), Juncos, PR

Notice is hereby given of termination of a sourcing change review related to certain packaging components at Foreign-Trade Subzone 7M at the facility of Amgen Manufacturing Limited, located in Juncos, Puerto Rico (74 FR 10884, 3/13/09). The termination is based on an analysis of the record and resulting determination that no further action is warranted.

Dated: October 8, 2009.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. E9–24971 Filed 10–15–09; 8:45 am]

BILLING CODE P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, October 21, 2009, 11 a.m.–12 noon.

PLACE: Hearing Room 420, Bethesda Towers, 4330 East-West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Weekly Report—Commission Briefing

The staff will brief the Commission on various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504–7923.

Dated: October 9, 2009.

Todd A. Stevenson,

Secretary.

[FR Doc. E9–24898 Filed 10–15–09; 8:45 am]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Wednesday, October 21, 2009, 9 a.m.–11 a.m. (Morning sessions may carry over into the afternoon).

PLACE: Hearing Room 420, Bethesda Towers, 4330 East-West Highway, Bethesda, Maryland.

STATUS: Commission Briefing/Meeting—Open to the Public.

MATTERS TO BE CONSIDERED:

1. Pending Decisional Matters:

(a) Lab Accreditation Requirements for Lead
(b) Brass Lead Exclusions Petition
(c) Lead Determination Guidance
(d) Recreational Off-Highway Vehicles (ROHVS) ANPR

2. Electronic Devices—Final Rule

A live Webcast of the Briefing can be viewed at *http://www.cpsc.gov/webcast/index.html*.

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: October 9, 2009.

Todd A. Stevenson,

Secretary.

[FR Doc. E9–24899 Filed 10–15–09; 8:45 am]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), 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. Sec. 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 requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the locating of respondents for the Longitudinal Evaluation of AmeriCorps. The Longitudinal Evaluation of AmeriCorps is a long term study based on the hypothesis that participation in national service may lead to measurable outcomes for AmeriCorps participants. The study uses a quasi-experimental design to assess program impacts on program participants.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by December 15, 2009.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attention: Lillian Dote, Program Officer, Office of Research and Policy Development, Curtis Center, 601 Walnut Street, Suite 876E, Philadelphia, PA 19106.

(2) By hand delivery or by courier to the street address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) *By fax to:* (215) 597–4933, Attention: Lillian Dote, Program Officer, Office of Research and Policy Development.

(4) *Electronically through the Corporation's e-mail address system: ldote@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Lillian Dote at (215) 597–2861 or by e-mail at *ldote@cns.gov.*

SUPPLEMENTARY INFORMATION: *The Corporation is particularly interested in comments that:*

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are expected to respond, including 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).

Background

AmeriCorps is a national program, administered by the Corporation that provides grants to nonprofit organizations and government entities to support members and volunteers serving in national and local community service programs. The proposed locating effort will be completed by longitudinal sample members only, including former AmeriCorps members and their counterparts in the comparison group. The study includes participants from AmeriCorps State and National and the AmeriCorps National Civilian Community Corps (NCCC).

Current Action

The Corporation seeks renewal of its earlier application.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Longitudinal Evaluation of AmeriCorps: Respondent Tracking.

OMB Number: 3045–0070.

Agency Number: None.

Affected Public: Participants in the Longitudinal Evaluation of AmeriCorps.

Total Respondents: Treatment Group: 1,781 former AmeriCorps members.

Comparison Group: 1,539 individuals.

Total: 3,320 respondents.

Frequency: Periodically.

Average Time Per Response: 3 minutes.

Estimated Total Burden Hours: 166 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 9, 2009.

Nathan Dietz,

Research Associate/Statistician, Office of Research and Policy Development.

[FR Doc. E9–24864 Filed 10–15–09; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), 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. section 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 requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed renewal of the AmeriCorps National Civilian Community Corps (NCCC) Project Sponsor Application. This application is used by current and prospective project sponsors to apply for NCCC team resources. The NCCC is a full-time, residential, national service program whose mission is to strengthen communities and develop leaders through team-based national and community service.

Copies of the information collection requests can be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by December 15, 2009.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, National Civilian Community Corps; Attention Kelly DeGraff, Special Initiatives, Events and Partnerships Coordinator, Room 10308D; 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 8102 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) *By fax to:* (202) 565–2787, Kelly DeGraff, Special Initiatives, Events and Partnerships Coordinator.

(4) *Electronically through the Corporation's e-mail address system: kdegraff@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Kelly DeGraff, (202) 606–6817, or by e-mail at *kdegraff@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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 expected to respond, including 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).

Background

The AmeriCorps NCCC Project Sponsor Application is completed by organizations interested in managing and sponsoring an AmeriCorps NCCC team. Each year, AmeriCorps NCCC engages teams of members in projects in communities across the United States. Service projects, which typically last from six to eight weeks, address critical needs in natural and other disasters, infrastructure improvement, environmental stewardship and conservation, energy conservation, and urban rural development. Members construct and rehabilitate low-income housing, respond to natural disasters, clean up streams, help communities develop emergency plans, and address countless other local needs.

Current Action

The Corporation seeks to renew and revise the current application.

The application will be used in the same manner as the existing application. The Corporation also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on March 31, 2010.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: AmeriCorps National Civilian Community Corps.

OMB Number: 3045–0010.

Agency Number: None.

Affected Public: Current/prospective AmeriCorps NCCC Project Sponsors.

Total Respondents: 1200 annually.

Frequency: Rolling application process.

Average Time per Response: Averages 7.5 hours.

Estimated Total Burden Hours: 9,000 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): $182,250.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

October 7, 2009.

Mikel Herrington,

Acting Director, AmeriCorps National Civilian Community Corps.

[FR Doc. E9–24865 Filed 10–15–09; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2009–HA–0150]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice of action.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed new public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 15, 2009.

ADDRESSES: Written comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

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 general 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.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposed and associated collection instruments, please write to Health Program Analysis and Evaluation/TRICARE Management Activity, ATTN: LTC Lorraine Babeu USA, 5111 Leesburg Pike, Five Skyline Place, Suite 510, Falls Church, Virginia 22041–3206.

Title; Associated Form; and OMB Number: TRICARE Award Fee Provider Survey; OMB Control Number 0720–TBD.

Needs and Uses: The information collection requirement is necessary to obtain and record TRICARE network civilian provider-user satisfaction with the administrative processes/services of managed care support contractors (MCSC) in the three TRICARE regions within the United States. The survey will obtain provider opinions regarding claims processing, customer service, and administrative support by the TRICARE regional contractors. The reports of findings from these surveys, coupled with performance criteria from other sources, will be used by the TRICARE Regional Administrative Contracting Officers to determine award fees.

Affected Public: Individuals or households.

Annual Burden Hours: 50.

Number of Respondents: 600 (150 respondents will be surveyed each quarter).

Responses per Respondent: 1.

Average Burden per Response: 5 minutes.

Frequency: Quarterly.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Health Program Analysis and Evaluation Directorate (HPA&E) under the authority of the Office of the Assistant Secretary of Defense (Health Affairs)/TRICARE Management Activity will undertake a survey of TRICARE network providers to ask a series of questions regarding satisfaction with the TRICARE Health Plan. For these purposes, a provider is defined as a person, business, or institution that provides health care. For example, a doctor, hospital, or ambulance company is a provider. Providers must be authorized under TRICARE regulations and have their status certified by the regional contractors to provide services to TRICARE beneficiaries.

TRICARE Management Activity, the Defense Department activity that administers the health care plan for the uniformed services, retirees and their families, serves more than 9.4 million eligible beneficiaries worldwide in the Military Health System. TRICARE supplements the health care resources of the uniformed services with networks of civilian professionals to provide high-quality health care services while maintaining the capability to support military operations. The TRICARE Management Activity has partnered with civilian regional contractors in the three U.S regions to provide these health care services and support to beneficiaries.

DoD has delegated oversight of the civilian provider network to the TRICARE Regional Offices. To improve DoD's oversight of the civilian provider network, the General Accounting Office (GAO) (Defense Health Care: Oversight of the Tricare Civilian Provider Network Should Be Improved; GAO–03–928; July 31, 2003) has recommended the Assistant Secretary of Defense for Health Affairs to explore options for improving the civilian provider surveys so that the results of the surveys could be useful to DoD and to the contractors in identifying civilian provider concerns and developing actions that might mitigate concerns and help ensure the adequacy of the civilian provider network.

As a result, the new MCSC incorporate an incentive award fee component. The determination of the award fee is through an evaluation by the Government that rewards contractor performance that exceeds contract requirements. For assessment of awards, activities will include, in part, the collection and analyses of survey data obtained confidentially via telephone from network civilian providers within U.S. regions. The goal of this survey effort is to provide regional Administrative Contracting Officers with information on provider-user satisfaction with the administrative processes/services of MCSC. Specifically, confidential telephone surveys of civilian network providers will be conducted that focus on three basic business functions provided of claims processing, customer service, and administrative services by the MCSC.

Dated: October 8, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–24886 Filed 10–15–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of the Fiscal Year 2008 Washington Headquarters Services (WHS) Services Contract Inventory

AGENCY: Washington Headquarters Services, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with section 2330a of Title 10 United States Code as

amended by the National Defense Authorization Act for Fiscal Year 2008 (NDAA 08) section 807, the Director of Washington Headquarters Services (WHS), in cooperation with the Director of the Acquisition and Procurement Office (WHS/A&PO), and the Office of the Director, Defense Procurement, Acquisition Policy and Strategic Sourcing (DPAP) will make available to the public its inventory of activities performed pursuant to contracts for services. The inventory will be published to the WHS/A&PO Web site at the following location: *http://www.whs.mil/APO/.*

DATES: Inventory publically available starting October 7, 2009.

ADDRESSES: Send written comments and suggestions concerning this inventory to Ken Sateriale, DOD/Washington Headquarters Services, Acquisition and Procurement Office, 1155 Defense Pentagon, Washington, DC 20301. Telephone (703) 696–3870 or e-mail at *Kenneth.Sateriale@whs.mil.*

FOR FURTHER INFORMATION CONTACT: Ken Sateriale, (703) 696–3870 or e-mail at *Kenneth.Sateriale@whs.mil.*

SUPPLEMENTARY INFORMATION: NDAA 08, section 807 amends section 2330a of Title 10 United States Code to require annual inventories and reviews of activities performed under services contracts. The WHS/A&PO submitted its Fiscal Year 2008 Services Contract Inventory to DPAP on August 28, 2009. Included with this inventory is a narrative that describes the methodology used to populate the Inventory data fields. The Deputy Under Secretary of Defense (Acquisition and Technology) (DUSD(AT)) transmitted WHS's inventory to Congress on September 29, 2009. The inventory does not include contract numbers, contractor identification or other proprietary or sensitive information as this data can be used to disclose a contractor's proprietary proposal information.

Dated: October 8, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–24890 Filed 10–15–09; 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.

ACTION: Meeting notice; cancellation.

SUMMARY: The Department of Defense published an announcement of a meeting of the Defense Business Board (DBB) on October 1, 2009 (74 FR 50782–50783). The meeting was scheduled for October 22, 2009. This meeting has been cancelled. This meeting may be rescheduled and announced at a later date.

FOR FURTHER INFORMATION CONTACT: Ms. Debora Duffy, Defense Business Board, 1155 Defense Pentagon, Room 5B–1088A, Washington, DC 20301–1155, *Debora.duffy@osd.mil*, (703) 697–2168.

Dated: October 7, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–24888 Filed 10–15–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board (RFPB)

AGENCY: Office of the Secretary of Defense Reserve Forces Policy Board, DoD.

ACTION: Notice of advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the Reserve Forces Policy Board (RFPB) will meet November 12–13, 2009. The meeting is open to the public, depending on the availability of space.

DATES: The meeting will be held on November 12 from 8 a.m. to 4 p.m. and on November 13, 2009, from 8 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Pentagon, Conference Room 3E863, Arlington, VA.

Mailing address is Reserve Forces Policy Board, 7300 Defense Pentagon, Washington, DC 20330–7300.

FOR FURTHER INFORMATION CONTACT: Col. Marjorie Davis, Designated Federal Officer, (703) 697–4486 (Voice), (703) 614–0504 (Facsimile), *marjorie.davis@osd.mil.* Mailing address is Reserve Forces Policy Board, 7300 Defense Pentagon, Washington, DC 20301–7300.

SUPPLEMENTARY INFORMATION:

Agenda:

The RFPB will hold this quarterly meeting to discuss future demographics and the impact on the Reserve Components, as well other issues relevant to the Reserve Components.

Meeting Accessibility:

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space this meeting is open to the public. To request a seat, contact the DFO in advance at 703–697–4486, or by e-mail, *marjorie.davis@osd.mil* no later than 30 October 2009.

Written Statements:

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the RFPB at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the RFPB's Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). The Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

Written statements that do not pertain to a scheduled meeting of the RFPB may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all the committee members.

Dated: October 8, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–24889 Filed 10–15–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2009–OS–0119]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Defense Manpower Data Center, DoD.

ACTION: Notice of a computer matching program; correction.

SUMMARY: The Department of Defense published an announcement of a computer matching program on August 7, 2009 (74 FR 39647–39649). This notice is being published to correct the first paragraph of the **SUPPLEMENTARY INFORMATION** section that describes the purpose of the computer matching agreement. All other information remains the same.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, 1901 South Bell Street, Suite 920, Arlington, VA 22202–4512.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel P. Jenkins at telephone (703) 607–2943.

SUPPLEMENTARY INFORMATION: The first paragraph in the previous notice's **SUPPLEMENTARY INFORMATION** section is corrected to read as follows:

''Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and VA have concluded an agreement to conduct a computer matching program between the agencies.

The purpose of this agreement is to verify eligibility for DoD/USCG members of the Reserve forces who receive VA disability compensation or pension to also receive military pay and allowances when performing reserve duty.''

Dated: October 8, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–24887 Filed 10–15–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Environmental Impact Statement, Permit Under the Clean Water Act, and General Conformity Determination: Port of Los Angeles Channel Deepening Project, Los Angeles, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Signing of the ROD and the Final GCD.

SUMMARY: The U.S. Army Corps of Engineers, Los Angeles District, Planning Division and Regulatory Division (Corps) have made a Final General Conformity Determination (GCD) and executed a Record of Decision (ROD) for the Final Supplemental Environmental Impact Statement/Supplemental Environmental Impact Report (SEIS/SEIR) and a ROD for Section 404 Permit under the Clean Water Act for the Port of Los Angeles Channel Deepening Project, Los Angeles, California.

This notice serves as the announcement of the signing of the Final SEIS/SEIR and Section 404 RODs, and the finalization of the GCD. The Records of Decision for the Final SEIS/SEIR and the Section 404 Permit were signed in September 2009.

DATES AND ADDRESSES: Copies of the Final General Conformity Determination document are available for your information at the following libraries for thirty (30) days from the date of publication of this notice.

1. L.A. Public Library, San Pedro Branch, 921 South Gaffey Street, San Pedro, California.
2. L.A. Public Library, Wilmington Branch, 1300 North Avalon, Wilmington, California.
3. L.A. Public Library, Central Branch, 630 West 5th Street, Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Questions or requests concerning the Final General Conformity Determination or the ROD should be directed to: Ms. Joy Jaiswal Chief, Ecosystem Planning Section, U.S. Army Corps of Engineers, P.O. Box 532711, Los Angeles, California 90053–2325, (213) 452–3851 or Dr. Aaron Allen, Chief, North Coast Branch, Regulatory Division, U.S. Army Corps of Engineers, 2151 Alessandro Drive, Suite 110, Ventura, California 93001, (805) 585–2148.

SUPPLEMENTARY INFORMATION: In April 2009, the Corps, in coordination with the Los Angeles Harbor Department (LAHD), completed and published a joint Final SEIS/SEIR, Draft GCD, and Section 404 Permit, pursuant to National Environmental Policy Act (NEPA), Section 404 of the Clean Water Act, Section 10 of the River and Harbor Act, and Section 103 of the Marine Protection, Research, and Sanctuaries Act for the Project. The Proposed Action is to complete the Channel Deepening Project by providing approximately 3.0 million cubic yards of additional disposal capacity for dredged material within the Port of Los Angeles and ocean disposal site at LA–2.

As a Federal agency, the Corps prepared the Final GCD in compliance with Section 176(c) of the Clean Air Act and for the issuance of a Corps Section 404 Permit for the dredging and disposal of material into waters of the U.S. Direct and indirect air emissions for all pollutants related to the Proposed Action are not below specified de minimis Federal thresholds (40 CFR 93.153(b)).

On September 3, 2009, the Corps completed its environmental review and finalized the GCD, executed the two RODs, and issued a Standard Individual Permit for the Federal action associated with the Project. The Corps considered and responded to all comments received in finalizing the SEIS/SEIR, Final GCD, RODs, and issuing the Corps permit. The public can request copies of the Final General Conformity Determination document or the RODs from the Corps at the address listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: October 6, 2009.

Thomas H. Magness,

Colonel, U.S. Army, District Commander.

[FR Doc. E9–24709 Filed 10–15–09; 8:45 am]

BILLING CODE 3710–KF–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Plenary Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3. 140 through 160), the Department of the Army announces the following committee meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: Oct 27, 2009—Tuesday.

Time(s) of Meeting: 1300– 1400.

Location: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Purpose: The Army Science Board will receive a report and vote on the findings and recommendations for the LandWarNet study.

Proposed Agenda

Tuesday: 1300–1400—Findings and Recommendations of the LandWarNet III study.

The board will conduct internal business before and after the public session.

FOR FURTHER INFORMATION CONTACT: For information please contact Mr. Justin Bringhurst at *justin.bringhurst@us.army.mil* or (703) 604–7468 or Carolyn German at *carolyn.t.german@us.army.mil* or (703) 604–7490.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E9–24983 Filed 10–15–09; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 15, 2009.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 9, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Evaluation of the Helen Keller National Center for Deaf-Blind Youths and Adults.

Frequency: One time.

Affected Public: Businesses or other for-profit; Individuals or household; Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 201.

Burden Hours: 278.

Abstract: The Helen Keller National Center for Deaf-Blind Youths and Adults (HKNC) provides services designed to equip clients to live independently in their communities and/or to enhance their ability to secure meaningful employment. The HKNC evaluation will provide RSA with independent and objective information by which to draw conclusions about the effectiveness, including cost effectiveness, of the Center. The evaluation will identify characteristics of the populations served by HKNC and the extent to which HKNC effectively serves clients with different needs. The evaluation will also examine the relationship between HKNC and vocational rehabilitation (VR) agencies and how well HKNC meets the needs of the agencies. Finally, this evaluation will include recommendations to improve HKNC programs and service delivery, including measures that could be used to assess ongoing performance of the Center, its regional staff and functions, and its national training program.

The evaluation scope of work is identified in the following objectives:

- Provide RSA with reliable and valid information on program effectiveness, including cost effectiveness.
- Identify both the characteristics of the populations served by HKNC and the strengths and weaknesses of the program that have an impact on its effectiveness in serving these populations.
- Examine the relationship between HKNC and VR agencies and the effectiveness of direct services, technical assistance, and training activities provided by the Center's headquarters and regional programs in meeting the needs of VR agencies.
- Make recommendations for program adjustments or improvements based on study findings, including measures that could be implemented to assess ongoing performance.

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 4157. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests *may also be electronically* mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–24880 Filed 10–15–09; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Election Administration and Voting Survey Data Policy

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice and request for public comment on Proposed Election Administration and Voting Survey Data Policy.

SUMMARY: The U.S. Election Assistance Commission (EAC) seeks public comment on the Proposed Election Administration and Voting Survey Data policy. The policy provides additional direction to election officials responsible for completing EAC's Election Administration and Voting Survey information about the processes and procedures that will guide their submission, review, and correction of the survey data. The EAC issues the survey to meet its obligations under the Help America Vote Act to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill its data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal Elections.

DATES: Written comments must be submitted on or before 4 p.m. EDT on November 16, 2009.

Comments: Public comments are invited on: (a) Whether the policy is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the information contained in the data policy.

Comments on the proposed policy should be submitted electronically to *HAVAinfo@eac.gov*. Written comments on the proposed policy can also be sent to the U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, ATTN: Election Administration and Voting Survey Data Policy.

Obtaining a Copy of the Policy: To obtain a free copy of the policy: (1) Access the EAC Web site at *http://www.eac.gov;* (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, ATTN: Election Administration and Voting Survey Data Policy.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Lynn-Dyson or Ms. Shelly Anderson at (202) 566–3100.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. E9–24863 Filed 10–15–09; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. IC10–60–000, IC10–61–000, and IC10–555A–000]

Commission Information Collection Activities (FERC Form 60, FERC–61, and FERC–555A); Comment Request; Extensions

October 8, 2009.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collections and request for comments.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the specific aspects of the information collections described below.

DATES: Comments in consideration of the collections of information are due December 15, 2009.

ADDRESSES: Comments may be filed either electronically or in paper format, and should refer to Docket Nos. IC10–60–000, IC10–61–000, and IC10–555A–000. (If comments apply to only one or two of the collections, indicate the corresponding docket numbers.) Documents must be prepared in an acceptable filing format and in compliance with the Federal Energy Regulatory Commission submission guidelines at *http://www.ferc.gov/help/submission-guide.asp.*

Comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* First time users will have to establish a user name and password (*http://www.ferc.gov/docs-filing/eregistration.asp*) before eFiling. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments through eFiling.

Commenters filing electronically should not make a paper filing. Commenters that are not able to file electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

All comments and FERC issuances may be viewed, printed or downloaded remotely through FERC's Web site using the ''eLibrary'' link and searching on Docket Nos. IC10–60–000, IC10–61–000, and IC10–555A–000. For user assistance, contact FERC Online Support (e-mail at *ferconlinesupport@ferc.gov,* or call toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659).

FOR FURTHER INFORMATION: Ellen Brown may be reached by telephone at (202) 502–8663, by fax at (202) 273–0873, and by e-mail at *ellen.brown@ferc.gov.*

SUPPLEMENTARY INFORMATION: OMB Control Number 1902–0215 currently includes three information collections:

- FERC Form 60, ''Annual Report of Centralized Service Companies'',[1] pursuant to 18 CFR 369.1 and 366.23, with details at *http://www.ferc.gov/docs-filing/eforms/form-60/form-60.pdf,*
- FERC–61 (''Narrative Description Of Service Company Functions''), pursuant to 18 CFR 366.23, and
- FERC–555A (''Preservation of Records of Holding Companies and Service Companies Subject to PUHCA'' [Public Utility Holding Company Act of 2005]), record retention requirements, pursuant to 18 CFR 366.22, and Parts 367 and 368.

On August 8, 2005, the Energy Policy Act of 2005 was signed into law, repealing the Public Utility Holding Company Act of 1935 (PUHCA 1935) and enacting the Public Utility Holding Company Act of 2005 (PUHCA 2005). Section 1264 (federal books and records access provision) and Section 1275 (non-power goods and services provision) of PUHCA 2005 supplemented FERC's existing ratemaking authority under the Federal Power Act (FPA) to protect customers against improper cross-subsidization or encumbrances of public utility assets, and similarly, FERC's ratemaking authority under the Natural Gas Act (NGA). These provisions of PUHCA 2005 supplemented the FERC's broad authority under FPA Section 301 and NGA Section 8 to obtain the books and records of regulated companies and any person that controls or is controlled by such companies if relevant to jurisdictional activities.

FERC Form 60. Form No. 60 is an annual reporting requirement under 18 CFR 366.23 for centralized service companies. The report is designed to collect financial information (including balance sheet, assets, liabilities, billing and charges for associated and non-associated companies) from centralized service companies subject to the jurisdiction of the FERC. Unless the holding company system is exempted or granted a waiver by Commission rule or order pursuant to 18 CFR 366.3 and 366.4, every centralized service company in a holding company system must prepare and file electronically with the FERC the Form No. 60, pursuant to the General Instructions in the form.

FERC–61. FERC–61 is a filing requirement for service companies in holding company systems (including special purpose companies) that are currently exempt or granted a waiver of FERC's regulations and would not have to file FERC Form 60. Instead, those service companies are required to file, on an annual basis, a narrative description of the service company's functions during the prior calendar year (FERC–61). In complying, a holding company may make a single filing on behalf of all of its service company subsidiaries.

FERC–555A. FERC prescribed a mandated preservation of records requirement for holding companies and service companies (unless otherwise exempted by FERC). This requires them to maintain and make available to FERC their books and records. The preservation of records requirement

[1] This Notice in Docket No. IC10–60 is a separate proceeding from the recent Notice of Proposed Rulemaking (NOPR) that FERC issued on September 17, 2009, in Docket No. RM09–21–000 (''Revised Filing Requirements for Centralized Service Companies Under the Public Utility Holding Company Act of 2005, the Federal Power Act, and the Natural Gas Act''). The NOPR in Docket No. RM09–21–000 proposes some clarifications related to the FERC Form 60. Docket No. RM09–21 is not a subject of this Notice in Docket No. IC10–60. Comments on Docket No. RM09–21–000 should be submitted in Docket No. RM09–21–000, and not in Docket No. IC10–60.

provides for uniform records retention by holding companies and centralized service companies subject to PUHCA 2005.

Data from the FERC Form 60, FERC–61, and FERC–555A provide a level of transparency that: (1) Helps protect ratepayers from pass-through of improper service company costs, (2) enables FERC to review and determine cost allocations (among holding company members) for certain non-power goods and services, (3) aids FERC in meeting its oversight and market monitoring obligations, and (4) benefits the public, both as ratepayers and investors. In addition, the records are used by the FERC's audit staff during compliance reviews and special analyses.

If data from the FERC Form 60, FERC–61, and FERC–555A were not available, FERC would not be able to meet its statutory responsibilities, under EPAct 1992, EPAct of 2005, and PUHCA 2005, and FERC would not have all of the regulatory mechanisms necessary to ensure customer protection.

ACTION: The Commission is requesting a three-year extension of the current FERC Form 60, FERC–61, and FERC–555A requirements, with no changes.

Burden Statement: The estimated, average annual public reporting burden [2] follows.

FERC information collection	Annual no. of respondents (1)	Average no. of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
FERC Form 60	34	1	32.718	1,112
FERC–61	22	1	.500	11
FERC–555A	100	1	1,080.000	108,000
Totals				109,123

[**Note:** The figures may not be exact, due to rounding.]

The total estimated annual cost burdens to respondents follow.

FERC information collection	Annual burden (Hrs.) (1)	Average cost ($) per hour (2)	Total annual cost ($) (1) × (2)
FERC Form 60 [2]	1,112	$61.68125/hour	$68,589.55
FERC–61 [2]	11	$61.68125/hour	$678.49
FERC–555A [3]	108,000		$1,912,341.25 [3]
Totals			$1,981,609.29

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimates of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the proposed collections 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 burdens of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–24912 Filed 10–15–09; 8:45 am]

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[2] Employees work an average of 2,080 hours per year and cost an estimated $128,297 per year. The average hourly cost is $61.68125/hour [($128,297/year)/(2080 hours/year)].

[3] Based on an estimated 120 cubic feet of paper records per respondent, the total estimated annual cost to all respondents is $1,912,341.25 [$1,836,000 (for staffing), plus $76,341.25 (for storage)]. However, the storage of paper (and related record retention and access) is more expensive than electronic storage, so savings are accomplished when documents are stored electronically (e.g., by using on-line electronic storage or removable storage media like CD–ROM or thumb drives). It would appear that these records are likely stored electronically, so the estimated cost ($1,912,341.25) of storage for paper only is the worst case estimate.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2144–038]

City of Seattle; Notice of Application Tendered for Filing With the Commission and Establishing Procedural Schedule for Licensing and Deadline for Submission of Final Amendments

October 8, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2144–038.

c. *Date Filed:* September 29, 2009.

d. *Applicant:* City of Seattle.

e. *Name of Project:* Boundary Hydroelectric Project.

f. *Location:* The existing project is located on the Pend Oreille River in Pend Oreille County, Washington. The project currently occupies 920.87 acres of Federal land managed by the U.S. Forest Service and U.S. Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Agent Contact:* Jorge Carrasco, Superintendent, Seattle City Light, 700 Fifth Avenue, Suite 3200, Seattle, WA 98124–4023; (206) 615–1091.

i. *FERC Contact:* David Turner (202) 502–6091.

j. This application is not ready for environmental analysis at this time.

k. *Project Description:* The existing project consists of: (1) A concrete arch dam with a crest elevation of 2,004 feet NGVD (North American Vertical Datum), a structural height of 340 feet, a thickness ranging from 8 feet at the crest to 32 feet at the base, and a crest length of 508 feet, with a total length, including the spillways, of 740 feet; (2) two 50-feet-wide spillways fitted with 45-feet-high radial gates, one on each abutment, which have a combined maximum capacity of 108,000 cubic feet per second (cfs) at a forebay water surface elevation of 1994 feet NGVD; (3) seven 21-foot-high by 17-foot-wide, low-level vertical fixed-wheel sluice gates that provide an additional discharge capacity of 252,000 cfs, for a total discharge capacity at the dam of 360,000 cfs; (4) a 17.5-mile-long, 1,794-acre reservoir at a normal full pool elevation of 1,994 feet NGVD with 87,913 acre-feet of gross storage; (5) power intake facilities excavated on the left abutment area consisting of an approximately 300-foot-wide by 800-foot-long forebay, a trash rack structure across the entrance to the forebay, and the portal face with six 30-foot-wide by 34-foot-high horseshoe-shaped tunnels extending to intake gate chambers; (6) six 315-feet-long penstocks lead from each of the intake gates to one of the six turbine-generator units in the power plant; (7) an underground power plant comprised of a 76-feet wide by 172-feet-high by 477-feet-long machine hall; (8) two 204,506-horsepower (hp) Francis turbines, with 158.4-megawatt (MW) generators, two 204,506-hp Francis turbines, with 161.5–MW generators, and two 259,823-hp Francis turbines, with 200–MW generators for a total authorized generating capacity of 1,003 MW; (9) six draft tubes that discharge water into the tailrace immediately below the dam; (10) six horseshoe-shaped transformer bays; (11) six individual three-phase, 230-kilovolt (kV) transmission lines up the vertical face of the left abutment of the dam to six pairs of transmission towers on top of the abutment; and (12) appurtenant equipment. The applicant proposes to install new high efficiency turbines in Units 55 and 56, concurrently with planned generator rewinds and step-up transformer replacements, to increase the project's total installed capacity to 1,033 MW.

l. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov*or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. 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, contact FERC Online Support.

n. *Procedural Schedule:* On September 30, 2009, Seattle City Light filed an agreement-in-principle and a request to suspend processing of the license application until February 1, 2010 to complete settlement negotiations. The negotiations also involve measures linking the Boundary relicense with the surrender of Pend Oreille County Public Utility District's Sullivan Creek Project No. 2225. In the interest of furthering settlement negotiations and resolution of both proceedings, we are agreeing to delay the issuance of our ready for environmental analysis notice. Therefore, the application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate and a more detailed schedule will be issued with the ready for environmental analysis notice.

Milestone	Target date
Notice of Acceptance and Ready for Environmental Analysis.	March 2010.
Filing interventions, comments, recommendations, preliminary terms and conditions, and fishway prescriptions.	May 2010.
Notice of availability of the Draft EA.	October 2010.
Filing comments on Draft EA	November 2010.
Filing modified terms and conditions.	January 2011.
Notice of availability of Final EA.	April 2011.

o. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–24911 Filed 10–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2692–046]

Duke Energy Carolinas, LLC; Notice of Application for Amendment of License, and Soliciting Comments and Motions To Intervene

October 8, 2009.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Waiver.

b. *Project No:* 2692–046.

c. *Date Filed:* September 22, 2009.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name and Location of Project:* The Nantahala Project is located on the Nantahala River, Dicks Creek, and Whiteoak Creek in Clay and Macon counties, North Carolina.

f. *Filed Pursuant to:* The application was filed pursuant to 18 CFR 4.201.

g. *Applicant Contact:* George A. Galleher, P.E., Duke energy Corporation, LLC, EC11J, PO Box 1006, Charlotte, NC 28201–1006, (704) 382–5236.

h. *FERC Contact:* Any questions on this notice should be addressed to Robert H. Grieve, (202) 502–8752 or *robert.grieve@ferc.gov.*

i. *Deadline for filing comments and motions:* Comments on the application for amendment of license are due within 30 days of the issuance date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Please include the project number (P–2692–046) on any comments or motions filed.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

j. *Background and Description of Proposal:* Duke Energy Carolinas, LLC, licensee for the Nantahala Project, filed a request for a waiver of the length-of-time requirement of ordering paragraph (B) of the Order Approving Settlement and Amending License, issued May 5, 1999. Ordering paragraph (B) of that order requires that the licensee release from the Whiteoak Creek pipeline into Dicks Creek a continuous minimum flow of 8 cubic feet per second (cfs) from July 1 to November 15. Ordering paragraph (B) also states, in part, that this flow may be temporarily modified for short periods upon mutual agreement between the licensee and the requisite state and federal resource agencies. In order to refurbish the project station's rotor and paint significant portions of the project penstock, the Whiteoak penstock will be drained, which will eliminate the requisite 8 cfs minimum flow for 71 days.

By order issued April 1, 1996, the Commission defined a temporary modification as a few weeks or less. Therefore, the licensee cannot use the provisions of ordering paragraph (B) of the Commission's May 5, 1999 order, to authorize the long term suspension of the 8 cfs minimum flow. Such a long-term modification would be an amendment of license and must be processed as such.

k. *Locations of the Application:* The licensee's September 22, 2009 filing is available for review at the Commission in the Public Reference Room or may 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 documents. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item g above.

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, contact FERC Online Support.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments—Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. In determining the appropriate action to take, the Commission will consider all comments and motions to intervene, 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 or motions to intervene must be received on or before the specified comment date for the application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–24908 Filed 10–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL09–12–000]

Bonneville Power Administration; Notice of Filing

October 7, 2009.

Take notice that on September 1, 2009, the Bonneville Power Administration (Bonneville) filed, in the above-captioned proceeding, an errata to its Tiered Rate Methodology (errata filing) relating to its Petition for Declaratory Order filed on November 11, 2008. Interventions and protests should be limited to Bonneville's errata filing. The Commission will address all interventions and protests for the November 11, 2008 filing, the January 28, 2009 errata filing and this errata filing in its decision.

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 13, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–24801 Filed 10–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–6177–000]

Carpenter, Darlene H.; Notice of Filing

October 8, 2009.

Take notice that on October 1, 2009, Darlene H. Carpenter filed an application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d and Part 45 of the regulations of the Federal Energy Regulatory Commission, 18 CFR Part 45.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on October 22, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–24909 Filed 10–15–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13234–001]

Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

October 8, 2009.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Alaska State Historic Preservation Officer (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. section 470 f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Takatz Lake Hydroelectric Project No. 13234–001.

The programmatic agreement, when executed by the Commission and the SHPO, would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR. 800.13[e]). The Commission's responsibilities, pursuant to section 106 for the Takatz Lake Hydroelectric Project, would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

The City and Borough of Sitka, as applicant for the Takatz Lake Hydroelectric Project No. 13234–001, is invited to participate in consultations to develop the programmatic agreement. For the purpose of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

Don Klima or Representative, Advisory Council on Historic Preservation, The Old Post Office Building, 1100 Pennsylvania Avenue, NW., Suite 803, Washington, DC 20004.

Judith Bittner, SHPO or Representative, Office of History & Archaeology, 550 W. 7th Avenue, Suite 1310, Anchorage, AK 99501.

Christopher Brewton, Utility Manager or Representative, City and Borough of Sitka, 105 Jarvis Street, Sitka, AK 99835.

Mark McCallum, Heritage Program Manager, Tongass National Forest, P.O. Box 309, Petersburg, AK 99833.

Jay Kinsman, District Archaeologist, Tongass National Forest, Sitka Ranger District, 204 Siginaka Way, Sitka, AK 99835.

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also, please identify any concerns about historic properties, including properties of traditional religious and cultural importance to an Indian tribe. If historic properties would be identified within the motion, please use a separate page, and label it NON–PUBLIC Information.

The original and eight copies of any such motion must be filed with Kimberly D. Bose, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426, and must be served on each person whose name appears on the official service list. Please put the following on the first page: Takatz Lake Hydroelectric Project No. 13234–001. Motions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

[1] 18 CFR section 385.2010.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–24910 Filed 10–15–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0202; FRL–8793–2]

Urea Sulfate Registration Review; Draft Ecological Risk Assessment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft ecological risk assessment for the registration review of urea sulfate and opens a public comment period on this document. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed a comprehensive draft ecological risk assessment for urea sulfate uses, including a determination that urea sulfate uses will have no effect on federally listed threatened or endangered species or their designated critical habitat. After reviewing comments received during the public comment period, EPA will issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation before completing a proposed registration review decision for urea sulfate. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before December 15, 2009.

ADDRESSES: Submit your comments identified by the docket identification (ID) number EPA–HQ–OPP–2007–0202, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the docket ID number EPA–HQ–OPP–2007–0202. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact*: Andrea Carone, Chemical Review Manager, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–0122; fax number: (703) 308–8090; e-mail address: *carone.andrea@epa.gov*.

For general questions on the registration review program, contact: Kevin Costello, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5026; fax number: (703) 308–8090; e-mail address: *costello.kevin@epa.gov*.

For general questions on OPP's Endangered Species Protection Program, contact: Arty Williams, Environmental Fate and Effects Division (7507P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–7695; fax number: (703) 308–4776; e-mail address: *williams.arty@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders, including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the chemical review manager listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through

regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number.

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. Authority

EPA is conducting its registration review of urea sulfate pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What Action is the Agency Taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registration for urea sulfate to ensure that it continues to satisfy the FIFRA standard for registration— that is, that urea sulfate can still be used without unreasonable adverse effects on human health or the environment. Urea sulfate is a herbicide used as a desiccant on cotton as a cotton harvest aid/defoliant. EPA has completed a comprehensive draft ecological risk assessment, including an endangered species assessment, for all urea sulfate uses and is announcing the availability of the draft ecological risk assessment.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft ecological risk assessment for urea sulfate. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to the draft risk assessment for the registration review of urea sulfate. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft ecological risk assessment. EPA will then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments. In the **Federal Register** notice announcing the availability of the revised risk assessment, if the revised risk assessment indicates risks of concern, the Agency may provide a comment period for the public to submit suggestions for mitigating the risk identified in the revised risk assessment before developing a proposed registration review decision on urea sulfate. As described in detail in the Urea Sulfate Summary Document, see docket ID number EPA–HQ–OPP–2007–0202, the Agency believes that the human health risk assessments completed prior to registration review are adequate, and there are no dietary or occupational risks that exceed the Agency's level of concern. Thus, no additional human health data are needed for the registration review of urea sulfate.

1. *Other related information*. Additional information on urea sulfate is available on the Pesticide Registration Review Status webpage for this pesticide, *http://www.epa.gov/oppsrrd1/registration_review/urea_sulfate/index.htm*. Information on the Agency's registration review program and its implementing regulation is available at *http://www.epa.gov/oppsrrd1/registration_review*.

2. *Information submission requirements*. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision

on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests, Urea sulfate.

Dated: October 6, 2009.

Peter Caulkins,

Acting Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. E9–24812 Filed 10–15–09; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8798–4]

Environmental Impact Statements and Regulations; Availability Of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146 or *http://www.epa.gov/compliance/nepa/.*

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated July 17, 2009 (74 FR 34754).

Draft EISs

EIS No. 20090083, ERP No. D–AFS–L65570–00, Rogue River-Siskiyou National Forest, Motorized Vehicle Use, To Enact the Travel Management Rule, Implementation, Douglas, Klamath, Jackson, Curry, Coos and Josephine Counties, OR and Del Norte and Siskiyou Counties, CA.

Summary: EPA expressed environmental concerns about the adequacy of information available to analyze the risk of exposure to naturally occurring asbestos. EPA also raised concerns related to provisions for dispersed recreation and implementation and adaptive management planning. Rating EC2.

EIS No. 20090124, ERP No. D–NOA–B91030–00, Amendment 16 to the Northwest Multispecies Fishery Management Plan, Propose to Adopt, Approval and Implementation Measures to Continue Formal Rebuilding Program for Overfishing and to End Overfishing on those Stock where it's Occurring, Gulf of Maine.

Summary: EPA had no objections and offered minor comments on the DEIS. Rating LO.

EIS No. 20090223, ERP No. D–AFS–K65373–NV, Jarbidge Ranger District Rangeland Management Project, Proposed Reauthorizing Grazing on 21 Existing Grazing Allotments, Humboldt Toiyabe National Forest, Elko County, NV.

Summary: EPA expressed environmental concerns about the achievability of annual use indicators under the proposed action, and requested additional information on implementation and permittee compliance. EPA recommended more specific action be taken to protect stream banks and prevent noxious weed spread. Rating EC2.

EIS No. 20090250, ERP No. D–IBR–K39119–NV, Walker River Basin Acquisition Program, To Provide Water to Walker Lake, an at Risk Natural Desert Terminal Lake, Funding, Walker River Basin, NV.

Summary: EPA expressed environmental concerns about the long-term feasibility of the water Acquisition Program given constrained water supplies and climate change; compliance with Total Maximum Daily Load requirements; and disclosure of mitigation measures. Rating EC2.

EIS No. 20090265, ERP No. D–AFS–L65576–ID, Clearwater National Forest Travel Planning Project, Proposes to Manage Motorized and Mechanized Travel within the 1,827.380-Acre, Clearwater National Forest, Idaho, Clearwater, Latah and Shoshone Counties, ID.

Summary: EPA expressed environmental concerns about potential impacts to water quality, fisheries, riparian habitat and soils. EPA recommends the incorporation of additional water quality emphasis elements. Rating EC2.

Final EISs

EIS No. 20090304, ERP No. F–AFS–K65354–00, Inyo National Forest Motorized Travel Management Project, Implementation, Inyo, Mono, Fresno, Madera and Tulare Counties, CA and Mineral and Esmeralda Counties, NV.

Summary: EPA continues to have environmental concerns about the scope of the travel management planning process and potential impacts from the designation of associated routes to water resources.

EIS No. 20090305, ERP No. F–NOA–K39122–CA, ADOPTION—PROGRAMMATIC—South Bay Salt Pond Restoration Project, Restored Tidal Marsh, Managed Ponds, Flood Control Measures and Public Access Features, Don Edward San Francisco Bay National Wildlife Refuge, Alameda, Santa Clara and San Mateo Counties, CA.

Summary: EPA does not object to the adoption of the FEIS.

EIS No. 20090311, ERP No. F–USN–L11040–WA, Naval Base Kitsap—Bangor, Construct and Operate a Swimmer Interdiction Security System (SISS), Silverdale Kitsap County, WA.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20090316, ERP No. F–FAA–A12046–00, PROGRAMMATIC—Streamlining the Processing of Experimental Permit Applications, Issuing Experimental Permits for the Launch and Reentry of Useable Suborbital Rockets.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20090319, ERP No. F–USA–L11042–AK, U.S. Army Alaska (USARAK) Project, Proposes the Stationing and Training of Increased Aviation Assts, Fort Wainwright, Fairbank, AK.

Summary: EPA does not object to the proposed project.

EIS No. 20090327, ERP No. F–STB–L59004–AK, Northern Rail Extension Project, Construct and Operate a Rail Line between North Pole and Delta Junction, AK.

Summary: EPA continues to have environmental concerns about impacts to water quality and aquatic resources.

EIS No. 20090053, ERP No. FS–COE–E32070–MS, Gulfport Harbor Navigation Channel Project, To Evaluate Proposed Construction of Authorized Improvements to the Gulfport Harbor, Harrison County, MS.

Summary: While many of EPA's concerns were resolved, EPA continues to have environmental concerns about impacts to biological resources. EPA also requested the MPRSA Section 103 Evaluation and Sediment Testing Report to ensure that the disposal material meets the Ocean Dumping Criteria.

Dated: October 13, 2009.

Ken Mittelholtz

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–24923 Filed 10–15–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8598–3]

Environmental Impacts Statements; Notice Of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements.

Filed 10/05/2009 through 10/09/2009.

Pursuant to 40 CFR 1506.9.

EIS No. 20090349, Draft EIS, SFW, CA, Hatchery and Stocking Program. Operation of 14 Trout Hatcheries and the Mad River Hatchery for the Anadromous Steelhead, Federal Funding, California Department of Fish and Game, CA, *Comment Period Ends:* 11/30/2009, *Contact:* Bart Prose 916–978–6152.

EIS No. 20090350, Final EIS, AFS, WI, Grub Hoe Vegetation and Transportation Management Project, Proposes to Implement Vegetation Management Activities, Eagle River Florence Ranger District, Chequamegon-Nicolet National Forest, Florence County, WI, *Wait Period Ends:* 11/16/2009, *Contact:* Christine Brunner 715–479–2827.

EIS No. 20090351, Final EIS, AFS, WY, Thunder Basin National Grassland Prairie Dog Management Strategy, Land and Resource Management Plan Amendment #3, Proposes to Implement a Site-Specific Strategy to Manage Black Trailed Prairie Dog, Douglas Ranger District, Medicine Bow-Routt National Forests and Thunder Basin National Grassland, Campbell, Converse, Niobrara and Weston Counties, WY, *Wait Period Ends:* 11/16/2009, *Contact:* Misty A. Hays 307–358–4690.

EIS No. 20090352, Draft EIS, FHW, NC, Elizabeth Brady Road (NC–1879) Extension Project, Widening and Extension of NC–1879 from the Intersection of NC–86 with US–70 Business to North of US–70 Bypass at the Intersection of St. Mary's Road NC–1002, Hillsborough Central Business, Orange County, NC, *Comment Period Ends:* 11/30/2009, *Contact:* John F. Sullivan III, P.E. 919–747–7002.

EIS No. 20090353, Final EIS, AFS, WI, Northwest Sands Restoration Project, Restoring the Pine Barren Ecosystem, Implementation, Washburn District Ranger, Chequamegon-Nicolet National Forest, Bayfield County, WI, *Wait Period Ends:* 11/16/2009, *Contact:* Jennifer Maziasz 715–373–2667 Ext. 235.

EIS No. 20090354, Final EIS, USN, 00, West Coast Basing of the MV–22, Determining Basing Location(s) and Providing Efficient Training Operations, CA, AZ, *Wait Period Ends:* 11/16/2009, *Contact:* Sue Goodfellow 703–695–8240 Ext. 3339.

Dated: October 13, 2009.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–24924 Filed 10–15–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2009–0605; FRL–8969–4]

Notice of Peer-Review Teleconference for the External Peer Review Draft of Recommended Toxicity Equivalency Factors (TEFs) for Human Health Risk Assessments of Dioxin and Dioxin-Like Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of peer-review teleconference with opportunity for public comment.

SUMMARY: EPA is announcing that Versar, Inc., an EPA contractor for external scientific peer review, plans to convene an independent panel of experts and organize and conduct an external peer review meeting to review the draft document titled, ''Recommended Toxicity Equivalency Factors (TEFs) for Human Health Risk Assessments of Dioxin and Dioxin-Like Compounds.'' The peer review meeting is planned to take place by teleconference on October 22, 2009. On September 2, 2009, EPA announced a 30-day public comment period for the draft document (74 FR 45437). The draft document was prepared by the Agency's Risk Assessment Forum.

The public comment period and the external peer review are separate processes that provide opportunities for all interested parties to comment on the document. In addition to considering public comments that were submitted to the EPA docket by the closing date of October 2, 2009, in accordance with the September 2, 2009 announcement of a public comment period, the public can provide comments for the external peer reviewers' consideration through the public teleconference on October 22, 2009.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

The public will be given an opportunity to observe and provide oral comments at this teleconference by registering with the point of contact below (see How Can I Request to Participate in this Meeting?). The draft document is available through the EPA docket at *http://www.regulations.gov* under Docket ID No. EPA–HQ–ORD–2009–0605. Additionally, the draft document and the charge questions for EPA's external peer review are available via the Internet on the Risk Assessment Forum's home page at *http://www.epa.gov/raf/hhtefguidance.*

In preparing a final report, EPA will consider the peer review report of the recommendations from the external peer review teleconference and any public comments that EPA receives in accordance with the September 2, 2009 notice (74 FR 45437) and at the public teleconference.

DATES: The peer review teleconference will be held on October 22, 2009, from 1 p.m. to approximately 3:30 p.m. Registration for this teleconference is required (see How Can I Request to Participate in this Meeting?). Time will be provided for public observers who wish to make comments on the document. Members of the public will be allowed to make brief (no longer than 5 minutes) oral statements during the meeting's public comment period.

ADDRESSES: The draft ''Recommended Toxicity Equivalency Factors (TEFs) for Human Health Risk Assessments of Dioxin and Dioxin-Like Compounds'' is available primarily via the Internet on the Risk Assessment Forum's home page at *http://www.epa.gov/raf/hhtefguidance.* A limited number of paper copies are available from the Risk Assessment Forum. If you are requesting a paper copy, please provide your name, mailing address, and the document title, ''Recommended Toxicity Equivalency Factors (TEFs) for Human Health Risk Assessments of Dioxin and Dioxin-Like Compounds,'' to Seema Schappelle via the contact information below.

How Can I Request To Participate in This Meeting?

Members of the public may call into the teleconference as observers, and there will be a limited time for comments from the public. In order to participate, you should contact Ms. Kathy Coon of Versar, Inc. by e-mail at *kscoon@versar.com* (subject line: Dioxin TEF Peer Review Teleconference) or by

phone at 703–750–3000 extension 545 to register. You will be asked for your name, affiliation, city and state, and contact information. When registering, please also indicate whether you would like to make a comment during the observer comment portion of the call. Time for public comments is limited, and reservations will be accepted on a first-come, first-served basis. Registered members of the public will be allowed to make brief (no longer than 5 minutes) oral statements during the meeting's public comment period. The call-in number for the meeting will be: Telephone: 1–877–558–5229; Pass Code: 7037503000#.

For technical information, please contact: Seema Schappelle, Risk Assessment Forum, Mail Code 8105R, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–3372; fax number: (202) 564–2070, E-mail: *schappelle.seema@epa.gov.*

SUPPLEMENTARY INFORMATION: Dioxin and dioxin like compounds (DLCs), including polychlorinated dibenzo-dioxins (PCDDs), polychlorinated dibenzofurans (PCDFs), and polychlorinated biphenyls (PCBs), are structurally and toxicologically related halogenated dicyclic aromatic hydrocarbons. Dioxins and DLCs are released into the environment from several industrial sources, including chemical manufacturing, combustion, and metal processing. There is global contamination of air, soil and water with trace levels of these compounds that typically occur in the environment as chemical mixtures. Dioxins and DLCs do not readily degrade; therefore, levels persist in the environment, build up in the food chain and accumulate in the tissues of animals. Human exposures to these compounds occur primarily through eating contaminated foods. The health effects from exposures to dioxins and DLCs have been documented extensively in toxicological and epidemiological studies.

Risk assessments have relied on the dioxin toxicity equivalence factors (TEFs) approach. Various stakeholders, inside and outside the Agency, have called for a more comprehensive characterization of risks; therefore, EPA's Risk Assessment Forum (RAF) identified a need to examine the recommended approach for application of the toxicity equivalence methodology in human health risk assessments. An RAF Technical Panel developed the draft guidance document, ''Recommended Toxicity Equivalency Factors (TEFs) for Human Health Risk Assessments of Dioxin and Dioxin-Like Compounds,'' to assist EPA scientists in using this methodology to assess health risks from dioxins and dioxin-like compounds, as well as inform EPA decision makers, other agencies, and the public about this methodology. EPA is currently addressing several issues related to dioxins and dioxin-like chemicals in the environment. More information on these activities is located at: *http://cfpub.epa.gov/ncea/CFM/nceaQFind.cfm?keyword=Dioxin.*

The draft document under review describes EPA's updated approach for evaluating the human health risks from exposures to environmental media containing dioxin-like compounds. It recommends the use of consensus TEF values for 2,3,7,8-tetrachlorodibenzo-p-dioxin and dioxin-like compounds, which were published in 2005 by the World Health Organization, and adopted by EPA in 2008 for ecological risk assessments.

The draft document was developed by the EPA's Risk Assessment Forum with extensive input from scientists throughout the Agency. The draft document summarizes the toxicity equivalence methodology, provides background information and assumptions on how the methodology has evolved, and provides health risk assessors with a recommended approach for application. It will assist EPA scientists in using the toxicity equivalence methodology to assess health risks from dioxins and dioxin-like compounds, as well as inform EPA decision makers, other agencies, and the public about this methodology.

Dated: October 9, 2009.

Kevin Teichman,

Acting EPA Science Advisor.

[FR Doc. E9–24926 Filed 10–15–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION.

Notice of Public Information Collections(s) Being Reviewed by the Federal Communications Commission, Comments Requested

October 8, 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 comments on this information collection should submit comments on December 15, 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 Judith B. Herman, Federal Communications Commission (FCC). To submit your PRA comments by e–mail send then to: PRA@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, OMD, 202–418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0059.

Title: Statement Regarding the Importation of Radio Frequency Devices Capable of Harmful Interference.

Form No.: FCC Form 740.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents: 5,000 respondents; 5,000 responses.

Estimated Time Per Response: 1 – 5 minutes (.084 hours)

Frequency of Response: One time and on occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i),

157(a), 302a, 303(b), 303(f), 303(g) and 303(r).

Total Annual Burden: 29,120 hours.

Privacy Act Impact Assessment: No.

Nature and Extent of Confidentiality: There are no confidentiality issues.

Need and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance from them.

The FCC, working in conjunction with the U.S. Customs Service is responsible for the regulation of both authorized radio services and devices that can cause harmful interference. FCC Form 740 must be completed for each radio frequency device which is being imported into the United States, and is used to keep non–compliant devices from being distributed to the general public, thereby reducing the potential for harmful interference being caused to authorized communications.

FCC Form 740 is submitted to the U.S. Customs Service and Border Patrol electronically or in paper format. The FCC Form 740 is not submitted to the Federal Communications Commission. When a violation is discovered, the FCC can issue a fine. If a product is suspected of illegal entry, the FCC works with U.S. Customs Service to resolve the issue.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E9–24854 Filed 10–15–09; 8:45 am]

BILLING CODE 67129–019–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

October 9, 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 December 15, 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.

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: 3060–0106.

Title: Reporting Requirements for U.S. Providers of International Telecommunications Services and Affiliates; 47 CFR 43.53 and 43.61.

Form No.: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 134 respondents; 134 responses.

Estimated Time Per Response: 2 hours.

Frequency of Response: Annual and quarterly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 1, 4(i), 4(j) 11, 201–205, 211, 214, 219, 220, 303(r), 309, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 161, 201–205, 211, 214, 219, 220, 303(r), 309 and 403.

Total Annual Burden: 2,412 hours.

Annual Cost Burden: $216,534.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The purpose of this information collection is to obtain information from applicants and current licensees to further the Commission's goal of protecting U.S. consumers and U.S. carriers from anti–competitive conduct, ensure that consumers enjoy more choice in telecommunications services and decrease prices for international calls without imposing unnecessary paperwork burdens on carriers. If the information collection was not conducted or was conducted less frequently, the Commission would not be able to ensure compliance with its international rules and policies. Furthermore, the Commission would not have sufficient information to take measures to prevent anticompetitive conduct in the provision of international communications services. The Commission would not have adequate information to respond to failures in the U.S.–international market. The Commission would not be able to promote effective competition in the global market for communications services. The lack of effective competition would adversely affect the U.S. revenues in the telecommunications industry. The agency would not be able to comply with the international regulations stated in the World Trade Organization (WTO) Basic Telecom Agreement.

OMB Control Number: 3060–0572.

Title: Filing Manual for Annual International Circuit Status Reports; 47 CFR 43.82.

Form No.: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 138 respondents; 138 responses.

Estimated Time Per Response: 9 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in the Communications Act of 1934, as amended; 47 U.S.C. 211, 219 and 220.

Total Annual Burden: 1,300 hours.

Annual Cost Burden: $46,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

Section 43.82 of the Federal Communications Commission's rules requires that each common carrier engaged in providing facilities–based international telecommunications services between the United States and foreign points shall file annually the status of its circuits used to provide international services. The annual circuit–status report, required by Section 43.82, provides the Commission, the carriers, and others information on how U.S. international carriers use their circuits. The Commission uses the information from the circuit–status reports to ensure that carriers with market power do not use their access to circuit capacity to engage in any anti–competitive behavior. The Commission also uses the reports to implement the requirement in Section 9 of the Communications Act of 1934, as amended, that carriers pay annual regulatory fees for each of the bearer circuits they own. If the information collection was not conducted or was conducted less frequently, it would seriously undermine the Commission's authorization process. In addition, Congress mandated the Commission to collect annual regulatory fees on active equivalent 64 kilobits international circuits. Without such information, the Commission would not be able to fulfill its statutory obligation.

OMB Control Number: 3060–0955.

Title: 2 GHz Mobile Satellite Service Reports; 47 CFR 25.114; 25.115; 25.133; 25.136; 25.137; 25.143; 25.201; 25.202; 25.203; 25.279.

Form No.: Not Applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 9 respondents; 9 responses.

Estimated Time Per Response: 3 hours.

Frequency of Response: On occasion and annual reporting requirements; Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

Total Annual Burden: 27 hours.

Annual Cost Burden: $18,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as a revision after this 60–day comment period has ended in order to obtain the full three year OMB clearance. OMB Control No. 3060–0955 will be revised to reflect all applicable rule sections and reporting requirements.

This information collection addresses the licensing and service rules for entities to provide Mobile Satellite Service in the 2 GHz Band, specifically the 1990–2025 MHz and 2165–2200 MHz frequency bands. The information will be used by the Commission staff in carrying out its duties under the Communications Act of 1934, as amended, and to insure the public interest, safety and convenience are served. Without such information, the Commission could not determine whether to permit the respondent to provide telecommunication services in the U.S. and therefore fulfill its statutory and responsibilities in accordance with the Communications Act of 1934, as amended.

OMB Control Number: 3060–0994.

Title: Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L Band, and the 1.6/2.4 GHz Band; 47 CFR 25.149; 25.253; 25.254.

Form No.: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 161 respondents; 161 responses.

Estimated Time Per Response: 1–40 hours.

Frequency of Response: On occasion, one time and annual reporting requirements; third party disclosure and recordkeeping requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 7, 302, 303(c), 303(e), 303(f) and 303(r) of the Communications Act of 1934, as amended; 47 U.S.C. 154(i), 157, 302, 303(c), 303(e), 303(f) and 303(r).

Total Annual Burden: 1,326 hours.

Annual Cost Burden: $158,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The purposes of this information collection are to license commercial satellite services in the U.S.; obtain the legal and technical information required to facilitate the integration of ATCs into MSS networks in the 2 GHz Band, the L–Band, and the 1.6/2.4 GHz Bands; and to ensure that the licensees meet the Commission's legal and technical requirements to develop and maintain MSS networks while conserving limited spectrum for other telecommunications services. This information collection is used by the Commission to license commercial satellite services in the United States. Without the collection of information that would result from these final rules, the Commission would not have the necessary information to grant entities the authority to operate commercial satellite stations and provide telecommunications services to consumers.

OMB Control Number: 3060–1054.

Title: Application for Renewal of an International Broadcast Station License.

Form No.: FCC Form 422–IB.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 10 respondents; 10 responses.

Estimated Time Per Response: 6 hours.

Frequency of Response: On occasion and annual reporting requirements; Recordkeeping requirement; Other requirement that pursuant to Section 73.761(b) entities immediately notify the Commission in writing of limitations and discontinuances of operation and that the Commission shall subsequently be notified when the station resumes regular operation.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 USC 154, 303, 334, 336 and 339.

Total Annual Burden: 60 hours.

Annual Cost Burden: $32,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of

Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The Federal Communications Commission (''Commission'') plans to implement and release to the public an ''Application for Renewal of an International Broadcast Station License (FCC Form 422–IB).'' The form has not been implemented yet due to a lack of budget resources and technical staff. After the FCC Form 422–IB has been implemented and the Commission receives final approval from OMB, applicants will complete the FCC Form 422–IB in lieu of the ''Application for Renewal of an International or Experimental Broadcast Station License,'' (FCC Form 311). In the interim, applicants will continue to file the FCC Form 311 with the Commission. (Note: The OMB approved the FCC Form 311 under OMB Control No. 3060–1035).

The Commission stated previously that the FCC Form 422–IB will be available to applicants in the International Bureau Filing System (''MyIBFS'') after it is implemented. However, the Commission plans to develop a new Consolidated Licensing System (CLS) within the next five years that will replace MyIBFS. Therefore, the FCC Form 422–IB will be made available to the public in CLS instead of MyIBFS.

The information collected pursuant to the rules set forth in 47 CFR part 73, Subpart F, is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. If the Commission did not collect this information, it would not be in a position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. The orderly nature of the provision of international broadcast service would be in jeopardy without the Commission's involvement.

OMB Control Number: 3060–1055.

Title: Application for Permit to Deliver Programs to Foreign Broadcast Stations.

Form No.: FCC Form 423–IB.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 30 respondents; 30 responses.

Estimated Time Per Response: 4 hours.

Frequency of Response: On occasion and annual reporting requirements; recordkeeping requirement; Other requirement – Pursuant to Section 73.3580 of Subpart H, broadcasters are subject to the local public notice provisions in order to ensure that the public is informed of a station's filing of an application or amendment by advertisements in local newspapers.

The public is kept abreast of the stations' existence in a local area or plans to locate in a specific local area through such advertisements. Section 73.3580 also requires that certain applications be maintained on file for public inspection at a stated address in the community in which the station is located or is proposed to be located.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 USC 154, 303, 334, 336 and 339.

Total Annual Burden: 240 hours.

Annual Cost Burden: $62,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The Federal Communications Commission (''Commission'') plans to implement and release to the public a new form titled, ''Application for Permit to Deliver Programs to Foreign Broadcast Stations'' (FCC Form 423–IB). Due to budgetary constraints, the FCC Form 423–IB has not been implemented yet. After the Commission implements the form and receives final approval from the OMB, applicants will complete the FCC Form 423–IB in lieu of the ''Application for Permit to Deliver Programs to Experimental or Foreign Broadcast Stations,'' (FCC Form 308). In the interim, applicants will continue to file the FCC Form 308 with the Commission.

Applicants will use the FCC Form 423–IB to apply, under Section 325(c) of the Communications Act of 1934, as amended, for authority to locate, use, or maintain a studio in the United States for the purpose of supplying program material to a foreign radio or TV broadcast station whose signals are consistently received in the United States, or for extension of existing authority.

The Commission stated previously that the FCC Form 423–IB will be available to applicants in the International Bureau Filing System (''MyIBFS'') after its implemented. However, the Commission plans to develop a new Consolidated Licensing System that will replace MyIBFS. Therefore, the FCC Form 423–IB will be made available to the public in CLS instead of MyIBFS.

If the Commission did not collect this information, the Commission would not be able to ascertain whether the commercial and noncommercial broadcast stations meet various technical and/or legal requirements that are critical to the operations of a broadcast station (e.g., antenna structure, marking and lighting) and to prevent harmful interference to other broadcast stations or telecommunications facilities. Furthermore, the Commission would not be able to ensure that broadcast licensees keep the public informed of the existence of broadcast stations in the local area or plans to establish broadcast stations in the local area as well as other pertinent information of interest to the public.

OMB Control Number: 3060–1056.

Title: Application for an International Broadcast Station License.

Form No.: FCC Form 421–IB.

Type of Review: Extension of a currently approved information collection.

Respondents: Business and other for–profit.

Number of Respondents/Responses: 10 respondents; 10 responses.

Estimated Time Per Response: 6 hours.

Frequency of Response: On occasion and annual reporting requirements; recordkeeping requirement; Other requirement – Section 73.761(b) requires that entities immediately notify the Commission in writing of limitations and discontinuances of operation and that the Commission shall subsequently be notified when the station resumes regular operation.

Obligation to Respond: Required to obtain or retain benefits. Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 USC 154, 303, 334, 336 and 339.

Total Annual Burden: 120 hours.

Annual Cost Burden: $36,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an

extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The Federal Communications Commission (''Commission'') plans to implement and release to the public an ''Application for an International Broadcast Station License (FCC Form 421–IB).'' The FCC Form 421–IB will be used by applicants to request licenses to operate international broadcast stations. The FCC Form 421–IB has not been implemented yet due to a lack of budget resources and technical staff. After the form has been implemented and the Commission has obtained final approval from the OMB, applicants will file the FCC Form 421–IB with the Commission in lieu of the ''Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station,'' (FCC Form 310). (Note: The Commission received approval from the OMB for the FCC Form 310 under OMB Control No 3060–1035). In the interim, applicants will continue to file the FCC Form 310 with the Commission.

The Commission stated previously that the FCC Form 423–IB will be available to applicants in the International Bureau Filing System (''MyIBFS'') after its development. The Commission plans to develop a new Consolidated Licensing System (CLS) that will replace MyIBFS. Therefore, the FCC Form 423–IB will be made available to the public in CLS instead of MyIBFS.

The information collected is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. If the Commission did not collect this information, it would not be in a position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. The orderly nature of the provision of international broadcast service would be in jeopardy without the Commission's involvement.

OMB Control Number: 3060–1057.

Title: Application for Authority to Construct or Make Changes in an International Broadcast Station.

Form No.: FCC Form 420–IB.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 160 respondents; 160 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion and annual reporting requirements; recordkeeping requirement; Other requirement – Section 73.761(b) requires that entities immediately notify the Commission in writing of limitations and discontinuances of operation and that the Commission shall subsequently be notified when the station resumes regular operation.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 USC 154, 303, 334, 336 and 339.

Total Annual Burden: 160 hours.

Annual Cost Burden: $44,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The Federal Communications Commission (''Commission'') received approval from the OMB to develop a new application titled, ''Application for Authority to Construct or Make Changes in an International Broadcast Station (FCC Form 420–IB)'' to request authority from the Commission to construct or make changes in an international broadcast station. This application has not been implemented and released to the public yet due to a lack of budget resources and technical staff. After the FCC Form 420–IB has been implemented and the Commission has obtained final approval from the OMB, it will be completed by international broadcasters in lieu of the ''Application for Authority to Construct or Make Changes in an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station,'' (FCC Form 309). In the interim, applicants will continue to file the FCC Form 309 with the Commission. (Note: The OMB approved the FCC Form 309 under OMB Control No. 3060–1035.

The Commission stated previously that the FCC Form 420–IB will be available to applicants in the International Bureau Filing System (''MyIBFS'') after its development. Within the next five years, the agency will develop a new Consolidated Licensing System that will replace MyIBFS. Therefore, the FCC Form 420–IB will be made available to the public in CLS instead of MyIBFS.

The information collected pursuant to the rules set forth in 47 CFR part 73, Subpart F, is used by the Commission to assign frequencies for use by international broadcast stations, to grant authority to operate such stations and to determine if interference or adverse propagation conditions exist that may impact the operation of such stations. If the Commission did not collect this information, it would not be in a position to effectively coordinate spectrum for international broadcasters or to act for entities in times of frequency interference or adverse propagation conditions. The orderly nature of the provision of international broadcast service would be in jeopardy without the Commission's involvement.

OMB Control Number: 3060–1063.

Title: Global Mobile Personal Communications by Satellite (GMPCS) Authorization, Marketing and Importation Rules.

Form No.: Not Applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 19 respondents; 19 responses.

Estimated Time Per Response: 23 hours.

Frequency of Response: On occasion and one time reporting requirements; recordkeeping and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. The Commission has authority for this information collection pursuant to Sections 4(i), 301, 302(a), 303(e), 303(f), 303(g), 303(n), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 301, 302(a), 303(e), 303(f), 303(g), 303(n), and 303(r).

Total Annual Burden: 483 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The purpose of this information collection is to maintain OMB approval of a certification requirement for portable GMPCS transceivers to prevent interference, reduce radio–frequency (''RF'') radiation exposure risk, and make regulatory treatment of portable

GMPCS transceivers consistent with treatment of similar terrestrial wireless devices, such as cellular phones.

The Commission is requiring that applicants obtain authorization for the equipment by submitting an application and exhibits, including test data. If the Commission did not obtain such information, it would not be able to ascertain whether the equipment meets the FCC's technical standards for operation in the United States. Furthermore, the data is required to ensure that the equipment will not cause catastrophic interference to other telecommunications services that may impact the health and safety of American citizens.

OMB Control Number: 3060–1066.

Title: Renewal of Application for Satellite Space and Earth Station Authorization.

Form No.: FCC Form 312–R.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 6 respondents; 6 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has authority for this information collection under Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

Total Annual Burden: 12 hours.

Annual Cost Burden: $2,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The Commission is requesting continued OMB approval of the application titled, ''Renewal of Application for Satellite Space and Earth Station Authorization (FCC Form 312–R). The FCC Form 312–R is used by earth station licensees to request renewals of their applications. Currently, this application is available in MyIBFS. However, the Commission plans to develop a new Consolidated Licensing System (CLS) that will replace MyIBFS. Therefore, the FCC Form 312–R will be made available to the public in CLS instead of MyIBFS.

This collection is used by the Commission staff in carrying out its duties concerning satellite communications as required by Sections 301, 308, 309 and 310 of the Communications Act, 47 U.S.C. 301, 308, 309, 310. This collection is also used by the Commission staff in carrying out its duties under the World Trade Organization (WTO) Basic Telecom Agreement.

The information collection requirements accounted for in this collection are necessary to determine the technical and legal qualifications of applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience and necessity. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the U.S. Therefore, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the WTO Basic Telecom Agreement.

OMB Control Number: 3060–1108.

Title: Consummation of Assignments and Transfers of Control of Authorization.

Form No.: Not Applicable.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 589 respondents; 589 responses.

Estimated Time Per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has authority for this information collection pursuant to 47 U.S.C. 154(i) and 47 CFR Sections 1.767, 25.119, 63.24(e)(4), 73.3540 and 73.3541.

Total Annual Burden: 589 hours.

Annual Cost Burden: $118,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The purpose of this information collection is to request continued OMB approval of a module in the International Bureau Filing System (''MyIBFS'') to facilitate the consummation of Assignments and Transfers of Control of Authorization. A consummation is a party's notification to the Commission that a transaction (assignment or transfer of control of authorization) has been completed. A consummation is applicable to all international telecommunications and satellite services, including International High Frequency (IHF), Section 214 Applications (ITC), Satellite Space Stations (SAT), Submarine Cable Landing Licenses (SCL) and Satellite Earth Station (SES) licenses.

Without this collection of information, the Commission would not have critical information such as a change in a controlling interest in the ownership of the licensee. The Commission would not be able to carry out its duties under the Communications Act and to determine the qualifications of applicants to provide international telecommunications service, including applicants that are affiliated with foreign entities, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. Furthermore, without this collection of information, the Commission would not be able to maintain effective oversight of U.S. providers of international telecommunications services that are affiliated with, or involved in certain co–marketing or similar arrangements with, foreign entities that have market power.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E9–24856 Filed 10–15–09; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission, Comments Requested

October 9, 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 comments on this information collection should submit comments on December 15, 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, Room 1–C823, Washington, DC 20554. To submit your comments by e–mail send then to: PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collections send an e–mail to PRA@fcc.gov or contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1067.

Title: Qualification Questions.

Form No.: FCC Form 312–EZ.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for–profit.

Number of Respondents/Responses: 3,872 respondents; 3,872 responses.

Estimated Time Per Response: 10 hours.

Frequency of Response: One time and on occasion reporting requirements; Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has authority for this information collection under Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

Total Annual Burden: 38,720 hours.

Annual Cost Burden: $9,874,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: This collection will be submitted to the Office of Management and Budget (OMB) as an extension (no change in requirements) after this 60–day comment period has ended in order to obtain the full three year OMB clearance.

The Federal Communications Commission (''Commission'') is requesting continued OMB approval of the application, ''Qualification Questions'' (FCC Form 312–EZ) used by applicants for C–band and Ku–band earth stations (non–common carrier applicants) that are eligible for the ''auto–grant'' procedure. Under the ''autogrant process,'' the International Bureau automatically grants ''routine'' earth station applications proposing to use the C–band or Ku–band. By ''routine,'' we mean consistent with all the technical requirements in part 25 applicable to earth stations.

This collection is used by the Commission staff in carrying out its duties concerning satellite communications as required by Sections 301, 308, 309 and 310 of the Communications Act, 47 U.S.C. 301, 308, 309, 310. This collection is also used by the Commission staff in carrying out its duties under the World Trade Organization (WTO) Basic Telecom Agreement.

The information collection requirements accounted for in this collection are necessary to determine the technical and legal qualifications of applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience and necessity. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the U.S. Therefore, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the WTO Basic Telecom Agreement.

OMB Control Number: 3060–1097.

Title: Service Rules and Policies for the Broadcasting Satellite Service (BSS).

Form No.: Not Applicable.

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

Respondents: Business or other for profit.

Number of Respondents/Responses: 4 respondents; 4 responses.

Estimated Time Per Response: 10 hours.

Frequency of Response: On occasion, quarterly and annual reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The Commission has authority for this information collection under Sections 4(i), 7(a), 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), and 303(r).

Total Annual Burden: 240 hours.

Annual Cost Burden: $12,452,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality.

Needs and Uses: The purpose of this information collection is to request continued

OMB approval of the processing and service rules for the 17/24 GHz Broadcasting Satellite Service (''17/24 GHz BSS''). This collection will be submitted to the Office of Management and Budget (OMB) as a revision after this 60–day comment period has ended in order to obtain the full three–year OMB clearance. The Commission is revising this information collection to reflect more accurate burden estimates.

This collection is used by the Commission staff in carrying out its duties concerning broadcasting satellite service as required by Sections 301, 308, 309 and 310 of the Communications Act, 47 U.S.C. 301, 308, 309, 310. This collection is also used by the Commission staff in carrying out its duties under the World Trade Organization (WTO) Basic Telecom Agreement.

The information collection requirements accounted for in this collection are necessary to determine the technical, legal and financial qualifications of applicants or licensees to operate a station, transfer or assign a license, and to determine whether the authorization is in the public interest, convenience and necessity. Without such information, the Commission could not determine whether to permit respondents to provide telecommunication services in the U.S. Therefore, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as

amended, and the obligations imposed on parties to the WTO Basic Telecom Agreement.

OMB Control Number: 3060–0692.

Type of Review: Extension of a currently approved collection.

Title: Sections 76.613 and 76.802, Home Wiring Provisions.

Form Number: Not Applicable.

Respondents: Individuals or households; Business or other for–profit entities.

Number of Respondents and Responses: 22,000 respondents; 253,010 responses.

Estimated Time per Response: 5 minutes – 2 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; annual reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The Commission has authority for this information collection under Sections 1, 4, 224, 251, 303, 601, 623, 624 and 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 36,114 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR 76.613(d) requires that when Multichannel Video Programming Distributors (MVPDs) cause harmful signal interference MVPDs will be required by the Commission's engineer in charge (EIC) to prepare and submit a report regarding the cause(s) of the interference, corrective measures planned or taken, and the efficacy of the remedial measures.

47 CFR 76.802(b) states during the initial telephone call in which a subscriber contacts a cable operator to voluntarily terminate cable service, the cable operator–if it owns and intends to remove the home wiring–must inform the subscriber: (1) That the cable operator owns the home wiring; (2) That the cable operator intends to remove the home wiring; (3) That the subscriber has the right to purchase the home wiring; and (4) What the per–foot replacement cost and total charge for the wiring would be (the total charge may be based on either the actual length of cable wiring and the actual number of passive splitters on the customer's side of the demarcation point, or a reasonable approximation thereof; in either event, the information necessary for calculating the total charge must be available for use during the initial phone call).

47 CFR 76.804 (a)(1) states where an MVPD owns the home run wiring in an Multiple Dwelling Unit Building (MDU) and does not (or will not at the conclusion of the notice period) have a legally enforceable right to remain on the premises against the wishes of the MDU owner, the MDU owner may give the MVPD a minimum of 90 days' written notice that its access to the entire building will be terminated to invoke the procedures in this section. The MVPD will then have 30 days to notify the MDU owner in writing of its election for all the home run wiring inside the MDU building: to remove the wiring and restore the MDU building consistent with state law within 30 days of the end of the 90–day notice period or within 30 days of actual service termination, whichever occurs first; to abandon and not disable the wiring at the end of the 90–day notice period; or to sell the wiring to the MDU building owner. If the incumbent provider elects to remove or abandon the wiring, and it intends to terminate service before the end of the 90–day notice period, the incumbent provider shall notify the MDU owner at the time of this election of the date on which it intends to terminate service. If the incumbent provider elects to remove its wiring and restore the building consistent with state law, it must do so within 30 days of the end of the 90–day notice period or within 30 days of actual service termination, which ever occurs first. For purposes of abandonment, passive devices, including splitters, shall be considered part of the home run wiring. The incumbent provider that has elected to abandon its home run wiring may remove its amplifiers or other active devices used in the wiring if an equivalent replacement can easily be reattached. In addition, an incumbent provider removing any active elements shall comply with the notice requirements and other rules regarding the removal of home run wiring. If the MDU owner declines to purchase the home run wiring, the MDU owner may permit an alternative provider that has been authorized to provide service to the MDU to negotiate to purchase the wiring.

47 CFR 76.804 (a)(2) states if the incumbent provider elects to sell the home run wiring under paragraph (a)(1) of this section, the incumbent and the MDU owner or alternative provider shall have 30 days from the date of election to negotiate a price. If the parties are unable to agree on a price within that 30–day time period, the incumbent must elect: to abandon without disabling the wiring; to remove the wiring and restore the MDU consistent with state law; or to submit the price determination to binding arbitration by an independent expert. If the incumbent provider chooses to abandon or remove its wiring, it must notify the MDU owner at the time of this election if and when it intends to terminate service before the end of the 90–day notice period. If the incumbent service provider elects to abandon its wiring at this point, the abandonment shall become effective at the end of the 90–day notice period or upon service termination, whichever occurs first. If the incumbent elects at this point to remove its wiring and restore the building consistent with state law, it must do so within 30 days of the end of the 90–day notice period or within 30 days of actual service termination, which ever occurs first.

47 CFR 76.804 (a) (3) states if the incumbent elects to submit to binding arbitration, the parties shall have seven days to agree on an independent expert or to each designate an expert who will pick a third expert within an additional seven days. The independent expert chosen will be required to assess a reasonable price for the home run wiring by the end of the 90–day notice period. If the incumbent elects to submit the matter to binding arbitration and the MDU owner (or the alternative provider) refuses to participate, the incumbent shall have no further obligations under the Commission's home run wiring disposition procedures. If the incumbent fails to comply with any of the deadlines established herein, it shall be deemed to have elected to abandon its home run wiring at the end of the 90–day notice period.

47 CFR 76.804 (a) (4) states the MDU owner shall be permitted to exercise the rights of individual subscribers under this subsection for purposes of the disposition of the cable home wiring under §76.802. When an MDU owner notifies an incumbent provider under this section that the incumbent provider's access to the entire building will be terminated and that the MDU owner seeks to use the home run wiring for another service, the incumbent provider shall, in accordance with our current home wiring rules: offer to sell to the MDU owner any home wiring within the individual dwelling units that the incumbent provider owns and intends to remove; and provide the MDU owner with the total per–foot replacement cost of such home wiring. This information must be provided to the MDU owner within 30 days of the initial notice that the incumbent's access to the building will be

terminated. If the MDU owner declines to purchase the cable home wiring, the MDU owner may allow the alternative provider to purchase the home wiring upon service termination under the terms and conditions of §76.802. If the MDU owner or the alternative provider elects to purchase the home wiring under these rules, it must so notify the incumbent MVPD provider not later than 30 days before the incumbent's termination of access to the building will become effective. If the MDU owner and the alternative provider fail to elect to purchase the home wiring, the incumbent provider must then remove the cable home wiring, under normal operating conditions, within 30 days of actual service termination, or make no subsequent attempt to remove it or to restrict its use.

In the Telecommunications Act of 1996, Congress directed that every broadcaster be given a second channel for digital operations. At the end of the transition, broadcasters' analog channels will be returned to the government. Congress set a target date of December 31, 2006 for the end of the transition, although that date can be extended if 85% of viewers in a particular market do not have access to the digital signals. In addition, at the end of the transition the broadcast spectrum will contract from channels 2–69 to channels 2–51. This 108 MHz of spectrum (channels 52–69) can then be used by advanced wireless services and public safety authorities. There are several key building blocks to a successful transition. First, content – consumers must perceive something significantly different than what they have in analog. Second, distribution – the content must be delivered to consumers in a simple and convenient way. Third, equipment – equipment must be capable, affordable and consumer–friendly. And fourth, education – consumers must be educated about what digital television is, and what it can do for them. These information requests are designed to gather data in these key areas.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. E9–24868 Filed 10–15–09; 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 the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, October 20, 2009, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Summary reports, status reports, reports of the Office of Inspector General, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Interagency Final Model Privacy Form under the Gramm-Leach-Bliley Act.

Memorandum and resolution re: Authorization to Publish Privacy Act System of Records Notices in the **Federal Register.**

Memorandum and resolution re: Proposed Mid-Year Increase in 2009 Corporate Operating Budget.

Discussion Agenda

Memorandum and resolution re: Temporary Liquidity Guarantee Program Final Rule.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

This Board meeting will be Webcast live via the Internet and subsequently made available on-demand approximately one week after the event. Visit *http://www.vodium.com/goto/fdic/boardmeetings.asp* to view the event. If you need any technical assistance, please visit our Video Help page at: *http://www.fdic.gov/video.html.*

The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7043.

Dated: October 13, 2009.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E9–25029 Filed 10–14–09; 11:15 am]

BILLING CODE P

FEDERAL LABOR RELATIONS AUTHORITY

Membership of the Federal Labor Relations Authority's Senior Executive Service Performance Review Board

AGENCY: Federal Labor Relations Authority.

ACTION: Notice.

SUMMARY: Notice is hereby given of the members of the Performance Review Board.

DATE: October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Sonna Stampone, Executive Director, Federal Labor Relations Authority (FLRA); 1400 K Street, NW.; Washington, DC 20424–0001; (202) 218–7941.

SUPPLEMENTARY INFORMATION: Section 4314(c) of Title 5, U.S.C. (as amended by the Civil Service Reform Act of 1978) requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards (PRBs). Section 4314(c)(4) requires that notice of appointment of the PRB be published in the **Federal Register**.

As required by 5 CFR 430.310, the following executives have been appointed to serve on the 2009–2011 PRB for the FLRA, beginning October 2009 through September 2011:

Erin M. McDonnell, Associate Special Counsel for Legal Counsel and Policy, United States Office of Special Counsel.

William D. Spencer, Clerk of the Board, United States Merit Systems Protection Board.

Kathleen James, Deputy Director of Administration, National Labor Relations Board.

James E. Petrucci, Director, Dallas Regional Office, Federal Labor Relations Authority.

Susan McCluskey, Chief Counsel for the Chairman, Federal Labor Relations Authority.

Catherine V. Emerson, Director, Office of Policy and Personnel Management, Federal Labor Relations Authority.

Authority: 5 U.S.C. 4134(c)(4).

Dated: October 9, 2009.

Sonna Stampone,

Executive Director.

[FR Doc. E9–24947 Filed 10–15–09; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act; Notice of Meeting

DATE: October 21, 2009–10 a.m.

PLACE: 800 North Capitol Street, NW., First Floor Hearing Room, Washington, DC.

STATUS: A portion of the meeting will be in Open Session and the remainder of the meeting will be in Closed Session.

MATTERS TO BE CONSIDERED:

Open Session

1. Discussion of Court of Appeals Mandate in Landstar.
2. Briefing on Conclusion of FY 2009 Budget.

Closed Session

1. World Chance Logistics (Hong Kong).
2. Lindblad Expeditions, Inc.—Evidence of Financial Responsibility.
3. Staff Briefing Regarding Global Economic Downturn and Potential Impact on Stakeholders.

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Secretary, (202) 523–5725.

Karen V. Gregory,

Secretary.

[FR Doc. E9–25065 Filed 10–14–09; 4:15 pm]

BILLING CODE P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review and Reinstatement of Existing Collection; Comment Request

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice and request for comment.

SUMMARY: The FTC plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L.108-159 (2003). This study is a follow-up to the Commission's two previous pilot studies that were undertaken to evaluate a potential design for a national study.[1] This is the second of two notices required under the Paperwork Reduction Act (''PRA''), and the Commission seeks additional public comments on its proposed national study before requesting Office of Management and Budget (''OMB'') review of, and clearance for, the collection of information discussed herein.

DATES: Comments must be received on or before November 16, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form, by following the instructions in the Request for Comments to 30-Day Notice part of the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following Web link: (*https://secure.commentworks.com/ftc/FACTA319studypra2*) (and following the instructions on the web-based form). Comments in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY SECTION** below.

FOR FURTHER INFORMATION CONTACT: Peter Vander Nat, Economist, (202) 326-3518, Federal Trade Commission, Bureau of Economics.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501-3520, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

On July 20, 2009, the FTC sought comment on the information collection requirements associated with the proposed national study.[2] As discussed below under (II)(D) - Summary of and Response to Public Comments to 60-Day Notice, three comments were received (*see* (*http://www.ftc.gov/os/comments/facta319study/index.shtm*) for text of the comments). Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, the FTC is providing this second opportunity for public comment while seeking OMB approval to reinstate the clearance for the proposed national study, which is a follow-up to the FTC's two prior pilot studies (OMB Control No. 3084-0133) that were undertaken to evaluate a potential design for a national study. All comments should be filed as prescribed in the **ADDRESSES** section above and in the Request for Comments to 30-Day Notice (found below at II.E.), and must be received on or before November 16, 2009.

I. Background

Section 319 of the Fair and Accurate Credit Transactions Act of 2003 (''FACT Act'' or the ''Act''), Pub. L.108-159 (2003) requires the FTC to study the accuracy and completeness of information in consumers' credit reports and to consider methods for improving the accuracy and completeness of such information. Section 319 of the Act also requires the Commission to issue a series of biennial reports to Congress over a period of eleven years. The first report was submitted to Congress in December 2004.[3] The second report was submitted to Congress in December 2006 (''December 2006 Report''), describing the results of a pilot study. The third report was submitted in December 2008 (''December 2008 Report''), describing the results of a second pilot study.

In July 2005, OMB approved the FTC's request to conduct a pilot study to evaluate the feasibility of a methodology that involves direct review by consumers of the information in their credit reports (OMB Control Number 3084-0133),[4] and the FTC conducted that pilot study in 2005-2006. As explained in the December 2006 report, FTC staff concluded that it was necessary to conduct a second pilot study to evaluate additional design elements prior to carrying out a nationwide survey. Upon receiving further OMB approval (reinstatement of Control No. 3084-0133), the FTC conducted the second pilot study in 2007-2008. The FTC's pilot studies used small samples and did not rely on the selection of a nationally representative sample of credit reports; accordingly, no statistical projections were made. The FTC now plans to conduct a national study of the accuracy of consumer reports in connection with Section 319 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L.108-159 (2003). This study is a follow-up to the Commission's two previous pilot studies.

A. Initial Pilot Study (2005-2006)

The goal of the initial pilot study was to assess the feasibility of directly engaging consumers in an in-depth review of their credit reports for the purpose of identifying alleged material errors and channeling such errors through the Fair Credit Report Act

[1] Reports to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2006 and 2008. The reports may be accessed at the FTC's Web site. December 2006 Report: (*http://www.ftc.gov/reports/FACTACT/FACT_Act_Report_2006.pdf*); December 2008 Report: (*http://www.ftc.gov/opa/2008/12/factareport.shtm*).

[2] 74 FR 35191.

[3] Report to Congress Under Sections 318 and 319 of the Fair and Accurate Credit Transactions Act of 2003, Federal Trade Commission, December 2004. The December 2004 Report is available at (*http://www.ftc.gov/reports/index.htm#2004*).

[4] *See* 70 FR 24583 (May 10, 2005) for discussion of the initial pilot study and related public comments.

(''FCRA'') dispute resolution process. The FTC's contractor for the initial pilot study – a research team comprised of members from the Center for Business and Industrial Studies (University of Missouri-St Louis), Georgetown University Credit Research Center, and the Fair Isaac Corporation – engaged 30 randomly selected participants in an in-depth review of their credit reports. Study participants obtained their credit reports and credit scores[5] from each of the three nationwide consumer reporting agencies (Equifax, Experian, TransUnion – hereinafter, the ''CRAs''). The contractor reviewed these credit reports with the participants and after an evaluation of alleged errors for materiality by the research team, consumers were asked to channel disputed information through the FCRA dispute resolution process.[6]

The first pilot study demonstrated the general feasibility of the consumer interview methodology, but also revealed several challenges for a national study.[7] Challenges include identifying methods for achieving a more representative sampling frame, increasing the response rates, and easing the burden of completing the study. Compared to the national average for credit scores, consumers with relatively low scores were under-represented. Also, the majority of participants who alleged errors on their credit reports and indicated that they would file a dispute did not follow through with their stated intention to file. In consideration of these and other matters, the FTC conducted a follow-up pilot study.

B. The Second Pilot Study (2007-2008)

The second pilot study combined successful elements from the first pilot with new procedures designed to overcome shortcomings of the first pilot.

Through a variety of recruitment channels, 4,232 people were invited to participate. Multiple recruitment methods were employed and these were useful in identifying differences in response rates and credit scores of the respondents across various methods of recruitment. Of the 4,232 individuals contacted, 128 (3%) became participants. The contractor[8] helped participants obtain their 3 credit reports and conducted an in-depth review of the reports with each participant. The contractor also helped the participants to identify alleged inaccuracies and gave advice on the difference between a small inaccuracy and a material error that is likely to affect a credit score. Specific criteria for materiality were developed in consultation with Fair Isaac's analyst on the research team.[9] If the consumer alleged a material error, the individual was encouraged to file a formal FCRA dispute so as to obtain a review of the challenged items by data furnishers and CRAs. The contractor prepared a dispute letter for any consumer who wanted to file and allege an error, material or not (as the FCRA permits a consumer to dispute any credit report information that the person believes to be inaccurate).

Regarding the results of the study, 88 of the 128 participants (69%) found no errors in their credit reports. Of the 40 participants who alleged one or more errors that they wanted to dispute, 15 (or 12% of the 128) alleged a material error. For 7 of these latter cases, the FCRA dispute process rendered credit report changes that were made fully in keeping with all of the consumer's allegations.[10]

As noted above, the second pilot study (like the first) used a small sample and no statistical projections were made. Accordingly, no extensive statistical summaries were needed, nor were any given, in the FTC's report on the study. The primary purpose of the pilot studies was to refine the expert-assisted survey approach for studying credit report information, in preparation for a national study.

The second pilot study confirmed the importance of having the contractor prepare dispute letters for consumers. This was not done in the first pilot study. In the first pilot study, only 1 of the 3 participants who alleged material errors on their credit reports filed a dispute. In the follow-up pilot study, all 15 of the participants who alleged material errors on their credit reports received dispute letters from the contractor, and the outcomes of these disputes are known for 12 of them. This is a significant improvement over the first pilot study.

As noted above, multiple recruitment methods were used to identify differences in response rates and in credit scores of respondents across various methods of recruitment. The second pilot study confirmed the difficulties of obtaining adequate numbers of participants with below-average credit scores. Purely random sampling of potential participants yielded too few actual participants with low credit scores.[11] A weighted random sampling approach, whereby more invitations were extended to groups of consumers who were likely to have lower credit scores, produced a sample closer to national norms.[12]

The second pilot study indicated that it would be feasible to base a measure of the accuracy of credit report information on confirmed material errors via the FCRA dispute process. Whenever it appeared that a consumer's credit score could be affected by ''correcting'' an alleged material error, the contractor marked the credit reports (the *frozen files*)[13] with explanations of

[5] A credit score is a numerical summary of the information in a credit report and is designed to be predictive of the risk of default. Credit scores are created by proprietary formulas that render the following result: the higher the credit score, the lower the risk of default. The contractor in the first and second pilot studies employed (and the proposed national study expects to employ) a score that is commonly used in credit reporting, namely a FICO score.

[6] The FCRA dispute resolution process involves the review of disputed items by data furnishers and CRAs. The formal dispute process renders a specific outcome for each alleged error. By direct instruction of the data furnisher, the following outcomes may occur: delete the item, change or modify the item (specifying the change), or maintain the item as originally reported. A CRA may also delete a disputed item due to expiration of the statutory time frame (the FCRA limits the process to 30 days, but the time may be extended to 45 days if a consumer submits relevant information during the 30-day period). These possible actions are tracked by a form called ''Online Solution for Complete and Accurate Reporting'' (e-OSCAR) that is used by CRAs for resolving FCRA disputes. A consumer may also dispute information directly with a data furnisher, as provided for by FCRA 623(a)(8). 15 U.S.C.1681s-2(a)(8). (*See also*, Federal Trade Commission and Board of Governors of the Federal Reserve System, *Report to Congress on the Fair Credit Reporting Act Dispute Process*, August 2006. The report is available at (*http://www.ftc.gov/reports/index.htm#2006*).

[7] The FTC's December 2006 Report to Congress contains a more detailed review of the study and its results.

[8] Due to the similarity in design (*i.e.*, second pilot was constructed as a follow-up to first) the FTC employed the same contractor.

[9] December 2008 Report (at 3). The contractor used the following criteria for materiality: the consumer had a credit score less than 760 (a cutoff widely used to identify consumers with lowest credit risk and for extending credit on most favorable terms) AND the consumer alleged an error regarding any of the following matters: (i) negative items (such as late payments); (ii) public derogatories (such as bankruptcy); (iii) accounts sent to collection; (iv) number of inquiries for new credit; (v) outstanding balances not attributable to normal monthly reporting variation; (vi) accounts on the report not belonging to the person who is the subject of the report; or (vii) duplicate entries of the same information (*e.g.*, late payments or outstanding obligations) that were double-counted in the reported summaries of such items. To enhance the efficiency of the study process, the stated criteria modify somewhat the procedure used in the first pilot study (contractor's report on second pilot study at 27). In the proposed national study, we do not intend to use any cutoff score for materiality, but plan to retain the stated categories as indicating a dispute material to creditworthiness.

[10] Other cases (*i.e.*, some of the consumer's allegations were confirmed while other allegations were denied) are summarized in the December 2008 Report (at 2 & 8).

[11] Table III of the December 2008 Report (at 9).

[12] Table 9 of the contractor's report (appendix to the December 2008 Report).

[13] The files are called ''frozen'' because no new credit information was added to the consumer's original credit reports obtained in the study; any

the discrepancies and sent copies of the marked reports to Fair Isaac for rescoring. If, via the FCRA dispute process, changes were subsequently made by CRAs and lenders in keeping with the consumer's allegations, these changed items were then designated as *confirmed material errors*. The frozen file would then be re-scored to quantify the impact of the confirmed error(s) on the consumer's credit score. The difference between the rescore of the frozen file and the original score would be a meaningful measure of the impact of inaccurate credit report information. We intend to use this type of methodology in a national study.[14]

As a final point of this summary of the pilot studies, the relatively low response rate (*i.e.*, approximately 3% of the individuals contacted became participants) raises concern for the design of a national study regarding a potential response bias. This matter is addressed below.

II. Proposed National Study

A. Description of the Collection of Information and the Proposed Use

The proposed national study seeks to use a large representative sample of credit reports so that we may draw inferences, up to a certain level of statistical confidence, about the accuracy of credit reports in general. The need to employ a representative sample makes the initial steps of the proposed study different from the methodology of the second pilot study; in other respects, the methodologies of the two studies are largely the same. Our goal is to obtain approximately 1,000 participants who as a group display a diversity on credit scores and on major demographic characteristics in line with national norms.

The relevant population for the study is comprised of adult members of households who have credit histories with Equifax, Experian, and/or TransUnion. To study these credit histories we propose, as a first step, to obtain a very large random sample (with an order of magnitude of 200,000 names) from one of the consumer reporting agencies in order to determine a set of individuals *selected for possible contact* (the ''SPC list'').[15] From this SPC list, FTC staff will draw a further and considerably smaller random sample (*e.g.*, 10% sample) of individuals *selected for contact* (the ''SC list'').

There are several reasons for this two-step process. First, the vast majority of the names on the SPC list will not be sent invitations to participate and thus helps ensure that no CRA will know who is participating in the study. Further, using the SC list, we plan to send proportionally more invitation letters to individuals with lower credit scores. Use of this weighted random sampling approach is designed to obtain an ultimate set of participants having credit scores (specifically, the lower scores) in line with national norms, as suggested by the results of the second pilot study.[16]

After some substantial set of individuals have agreed to join the study (300 - 400 people), we will have an *initial sample*. This sample will be compared with the larger SPC list on credit scores and geographic diversity. Statistically significant differences between this initial sample and the larger SPC list would reflect the impact of non-participation. From this information, we can selectively draw individuals from the SC list in an effort to compensate for these differences as necessary.

As a further check on a potential bias in the decision to participate, we plan to obtain anonymized (redacted) credit reports (and related credit scores)[17] for *the entire class of non-respondents*, *i.e.*, all the people from the SC list who choose not to participate. Using the redacted reports and related scores we can determine, for example, whether non-respondents had significantly different credit scores or significantly different credit histories from those who agreed to participate.

Upon completion of the study, we will have a database with detailed demographic information about the participants, the type and quantity of alleged material errors on their credit reports, the type and quantity of confirmed material errors via the FCRA dispute process, and the impact of any such confirmed errors on the participants' credit scores.[18] Further, by analyzing the redacted credit reports and related scores of the non-respondents, we obtain a final check on the degree to which the enhanced procedures were effective in achieving a nationally representative sample of credit reports.

B. Estimated Hours Burden

Consumer participation in the proposed national study would involve an initial preparation for the in-depth interview and time spent by participants to understand, review, and if deemed necessary, dispute information in their credit reports. Invitation letters will be sent in progressive waves in order to obtain approximately 1,000 participants. The individuals who receive these letters are drawn from the SC list discussed above and will be asked to go directly to a designated Web site for enrollment if they wish to participate; registration is expected to take at most 15 minutes per participant.[19] The registration process thus comes to approximately 250 hours (reckoned at 1/4 hour for each of 1,000 consumers).

For the purpose of calculating burden under the PRA regarding the review process of the credit reports, FTC staff

rescoring would thus apply only to potential changes or actual changes that were directly related to the contractor's review.

[14] Certain limitations regarding this methodology are discussed in the December 2008 Report (at 3 & 4). Yet, use of the FCRA dispute process appears to be the only feasible way of performing a nationwide survey, in view of the enormous difficulty and cost of attempting to ascertain the ultimate accuracy regarding alleged errors.

[15] The information in this sample, which would include names, addresses, and credit scores, is to be obtained under applicable law and protected from disclosure by, *e.g.*, Exemption 6 of the Freedom of Information Act, 5 U.S.C. 552. That information, as well as any credit reports that individual participants give permission to be analyzed for the study, will be maintained and used by the FTC and its contractors subject to appropriate information security procedures and safeguards (*e.g.*, maintaining credit-related data separately from personal identifying information, requiring the FTC's contractors to execute confidentiality agreements, and limiting access to those FTC and contractor staff who have a need to work with the data). As noted above, the study methodology is also designed to prevent disclosure of any individual's participation in the study to any credit reporting agency.

[16] December 2008 Report (at 9 &10).

[17] These credit reports and scores will be generated and maintained without name, address or personal identifiers other than ID numbers assigned by the study.

[18] Using the methodology of the pilot studies, we expect to obtain a variety of alleged errors: incorrect report of late payment; multiple reports of an account with late payment; paid account reported as delinquent; closed account reported as delinquent; incorrect financial account reported (''not mine''); incorrect collection balance; incorrect collection account reported; multiple reports of an account in bankruptcy; chapter 7 accounts discharged but reported as delinquent, as well as further types of alleged errors. For these same categories we can also tabulate confirmed material errors via the FCRA dispute process. As explained above, the rescoring of the frozen files will then provide the impact of any confirmed errors on the participants' credit scores.

[19] At the registration Web site, a person may take the time to read several disclosures, including a privacy disclosure and an outline of the various steps of the study that every participant agrees to undertake. The consumer is then asked to enter basic contact information (*e.g.*, name, address, telephone number, best time to be contacted further about the study) and to enter an electronic signature certifying the consumer's consent to participate in the study. For those who may not have Internet access to register, the contractor would also have a procedure to mail the appropriate disclosures and study steps to the respondent and then receive back enrolment information and the consumer's signed consent in paper form.

submits the following estimates that are based on the contractor's experience with the second pilot study. Some participants prepare thoroughly in advance of the in-depth interview of their credit reports. In such situations, even complicated reports may generally be finished under 30 minutes. Other consumers may not find time for significant preparation in advance of the in-depth review, and in such cases the interview could take up to an hour. The participants in the second pilot study reported taking an average of 69 minutes (median 53 minutes) to prepare for the interview, with 90% taking between 10 and 180 minutes. The interviews themselves took an average of 19 minutes (median 15 minutes) with 90% taking between 5 and 45 minutes. Overall, the average combined time for preparation and the interview was about 90 minutes (1.5 hours). For a national study involving 1,000 consumers, FTC staff thus estimates the burden hours for the review process to be approximately 1,500 hours (1,000 consumers × 1.5 hours). Further adding on the time spent for the registration process (0.25 hours per participant), the total burden hours come to approximately 1,750 hours.

C. Estimated Cost Burden

The cost per consumer for their participation should be negligible. Participation is voluntary and it will not require any start-up or capital expenditure. There is no labor time expenditure beyond the 1.75 hours per consumer estimated above. Participants may receive an honorarium to compensate them for their time. The amount will be determined by FTC staff in consultation with the contractor according to an analysis of customary procedures and a consideration of response rates within key categories, such as, response rates for consumers with impaired credit. As with the pilot studies, participants will not pay for their credit reports or credit scores.

D. Summary of and Response to Public Comments to Prior 60-Day Notice

The commenters were the Consumer Data Industry Association (CDIA), Mr. Chris Hoofnagle of the Berkeley Center for Law & Technology, and Privacy Times submitted by Mr. Evan Hendricks (and signed by additional parties). No comments addressed the cost and hour burden estimates nor challenged the need or the importance of the study. Overall, the comments addressed the qualifications of any potential contractor, the universe of participants to be covered by the study, and some concerns about specific parts of the methodology of the study.

The comment from the CDIA, submitted by Mr. Stuart Pratt, is generally supportive while expressing certain concerns. The CDIA (at 2) believes that the FTC's use of consumer interviews combined with the FCRA dispute process ''compares favorably to the flawed methodology employed by consumer groups in their 'studies' of credit report accuracy.'' The CDIA recommends the FTC highlight these differences in its communications about the study. As discussed above, in its 2004 Report to Congress, the FTC reviewed all prior studies and created a design for a national study to specifically address certain shortcomings of prior approaches. In an upcoming report to Congress about the results of the national study, the FTC will again point out the ways in which the study has addressed prior shortcomings.

The CDIA (at 1) expresses the concern that the methodology may over-sample consumers with low credit scores; it recommends the ultimate study group have credit scores that ''are reflective of the distribution of scores in the databases of the nationwide consumer reporting agencies.'' FTC staff agrees with the stated recommendation. As discussed in the referenced FR notice of July 20, 2009 (at 35194), the second pilot study confirmed that purely random sampling of potential participants yields too few actual participants with low credit scores. In the national study, invitation letters will be sent in progressive waves, and proportionally more invitation letters will be sent to groups having lower credit scores. Based on our knowledge of the second pilot study and also the knowledge that will be gained from the response rates of the earlier waves of letters in the national study, FTC staff will be able to adjust subsequent waves of letters to the potential respondents in certain score ranges so as to achieve a total set of respondents whose credit scores are indeed in line with national norms. It is possible, although not very likely, that the methodology could render a set of respondents having too many people with low scores. However, since the national distribution of credit scores is known (with great refinement), there are recognized statistical procedures to ultimately correct any over-sampling of low scores (should it occur) and to ensure the statistical reliability of the results, including the reliability of the results for the population as a whole.[20]

[20] *See*, for example, Harnett, Donald L., *Statistical Methods (3rd ed.)*, Addison-Wesley Publishing Co., 1984 (pages 253-254).

The CDIA (at 1) also expresses a concern for reaching out to consumers who do not have Internet access. As explained in the FR notice of July 20, 2009 (at 35195), participants will use the Internet to register for the study. However, for those who may not have Internet access, thecontractor will also have a procedure to mail the appropriate disclosures and the study steps tothe respondent and then receive enrollment information and the consumer's signed consent inpaper form. The in-depth review of the credit reports with the participants will occur over thetelephone and does not require Internet access.

The CDIA (at 2) recommends that upon assessing errors by a change in credit score that is attributable to certain errors, the FTC also include measures on how a change in score wouldimpact a consumer's interest rate or other credit decisions; *e.g.*, some changes in credit scorewould keep a consumer in the same ''band of risk'' determined by the lender, while other changescould place the consumer in a more favorable band of risk and thus allow the lender to proffer anoticeably better interest rate. FTC staff agrees with this recommendation. In reporting theresults of the study to Congress, staff fully intends to include the type of discussion andassociated measures here indicated.

The comment from the Berkeley Center for Law & Technology, submitted by Mr. Chris Hoofnagle, strongly supports the FTC's announced goal of acquiring ''1000 participants who as agroup display a diversity on credit scores and on major demographic characteristics in line withnational norms.'' The commenter further recommends, regarding the qualifications of anypotential contractor, that the entity be highly qualified to perform consumer surveys and that itbe a neutral entity (*i.e.*, have no stake in the outcome of the study). FTC staff readily concurswith the expressed concern. The FTC will publically solicit competitive bids for performing thestudy in keeping with a detailed scope of work (to be announced). Staff will carefully review thecredentials associated with each bid and proposal and will seek a contractor who is highlyqualified to perform the required work and who has no stake in the outcome of the study.

The comment letter from Mr. Evan Hendricks of Privacy Times (signed by additional parties) covers several of the concerns noted above and addressed there (*e.g.*, qualificationsof the study contractor and the need for a diverse set of credit scores reflective of national

norms). The commenter further recommends that the study pay special attention to the matter ofdata matching procedures, covering such maters as the use of Social Security Numbers and partial matches on consumer identifiers. The matter of data matching procedures has been reviewed in the 2004 Report to Congress, and staff does not anticipate that this study will specifically address the internal data matching procedures used by credit bureaus. However, the contractor will keep a detailed narrative regarding each participant, including specific errors alleged and their subsequent disposition. In tabulating the types of confirmed errors via the dispute process, the study will acquire a great deal of information on the main sources of error in credit reports.[21] Further, in regard to an expressed concern from Mr. Hendricks about recognizing ID theft as an important source of error, the category of alleged error called ''not mine'' will be separated into the subcategories of ''mixed file'' and ''ID theft.''

E. Request for Comments to Current 30-Day Notice

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''National Accuracy Study: Paperwork Comment (FTC file no. P044804)'' to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC Web site, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personalinformation, such as an individual's Social Security Number; date of birth; driver's licensenumber or other state identification number, or foreign country equivalent; passport number;financial account number; or credit or debit card number. Comments also should not includeany sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial orfinancial information which is obtained from any person and which is privileged or confidential . . .,'' as provided in Section 6(f) of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c).[22]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following Web link: (*https://secure.commentworks.com/ftc/FACTA319studypra2*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the Web link: (*https://secure.commentworks.com/ftc/FACTA319studypra2*). If this Notice appears at (*http://www.regulations.gov*), you may also file an electronic comment through that Web site. The Commission will consider all comments that regulations.gov forwards to it.

A comment filed in paper form should include the ''National Accuracy Study: Paperwork Comment (FTC file no. P044804)'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H–135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments on any proposed filing, recordkeeping, or disclosure requirements that are subject to paperwork burden review under the Paperwork Reduction Act (''PRA'') should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget (''OMB''), Attention: Desk Officer for Federal Trade Commission. Comments should be submitted via facsimile to (202) 395–5167 because U.S. postal mail at the OMB is subject to delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of publiccomments to consider and use in this proceeding as appropriate. The Commission will considerall timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC's Web site, to the extentpracticable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from thepublic comments it receives before placing those comments on the FTC's Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC'sprivacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

David C. Shonka,

Acting General Counsel.

[FR Doc. E9–24992 Filed 10–15–09; 8:45 am]

BILLING CODE 6750–01–S

[21] *See* referenced **Federal Register** Notice at 35193 (note 9) and at 35194 (note 18) for the types of errors to be tabulated.

[22] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CPR 4.9(c).

FEDERAL TRADE COMMISSION

[File No. 092 3140]

Directors Desk LLC; Analysis of Proposed Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before November 5, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Directors Desk, File No. 092 3140'' to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport

number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/directorsdesk*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://public.commentworks.com/ftc/directorsdesk*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Directors Desk, File No. 092 3140'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Molly Crawford (202-326-3076) or Katie Ratté (202-326-3514), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 6, 2009), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, a consent agreement from Directors Desk LLC (''Directors Desk'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Directors Desk made to consumers concerning its participation in the Safe Harbor privacy framework (''Safe Harbor'') agreed upon by the U.S. and the European Union (''EU''). It is among the Commission's first cases to challenge deceptive claims about the Safe Harbor. The Safe Harbor provides a mechanism for U.S. companies to transfer data outside the EU consistent with European law. To join the Safe Harbor, a company must self-certify to the U.S. Department of Commerce (''Commerce'') that it complies with seven principles and related requirements. Commerce maintains a public website, (*www.export.gov/safeharbor*), where it posts the names of companies that have self-certified to the Safe Harbor. The listing of companies indicates whether their self-certification is ''current'' or ''not current.'' Companies are required to re-certify every year in order to retain their status as ''current'' members of the Safe Harbor framework.

Directors Desk provides an online application that allows members of corporate boards of directors to access board meeting materials, board minutes, and other related documents through a website (*www.directorsdesk.com*). According to the Commission's complaint, Directors Desk set forth on its website privacy policies and statements about its practices, including statements that it is a current participant in the Safe Harbor.

The Commission's complaint alleges that Directors Desk falsely represented that it was a current participant in the Safe Harbor when, in fact, from February 2008 until August 2009, Directors Desk was not a current participant in the Safe Harbor. The Commission's complaint alleges that in February 2007, Directors Desk submitted to Commerce a self-certification, which it did not renew in February 2008. Commerce then updated its status to ''not current'' on the Commerce public website. Directors Desk remained in ''not current'' status

until it submitted a self-certification to Commerce in August 2009.

The proposed order applies to Directors Desk's representations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party. It contains provisions designed to prevent Directors Desk from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits Directors Desk from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires Directors Desk to retain documents relating to its compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that Directors Desk submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–24994 Filed 10–15–09; 8:45 am]

BILLING CODE 6750–01–S

FEDERAL TRADE COMMISSION

[File No. 092 3141]

Progressive Gaitways, Inc.; Analysis of Proposed Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before November 5, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Progressive Gaitways, File No. 092 3141'' to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/progressivegaitways*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://public.commentworks.com/ftc/progressivegaitways*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Progressive Gaitways, File No. 092 3141'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Molly Crawford (202-326-3076) or Katie Ratté (202-326-3514), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 6, 2009), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, a consent agreement from Progressive Gaitways, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Progressive Gaitways made to consumers concerning its participation in the Safe Harbor privacy framework (''Safe Harbor'') agreed upon by the U.S. and the European Union (''EU''). It is among the Commission's first cases to challenge deceptive claims about the Safe Harbor. The Safe Harbor provides a mechanism for U.S. companies to transfer data outside the EU consistent with European law. To join the Safe Harbor, a company must self-certify to the U.S. Department of Commerce (''Commerce'') that it complies with seven principles and related requirements. Commerce maintains a public website, (*www.export.gov/safeharbor*), where it posts the names of companies that have self-certified to the Safe Harbor. The listing of companies indicates whether their self-certification is ''current'' or ''not current.'' Companies are required to re-certify every year in order to retain their status as ''current'' members of the Safe Harbor framework.

Progressive Gaitways sells medical equipment, including through two websites (*www.theratogs.com*) and (*www.gaitways.com*). According to the Commission's complaint, from at least December 2008 until June 2009, Progressive Gaitways' (*www.theratogs.com*) website set forth privacy policies and statements about its practices, including statements related to its participation in the Safe Harbor. From at least June 2007 until June 2009, respondent has set forth on its website, (*www.gaitways.com*), the same privacy policies and statements, including the statements related to participation in the Safe Harbor.

The Commission's complaint alleges that until June 2009, Progressive Gaitways falsely represented that it was a current participant in the Safe Harbor when, in fact, Progressive Gaitways has not been a current participant in the Safe Harbor since November 2006 for its (*www.theratogs.com*) website, and had never been a participant in the Safe Harbor for its (*www.gaitways.com*) website. The Commission's complaint alleges that Progressive Gaitways submitted a Safe Harbor self-certification on behalf of its (*www.theratogs.com*) website in November 2004 and renewed it in November 2005. It did not renew the self-certification in November 2006, at which point Commerce updated its status to ''not current'' on the Commerce public website. To date, Progressive Gaitways has not renewed its self-certification to the Safe Harbor on behalf of (*www.theratogs.com*). The Commission's proposed complaint also alleges that Progressive Gaitways has never filed a Safe Harbor self-certification on behalf of its (*www.gaitways.com*) website.

The proposed order applies to Progressive Gaitways's representations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party. It contains provisions designed to prevent Progressive Gaitways from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits Progressive Gaitways from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires Progressive Gaitways to retain documents relating to its compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that Progressive Gaitways submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–24993 Filed 10–15–09; 8:45 am]

BILLING CODE 6750–01–S

FEDERAL TRADE COMMISSION

[File No. 092 3138]

ExpatEdge Partners LLC; Analysis of Proposed Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before November 5, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''ExpatEdge, File No. 092 3138'' to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical

records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/expatedge*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://public.commentworks.com/ftc/expatedge*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''ExpatEdge, File No. 092 3138'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Molly Crawford (202-326-3076) or Katie Ratté (202-326-3514), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 6, 2009), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, a consent agreement from ExpatEdge Partners LLC (''ExpatEdge'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that ExpatEdge made to consumers concerning its participation in the Safe Harbor privacy framework (''Safe Harbor'') agreed upon by the U.S. and the European Union (''EU''). It is among the Commission's first cases to challenge deceptive claims about the Safe Harbor. The Safe Harbor provides a mechanism for U.S. companies to transfer data outside the EU consistent with European law. To join the Safe Harbor, a company must self-certify to the U.S. Department of Commerce (''Commerce'') that it complies with seven principles and related requirements. Commerce maintains a public website, (*www.export.gov/safeharbor*), where it posts the names of companies that have self-certified to the Safe Harbor. The listing of companies indicates whether their self-certification is ''current'' or ''not current.'' Companies are required to re-certify every year in order to retain their status as ''current'' members of the Safe Harbor framework.

ExpatEdge provides software and consulting services to businesses that offer ''expatriate'' programs to manage tax and payroll issues for employees that work outside their country of residence, including through a website (*www.expatedge.com*). According to the Commission's complaint, from at least December 2002 until July 2009, ExpatEdge has set forth on its website privacy policies and statements about its practices, including statements that it is a current participant in the Safe Harbor.

The Commission's complaint alleges that until July 2009, ExpatEdge falsely represented that it was a current participant in the Safe Harbor when, in fact, ExpatEdge has not been a current participant in the Safe Harbor since November 2006. The Commission's complaint alleges that in November 2002, ExpatEdge submitted to Commerce a self-certification to the Safe Harbor, which it renewed in November 2003, November 2004, and November 2005. ExpatEdge did not renew its self-certification to the Safe Harbor in November 2006, and Commerce updated its status to ''not current'' on the Commerce public website. To date, ExpatEdge has not renewed its self-certification to the Safe Harbor and

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

remains in ''not current'' status on Commerce's website.

The proposed order applies to ExpatEdge's representations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party. It contains provisions designed to prevent ExpatEdge from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits ExpatEdge from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires ExpatEdge to retain documents relating to its compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that ExpatEdge submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–24997 Filed 10–15–09; 8:45 am]

BILLING CODE 6750–01–S

FEDERAL TRADE COMMISSION

[Docket No. 9338]

Carilion Clinic; Analysis of Agreement Containing Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before November 6, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Carilion Clinic, Docket No. 9338'' to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/carilionclinic*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the (*https://public.commentworks.com/ftc/carilionclinic.*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Carilion, Docket No. 9338'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Jeffrey Perry, Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, (202) 326-2331.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 3.25(f) the Commission Rules of Practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

package can be obtained from the FTC Home Page (for October 7, 2009), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission (''Commission'') has accepted for public comment, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Carilion Clinic (''Carilion''). The purpose of the proposed Consent Agreement is to remedy the competitive harm resulting from Carilion's acquisition of two independent outpatient centers, Odyssey IV, L.L.C. d/b/a The Center for Advanced Imaging (''CAI''), and The Center for Surgical Excellence, L.L.C. (''CSE''). Under the terms of the proposed Consent Agreement, Carilion is required to divest both acquired centers, together with related assets sufficient to ensure that the buyer(s) of the divested centers will replace fully the competition eliminated by the acquisition.

The proposed Consent Agreement has been placed on the public record for thirty (30) days to solicit comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission again will review the proposed Consent Agreement and comments received, and decide whether it should withdraw the Consent Agreement or make it final.

The sole purpose of this analysis is to facilitate public comment on the Consent Agreement; it is not intended to constitute an official interpretation of the Consent Agreement or modify its terms in any way.

Background

Carilion is the largest provider of healthcare services in the Roanoke, Virginia area, controlling nearly 80 percent of the hospital beds in the Roanoke area. On August 28, 2008, Carilion acquired CAI and CSE, the only two independent (non-hospital-owned) providers of advanced outpatient imaging and outpatient surgical services in the Roanoke area. Advanced outpatient imaging services are a cluster of imaging services, including Magnetic Resonance Imaging (''MRI'') and Computerized Tomographic Imaging (''CT'') scanning, used to obtain images of the internal anatomy. Outpatient surgical services are surgical procedures, such as interventional spine surgeries or vascular access surgeries, that do not require an overnight stay at a hospital.

Prior to the acquisition, CAI and CSE were direct competitors to Carilion for these services in the Roanoke area, competing on price as well as non-price terms. Notably, the freestanding centers' charges were significantly lower than Carilion's charges for the same services. In many cases, CAI's procedures were also more convenient and accessible than those performed at a hospital. In response to this competition, Carilion took steps to compete and maintain market share, including improving the accessibility of its services and reducing wait times for scheduling services. This competition provided real benefits, financial and otherwise, for patients in the Roanoke area.

Carilion's acquisition of CAI and CSE eliminated this price and non-price competition, and threatened substantial competitive harm in the markets for advanced outpatient imaging and outpatient surgical services in the Roanoke area. First, the acquisition reduced from three to two the number of competitors for both outpatient services, and reduced the incentives to compete for the remaining firms, Carilion and HCA Lewis-Gale (''HCA''), a similarly-situated hospital provider. Second, the acquisition eliminated health plans' and patients' only independent alternative to Carilion and HCA, and thus substantially reduced competition and enhanced Carilion's power to impose a unilateral price increase. Staff's investigation confirmed that repositioning by existing healthcare providers or new entry would be insufficient to deter or counteract this harm to competition.

Having reason to believe the proposed transaction would result in competitive harm, the Commission authorized staff to commence an administrative trial under Part 3 of the Commission's Rules of Practice. The administrative complaint alleged that the combined entity would increase prices and decrease non-price competition in the markets for advanced outpatient imaging and outpatient surgical services in the Roanoke area.

Litigation History

On July 23, 2009, the Commission issued an administrative complaint pursuant to Part 3 of the Commission's Rules of Practice challenging Carilion's acquisition of CAI and CSE. On August 7, 2009, the parties filed an amended joint motion to withdraw the matter from administrative litigation, together with a proposed settlement agreement that the parties asserted would ''completely restore the competition that was alleged to have been eliminated by the acquisition.''The Commission granted the amended joint motion on August 11, 2009, and temporarily withdrew the matter from adjudication for 30 days. The withdrawal was subsequently extended until October 14, 2009, as Carilion and Commission staff continued to negotiate a remedy in settlement of the ongoing litigation.

The Proposed Consent Agreement

The proposed Consent Agreement remedies the anticompetitive effects of the acquisition by requiring the divestiture of all of the acquired assets to a Commission-approved buyer (or buyers) within three months. The assets to be divested include not only the two acquired centers, but also the associated assets – such as patient and physician records, government permits, medical equipment, and payor and supplier contracts – necessary for a Commission-approved buyer to independently and effectively operate each center. The Commission may appoint a divestiture trustee if Carilion has not completed the required divestitures within three months.

In addition to requiring the divestiture of both centers and all related assets, the Consent Agreement includes several provisions designed to accelerate the Commission-approved buyer(s)' ability to replicate the competition that was eliminated by the acquisition. For example, the Consent Agreement prohibits Carilion from soliciting for employment any physician or physician practice that has referred patients to CAI since the acquisition. The prohibition is effective for six months as of the date Carilion signs the Agreement Containing Consent Orders, and will allow the Commission-approved buyer sufficient time to develop CAI's referral base by preventing Carilion from seeking out and acquiring referring physicians and physician practices. The Consent Agreement also prohibits Carilion from restricting its employed physicians who have referred patients to CAI since the acquisition from continuing to refer patients to CAI. The prohibition is in

effect for one year, and is designed to ensure that any Carilion-employed physician who previously referred patients to CAI will continue to be able to do so.

Finally, incorporated into the Consent Agreement is an Order to Maintain Assets (''OMA''). The OMA preserves the viability, marketability, and competitiveness of the assets to be divested, and prohibits Carilion from using or disclosing competitively sensitive information. The OMA also allows the Commission to appoint a Monitor to ensure Carilion's compliance with the Consent Agreement. In addition, the OMA requires Carilion to offer financial incentives to CAI and CSE personnel to remain with each business before the sale, during the transition period, and at the option of the buyer(s), after the transition. Under the Consent Agreement, Carilion also must remove any contractual impediments that may deter CAI or CSE staff from accepting a Commission-approved buyer's offer of employment.

The proposed Consent Agreement will resolve fully the competitive issues raised by the acquisition by reestablishing price, quality, and service competition in the markets for advanced outpatient imaging and outpatient surgical services in the Roanoke area. Moreover, acceptance of the proposed Consent Agreement will bring immediate and certain relief to Roanoke-area consumers by avoiding the expense and uncertainty inherent in continuing litigation.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E9–24949 Filed 10–15–09; 9:29 am]

BILLING CODE 6750–01–S

FEDERAL TRADE COMMISSION

[File No. 092 3142]

Collectify, Inc.; Analysis of Proposed Consent Orders To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before November 5, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''Collectify, File No. 092 3142'' to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/collectify*) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://public.commentworks.com/ftc/collectify*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''Collectify, File No. 092 3142'' reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Molly Crawford (202-326-3076) or Katie Ratté (202-326-3514), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 6, 2009), on the World Wide Web, at (*http://*

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

www.ftc.gov/os/actions.shtm). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, a consent agreement from Collectify, Inc. (''Collectify'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that Collectify made to consumers concerning its participation in the Safe Harbor privacy framework (''Safe Harbor'') agreed upon by the U.S. and the European Union (''EU''). It is among the Commission's first cases to challenge deceptive claims about the Safe Harbor. The Safe Harbor provides a mechanism for U.S. companies to transfer data outside the EU consistent with European law. To join the Safe Harbor, a company must self-certify to the U.S. Department of Commerce (''Commerce'') that it complies with seven principles and related requirements. Commerce maintains a public website, (*www.export.gov/safeharbor*), where it posts the names of companies that have self-certified to the Safe Harbor. The listing of companies indicates whether their self-certification is ''current'' or ''not current.'' Companies are required to re-certify every year in order to retain their status as ''current'' members of the Safe Harbor framework.

Collectify sells comprehensive cataloguing software to consumers over the internet, including through a website (*www.collectify.com*). According to the Commission's complaint, since at least September 2001, Collectify has set forth on its website, (*www.collectify.com*), privacy policies and statements about its practices, including statements related to its participation in the Safe Harbor privacy framework.

The Commission's complaint alleges that Collectify falsely represented that it was a current participant in the Safe Harbor when, in fact, from October 2004 until July 2009, Collectify was not a current participant in the Safe Harbor. The Commission's complaint alleges that in October 2001, Collectify submitted a Safe Harbor self-certification, which it renewed in October 2002 and October 2003. Collectify did not renew its self-certification in October 2004 and was in ''not current'' status on the Commerce website until it renewed its self-certification in July 2009.

Part I of the proposed order prohibits Collectify from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires Collectify to retain documents relating to its compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that Collectify submit an initial compliance report to the FTC, and make available to the FTC subsequent reports. Part VI is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. E9–24951 Filed 10–15–09; 9:32 am]

BILLING CODE 6750–01–S

FEDERAL TRADE COMMISSION

[File No. 092 3137]

World Innovators,Inc.; Analysis of Proposed Consent Orders to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order — embodied in the consent agreement — that would settle these allegations.

DATES: Comments must be received on or before November 5, 2009.

ADDRESSES: Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to ''World Innovators, File No. 092 3137'' to facilitate the organization of comments. Please note that your comment — including your name and your state — will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential . . . .,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and Commission Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c).[1]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: (*https://public.commentworks.com/ftc/*

[1] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

worldinnovators) and following the instructions on the web-based form. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink: (*https://public.commentworks.com/ftc/worldinnovators*). If this Notice appears at (*http://www.regulations.gov/search/index.jsp*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC website at (*http://www.ftc.gov/*) to read the Notice and the news release describing it.

A comment filed in paper form should include the ''World Innovators, File No. 092 3137 reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex D), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The Federal Trade Commission Act (''FTC Act'') and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.shtm*).

FOR FURTHER INFORMATION CONTACT: Molly Crawford (202-326-3076) or Katie Ratté (202-326-3514), Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for October 6, 2009), on the World Wide Web, at (*http://www.ftc.gov/os/actions.shtm*). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission (''FTC'' or ''Commission'') has accepted, subject to final approval, a consent agreement from World Innovators, Inc. (''World Innovators'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter concerns alleged false or misleading representations that World Innovators made to consumers concerning its participation in the Safe Harbor privacy framework (''Safe Harbor'') agreed upon by the U.S. and the European Union (''EU''). It is among the Commission's first cases to challenge deceptive claims about the Safe Harbor. The Safe Harbor provides a mechanism for U.S. companies to transfer data outside the EU consistent with European law. To join the Safe Harbor, a company must self-certify to the U.S. Department of Commerce (''Commerce'') that it complies with seven principles and related requirements. Commerce maintains a public website, (*www.export.gov/safeharbor*), where it posts the names of companies that have self-certified to the Safe Harbor. The listing of companies indicates whether their self-certification is ''current'' or ''not current.'' Companies are required to re-certify every year in order to retain their status as ''current'' members of the Safe Harbor framework.

World Innovators is a list broker that also sells marketing consulting services, including through its website (*www.worldinnovators.com*). According to the Commission's complaint, since at least November 2001, World Innovators has set forth on its website privacy policies and statements about its practices, including statements that it is a current participant in the Safe Harbor.

The Commission's complaint alleges that World Innovators falsely represented that it was a current participant in the Safe Harbor when, in fact, from September 2004 until July 2009, World Innovators was not a current participant in the Safe Harbor. Specifically, the Commission's complaint alleges that in September 2001, World Innovators submitted to Commerce a self-certification to the Safe Harbor and renewed that self-certification in September 2002 and September 2003. In September 2004, World Innovators did not renew its self-certification to the Safe Harbor, and Commerce updated its status to ''not current'' on its public website. World Innovators remained in ''not current'' status on Commerce's website until it submitted a new Safe Harbor self-certification in July 2009.

The proposed order applies to World Innovators' representations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party. It contains provisions designed to prevent World Innovators from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits World Innovators from making misrepresentations about its membership in any privacy, security, or any other compliance program sponsored by the government or any other third party.

Parts II through VI of the proposed order are reporting and compliance provisions. Part II requires World Innovators to retain documents relating to its compliance with the order for a five-year period. Part III requires dissemination of the order now and in the future to persons with responsibilities relating to the subject matter of the order. Part IV ensures notification to the FTC of changes in corporate status. Part V mandates that World Innovators submit an initial compliance report to the FTC, and make available to the FTC subsequent reports.

Part VI is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of the analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark

Secretary.

[FR Doc. E9–24996 Filed 10–15–09; 9:30 am]

BILLING CODE 6750–01–S

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0228]

Office of Civil Rights; Submission for OMB Review; Nondiscrimination in Federal Financial Assistance Programs

AGENCY: Office of Civil Rights, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement regarding nondiscrimination in Federal financial assistance programs. This information is needed to facilitate nondiscrimination in GSA's Federal Financial Assistance Programs, consistent with Federal civil rights laws and regulations that apply to recipients of Federal financial assistance.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: November 16, 2009.

FOR FURTHER INFORMATION CONTACT: Sloan Farrell, Compliance Officer, Office of Civil Rights, at telephone (202) 501–4347 or via e-mail to *sloan.farrell@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (MVPR), General Services Administration, 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has mission responsibilities related to monitoring and enforcing compliance with Federal civil rights laws and regulations that apply to Federal Financial Assistance programs administered by GSA. Specifically, those laws provide that no person on the ground of race, color, national origin, disability, sex or age shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program in connection with which Federal financial assistance is extended under laws administered in whole or in part by GSA. These mission responsibilities generate the requirement to request and obtain certain data from recipients of Federal surplus property for the purpose of determining compliance, such as the number of individuals, based on race and ethnic origin, of the recipient's eligible and actual serviced population; race and national origin of those denied participation in the recipient's program(s); non-English languages encountered by the recipient's program(s) and how the recipient is addressing meaningful access for individuals that are Limited English Proficient; whether there has been complaints or lawsuits filed against the recipient based on prohibited discrimination and whether there has been any findings; and whether the recipient's facilities are accessible to qualified individuals with disabilities.

B. Annual Reporting Burden

Respondents: 200.

Responses per Respondent: 1.

Total Responses: 200.

Hours per Response: 2.

Total Burden Hours: 400.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 3090–0228, Nondiscrimination in Federal Financial Assistance Programs, in all correspondence.

Dated: October 8, 2009.

Casey Coleman,

Chief Information Officer.

[FR Doc. E9–24879 Filed 10–15–09; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0475]

Agency Information Collection Activities; Proposed Collection; Comment Request; Administrative Detention and Banned Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection requirements for administrative detention and banned medical devices.

DATES: Submit written or electronic comments on the collection of information by December 15, 2009.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Jr., Office of Information Management (HFA–710), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–796–3793, *Denver.Presley@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined

in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Administrative Detention and Banned Medical Devices (OMB Control Number 0910–0114)—Extension

FDA has the statutory authority under section 304(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 334(g)), to detain during established inspections, devices that are believed to be adulterated or misbranded. FDA issued a final rule that published in a March 9, 1979, **Federal Register** (44 FR 13234) on administrative detention procedures, which includes among other things, certain reporting requirements and recordkeeping requirements under § 800.55(g) and (k), (21 CFR 800.55(g) and (k)). Under § 800.55(g), an applicant of a detention order must show documentation of ownership if devices are detained at a place other than that of the appellant. Under § 800.55(k), the owner or other responsible person must supply records about how the devices may have become adulterated or misbranded, in addition to records of distribution of the detained devices. These recordkeeping requirements for administrative detentions pemits FDA to trace devices for which the detention period expired before a seizure is accomplished or injunctive relief is obtained.

FDA also has the statutory authority under section 516 of the act (21 U.S.C. 360f) to ban devices that present substantial deception or an unreasonable and substantial risk of illness or injury. The final rule for banned devices that published in the May 18, 1979, **Federal Register** (44 FR 29221) contained certain reporting requirements under 21 CFR 895.21(d) and 895.22(a). Section 895.21(d) states that if the Commissioner of Food and Drugs Administration (the Commissioner), decides to initiate a proceeding to make a device, '' a banned device,'' a notice of proposed rulemaking will be published in the **Federal Register** and this document will contain the finding that the device presents a substantial deception or an unreasonable and substantial risk of illness or injury. The document will also contain the reasons why the proceeding was initiated, an evaluation of data and information obtained under other provisions of the act, any consultations with the panel, and a determination as to whether the device could be corrected by labeling, change of labeling, change of advertising, and if that labeling or change of advertising has been made. Under § 895.21(d), any interested person may request an informal hearing and submit written comments. Under § 895.22, a manufacturer, distributor, or importer of a device may be required to submit to FDA all relevant and available data and information to enable the Commissioner to determine whether the device presents substantial deception, unreasonable and substantial risk of illness or injury, or unreasonable, direct, and substantial danger to the health of individuals.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
800.55(g)	1	1	1	25	25
895.21(d) and 895.22(a)	26	1	26	16	416
Totals					441

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Record-keeping	Total Annual Records	Hours per Recordkeeper	Total Hours
800.55(k)	1	1	1	20	20
Totals					461

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

During the past several years, there has been an average of less than one new administrative detention action per year. Each administrative detention will have varying amounts of data and information that must be maintained. FDA's estimate of the burden under the administrative detention provision is based on FDA's discussion with one of three firms whose devices had been detained.

Dated: October 8, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–24921 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Evaluation of the NIAID HIV Vaccine Research Education Initiative

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Allergy and Infectious Diseases (NIAID), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 16, 2009, page 34580 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Evaluation of the NIAID HIV Vaccine Research Education Initiative. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* To address the need for volunteers in HIV vaccine clinical trials, and enable NIAID to fulfill its Congressional mandate to prevent infectious diseases like HIV/AIDS, NIAID created the NIAID HIV Vaccine Research Education Initiative (NHVREI). The goal of NHVREI is to increase knowledge about and support for HIV vaccine research among U.S. populations most heavily affected by HIV/AIDS—in particular, African Americans, Hispanics/Latinos, men who have sex with men (MSM), women and youth, recognizing the intersection of these groups.

NIAID is planning an evaluation of NHVREI to assess (a) implementation of NHVREI (*i.e.,* process evaluation) and (b) impact (*i.e.,* outcomes evaluation) of NHVREI on awareness of, knowledge about, and support for HIV vaccine research among NHVREI primary audiences (*i.e.,* partner organizations, key influencers) that work with target populations.

A survey will be conducted with key influencers of the NHVREI target populations to measure their level of awareness, knowledge about, and support for HIV vaccine research. Focus groups will also be conducted with representatives of organizations receiving grants through the NHVREI Local Partnership Program (LPP) and National Partnership Program (NPP), as well as representatives from a broader group of organizations called the NHVREI Network. The purpose of conducting focus groups with LPP, NPP, and NHVREI Network representatives is to obtain data on their experience implementing NHVREI activities. Questions asked during the group discussions will address efforts implementing educational activities and developing materials, community partnerships developed, engagement of key influencers in program activities, and the types of media outreach and capacity building engaged in. *Frequency of Response:* Twice. *Affected Public:* Individuals. *Type of Respondents:* Key influencers of target populations. The annual reporting burden is shown in the table below. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Type of respondents	Form name	Estimated number of respondents	No. of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
	Time 1				
LPP, NPP, and NHVREI Network	Focus Groups	78	1	1	78
Key Influencers	Survey	656	1	0.33	216
	Total Time 1	734			294
	Time 2				
LPP, NPP, and NHVREI Network	Focus Groups	78	1	1	78
Key Influencers	Survey	590	1	0.33	195
	Total Time 2	668			273
	Total Time 1 & Time 2	1,402			567

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: 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: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Katharine Kripke, Assistant Director, Vaccine Research Program, Division of AIDS, NIAID, NIH, 6700B Rockledge Dr., Bethesda, MD 20892–7628, or call non-toll-free number 301–402–0846, or E-mail your request, including your address to *NIAIDSurvey@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: October 8, 2009.

John J. McGowan,

Deputy Director for Science Management NIAID.

[FR Doc. E9–24873 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–10–0780]

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

National Survey of Residential Care Facilities (NSRCF) (OMB No. 0920–0780)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, ''shall collect statistics on health resources * * * [and] utilization of health care, including extended care facilities, and other institutions.''

In 2008, NCHS sought approval for a pretest and full survey of The National Survey of Residential Care Facilities (NSRCF). OMB approved only the pretest which has been completed. NCHS now seeks approval to collect the full survey. The survey is designed to complement data collected by other Federal surveys and to fill a significant data gap about a major portion of the long-term care population. Data from NSRCF will provide information on residential care facilities that policymakers, providers, and researchers can use to address a wide array of policy and research questions. The survey will utilize a computer-assisted personal interviewing (CAPI) system to collect information about facility and resident characteristics. This computerized system speeds the flow of data; making it possible to release information on a timely basis and easier for respondents to participate in the survey. The CAPI system may also enhance data quality. Clearance for two years is being requested.

A stratified random sample of residential care facilities across four strata (small, medium, large and very large) will be selected to participate in NSRCF. To be eligible a facility must be licensed, registered, listed, certified, or otherwise regulated by the State; provide room and board with at least two meals a day; provide around-the-clock on-site supervision; assist with activities of daily living (*e.g.,* bathing, eating, or dressing) or medication supervision; serve a primarily adult population; and have at least four beds.

The facility questionnaire will collect data about facility characteristics (*e.g.,* size, age, types of rooms), services offered, characteristics of the resident population, facility policies and services, charges for services, and background of the director. The resident questionnaire collects information on resident demographics, current living arrangements within the facility, involvement in activities, use of services, charges for care, health status, and cognitive and physical functioning.

For the national survey, approximately 2,250 facilities will be surveyed for an annual average of 1,125 facilities; information on an average of 4 residents will be collected from the annual average facility staff. Residents themselves will not be interviewed.

Users of NSRCF data include, but are not limited to CDC; other Department of Health and Human Services (DHHS) agencies, such as the Office of the Assistant Secretary for Planning and Evaluation and the Agency for Healthcare Research and Quality; and associations, such as the American Association of Homes and Services for the Aging, National Center for Assisted Living, American Seniors Housing Association, Assisted Living Federation of America; universities; foundations; and other private sector organizations. There is no cost to respondents other than their time to participate. The total estimated annualized burden hours are 3,572.

TABLE 1—ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Name of form	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)
Facility Director	Facility Screener	1,125	1	10/60
Facility Director	Resident Selection	1,125	1	10/60
Facility Director	Pre-Interview Worksheet	1,125	1	15/60
Facility Director	Facility Questionnaire	1,125	1	1.25
Facility Director or Staff Member	Resident Questionnaire	1,125	4	20/60
Facility Director	Verification Form	113	1	5/60

Dated: October 8, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Office of the Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–24944 Filed 10–15–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–10–0214]

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 requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. 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

National Health Interview Survey (NHIS), (OMB No. 0920–0214 exp. 12/31/09)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The annual National Health Interview Survey is a major source of general statistics on the health of the U.S. population and has been in the field continuously since 1957. Clearance is sought for three years, to collect data for 2010, 2011, and 2012. This voluntary household-based survey collects demographic and health-related information on a nationally representative sample of persons and households throughout the country. Information is collected using computer assisted personal interviews (CAPI). A core set of data is collected each year while sponsored supplements vary from year to year. For 2010, we are revising the supplements to collect information on cancer, immunization, disability, occupational injury, epilepsy, and child mental health.

In accordance with the 1995 initiative to increase the integration of surveys within the Department of Health and Human Services, respondents to the NHIS serve as the sampling frame for the Medical Expenditure Panel Survey conducted by the Agency for Healthcare Research and Quality. The NHIS has long been used by government, university, and private researchers to evaluate both general health and specific issues, such as cancer, diabetes, and access to health care. It is a leading source of data for the Congressionally-mandated ''Health US'' and related publications, as well as the single most important source of statistics to track progress toward the National Health Promotion and Disease Prevention Objectives, ''Healthy People 2010.''

There is no cost to the respondents other than their time. The total estimated annualized burden hours are 34,977.

ANNUALIZED BURDEN TABLE

Questionnaire (respondent)	Number of respondents	Number of responses per respondent	Average burden per respondent in hours
Screener Questionnaire	10,000	1	5/60
Family Core (adult family member)	33,000	1	23/60
Adult Core (sample adult)	25,000	1	17/60
Child Core (adult family member)	10,000	1	9/60
Child and Adult Immunization (adult family member)	9,400	1	4/60
Family Disability (adult family member)	16,500	1	3/60
Adult Cancer (sample adult)	25,000	1	19/60
Child Cancer (adult family member)	10,000	1	1/60
Adult Occupational Injury (sample adult)	25,000	1	2/60
Adult Epilepsy (sample adult)	25,000	1	1/60
Adult Quality of Life (sample adult)	12,500	1	5/60
Child Record Check (medical provider)	1,200	1	5/60
Teen Record Check (medical provider)	4,800	1	5/60
Child Mental Health (adult family member)	10,000	1	2/60
Reinterview Survey	3,000	1	5/60

Dated: October 8, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Office of the Chief Science Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–24943 Filed 10–15–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–10–09BG]

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

Field Test of Communication and Marketing Variables for Health Protection—New—National Center for Health Marketing/Coordinating Center for Health Information Service (NCHM/CCHIS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC does not have a mechanism to assess and monitor the health communication and marketing components of health protection. While CDC does invest in formative and process evaluation of specific health communication and marketing programs and projects, the common elements rooted in communication and marketing theories and constructs are not identified across programs and projects, nor frequently compared after the fact to ascertain the underlying factors and dynamics that inform and shape individual and group behaviors and actions. The purpose of this project is to develop a core set of communication and marketing variables that can be used to inform CDC health protection programs and projects as well as track population-level changes over time.

The proposed data collection is to conduct a field test of the survey instrument focusing on the core communication and marketing constructs for health protection behaviors. The field test survey will be administered to a purposive sample of 1,925 respondents. Two modes of administration will be tested, telephone (both landline and cell) and self-administration via the Web. The telephone survey will be conducted in five geographical locations. The Web survey will use an on-going national consumer panel.

Rather than randomly sampling from the population, CDC has identified subpopulations of particular interest and interviewers will achieve quotas of completed interviews from each group. This purposive sampling is designed to reach adult persons who are vulnerable from a health protection perspective. It is of particular importance to interview those known to have low health literacy, that is, difficulty accessing and/or understanding health messages so CDC can work to meet their needs. Therefore, included in the target groups are the elderly, who may be somewhat isolated and for whom health messages may be confusing; people of low socioeconomic status (SES), whose level of education can be a barrier to comprehending and following health messages; and persons not fluent in English, for whom innovative ways of communicating health messages may be necessary. In addition to English, interviews will be conducted in three other languages, Spanish, Cantonese and Vietnamese. Members of the general population will be surveyed as well in order to provide a benchmark for the subpopulations of interest. Demographic variables that will be used to screen respondents into the subpopulations of interest include age, education, and race and ethnicity. Interviewing will continue with specific subpopulations until quotas are reached. Incentives will not be provided to survey respondents.

CDC will use the field test data to assess continuity of response patterns within each of the subgroups and to determine differences in administration time. In addition to subgroup population differences in attitudes, beliefs, and health behaviors, CDC will use the data to examine item-level mode effects, regional differences, and administrative/logistical barriers to guide the design of core measure surveys for other health protection behaviors. There is no cost to respondents other than their time to complete the survey. The total estimated annual burden hours are 1,222.

ESTIMATED ANNUALIZED BURDEN HOURS

Forms and respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Screener	19,250	1	2/60
Survey: General Population	1,000	1	18/60
Survey: Elderly	275	1	18/60
Survey: Low SES	275	1	18/60
Survey: Low SES African American	150	1	18/60
Survey: Hispanic	75	1	18/60
Survey: Chinese	75	1	18/60
Survey: Vietnamese	75	1	18/60

Dated: October 8, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–24941 Filed 10–15–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on

respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Regulations To Implement SAMHSA's Charitable Choice Statutory Provisions—42 CFR Parts 54 and 54a (OMB No. 0930–0242)—Revision

Section 1955 of the Public Health Service Act (42 U.S.C. 300x–65), as amended by the Children's Health Act of 2000 (Pub. L. 106–310) and Sections 581–584 of the Public Health Service Act (42 U.S.C. 290kk et seq., as added by the Consolidated Appropriations Act (Pub. L. 106–554)), set forth various provisions which aim to ensure that religious organizations are able to compete on an equal footing for Federal funds to provide substance abuse services. These provisions allow religious organizations to offer substance abuse services to individuals without impairing the religious character of the organizations or the religious freedom of the individuals who receive the services. The provisions apply to the Substance Abuse Prevention and Treatment Block Grant (SAPT BG), to the Projects for Assistance in Transition from Homelessness (PATH) formula grant program, and to certain Substance Abuse and Mental Health Services Administration (SAMHSA) discretionary grant programs (programs that pay for substance abuse treatment and prevention services, not for certain infrastructure and technical assistance activities). Every effort has been made to assure that the reporting, recordkeeping and disclosure requirements of the proposed regulations allow maximum flexibility in implementation and impose minimum burden.

No changes are being made to the regulations. This revision is for approval of the updated estimate of burden on respondents to provide the information required to be reported by 42 CFR part 54a.8(d) and 54.8(e), respectively, and to ascertain how they are implementing the disclosure requirements of 54a.8(b) and 54.8(b), respectively. Information on how States comply with the requirements of 42 CFR part 54 was approved by the Office of Management and Budget (OMB) as part of the Substance Abuse Prevention and Treatment Block Grant FY 2008–2010 annual application and reporting requirements approved under OMB control number 0930–0080.

42 CFR Citation and purpose	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hours
Part 54—States Receiving SAPT Block Grants and/or Projects for Assistance in Transition From Homelessness					
Reporting:					
96.122(f)(5) Annual report of activities the State undertook to comply 42 CFR Part 54 (SAPT BG)	60	1	60	1	60
54.8(c)(4) Total number of referrals to alternative service providers reported by program participants to States (respondents).					
SAPT BG	7	*68	476	1	476
PATH	0	5	50	1	50
54.8(e) Annual report by PATH grantees on activities undertaken to comply with 42 CFR Part 54	56	1	56	1	56
Disclosure:					
54.8(b) State requires program participants to provide notice to program beneficiaries of their right to referral to an alternative service provider.					
SAPT BG	60	1	60	.05	3
PATH	56	1	56	.05	3
Recordkeeping:					
54.6(b) Documentation must be maintained to demonstrate significant burden for program participants under 42 U.S.C. 300x–57 or 42 U.S.C. 290cc–33(a)(2) and under 42 U.S.C. 290cc–21 to 290cc–35	60	1	60	1	60
Part 54—Subtotal	116		818		708
Part 54a—States, local governments and religious organizations receiving funding under Title V of the PHS Act for substance abuse prevention and treatment services					
Reporting:					
54a.8(c)(1)(iv) Total number of referrals to alternative service providers reported by program participants to States when they are the responsible unit of government	25	4	100	.083	8
54a(8)(d) Total number of referrals reported to SAMHSA when it is the responsible unit of government. (NOTE: This notification will occur during the course of the regular reports that may be required under the terms of the funding award.)	20	2	40	.25	10
Disclosure:					
54a.8(b) Program participant notice to program beneficiaries of rights to referral to an alternative service provider	1,460	1	1,460	1	1,460
Part 54a—Subtotal	1,505		1,600		1,478

42 CFR Citation and purpose	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hours
Total	1,621		2,418		2,186

* Average.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *and* e-mail her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

Dated: October 8, 2009.

Elaine Parry,

Director, Office of Program Services.

[FR Doc. E9–24940 Filed 10–15–09; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

B-cell Surface Reactive Antibodies for the Treatment of B–Cell Chronic Lymphocytic Leukemia

Description of Technology: B-cell chronic lymphocytic leukemia (B–CLL) is a cancer characterized by a progressive accumulation of functionally incompetent lymphocytes. Despite high morbidity and mortality, the only available potential cure is allogeneic hematopoietic stem cell transplantation (alloHSCST). However, there is less than a 50% chance of finding a matching bone marrow or blood donor for B–CLL patients. Other clinically tested targeted therapies such as rituximab and alemtuzumab target both malignant and normal B cells, resulting in immunosuppression.

Available for licensing are fully human monoclonal antibodies that were selected from the first human post-alloHSCT antibody library. The library was generated from a time point after transplantation at which antibodies to B–CLL cell surface antigens peaked, thus indicating its therapeutic value. Utilizing phage display, the investigators generated a panel of fully human monoclonal antibodies that strongly bind to the same epitope on a B–CLL cell surface antigen. Weaker binding to normal B cells, but not to other lymphocytes, was observed. These fully human monoclonal antibodies provide readily available treatment that selectively targets malignant B cells.

Applications:

- B-cell chronic lymphocytic leukemia therapeutics.
- Method to inhibit the growth of malignant B-cells.
- Method to detect B-cell tumors.

Advantages:

- Selective targeting of malignant B-cell surface antigens that are minimally non-damaging to non-diseased cells.
- Readily available therapeutics without the need for bone marrow or blood transplantation.

Development Status: The technology is currently in the pre-clinical stage of development.

Market:

- Monoclonal antibody market has the potential to reach $30.3 billion in 2010 largely driven by technological evolution from chimeric and humanized to fully human antibodies.
- In the U.S., there is annual incidence of an estimated 15,000 newly diagnosed cases of B–CLL and the disease is responsible for an estimated 4,500 deaths.

Inventors: Christoph Rader *et al.* (NCI)

Publication: S Baskar, JM Suschak, I Samija, R Srinivasan, RW Childs, SZ Pavletic, MR Bishop, C Rader. A human monoclonal antibody drug and target discovery platform for B-cell chronic lymphocytic leukemia based on allogeneic hematopoietic stem cell transplantation and phage display. Blood, in press. Epub ahead of print, 2009 Aug 10.

Patent Status: U.S. Provisional Application No. 61/178,688 filed 15 May 2009 (HHS Reference No. E–163–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Jennifer Wong; 301–435–4633; *wongje@mail.nih.gov.*

Collaborative Research Opportunity: The Center for Cancer Research, Experimental Transplantation and Immunology Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize fully human monoclonal antibodies selected from post-alloHSCT antibody libraries. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

CXCR4 and CCR10 Expressing Cells: Useful for the Study of Cancer Cell Survival and Metastasis

Description of Technology: The chemokine receptor CXCR4 functions in normal cells, but has been shown to be the most common chemokine receptor expressed on cancer cells, including melanoma, colon, breast, and lung cancers. It plays roles in angiogenesis and cancer cell survival as well as metastasis. CCR10 has also been shown to be expressed by melanoma cells. Like CXCR4, expression of CCR10 can enhance cancer cell survival and block immune recognition of cancer cells. Antagonists of CXCR4 and CCR10, under various conditions, have decreased metastasis or prevented tumor formation after implantation of cancer cells in mice.

These cell lines are based on the widely used B16 murine melanoma cell line. The cell lines were transduced with retroviral vectors encoding cDNA for either CXCR4 or CCR10 under control of a TET-dependent promoter. Both lines achieve greater than 10 fold induction of the respective genes (proteins), which has been confirmed by surface antibody staining using flow cytometry. These cell lines are ideally suited for studying the effect of these chemokine receptors in tumor growth or metastasis. They are also useful for

developing a mouse model for studying the effect of down-regulating these receptors specifically in melanoma cells. This would mimic the effect of antagonists without the confounding effects of systemically inhibiting CXCR4 or CCR10. By either adding or removing dietary administered doxycycline, receptor expression can be regulated to assess the role of these two receptors in a variety of cancer-related assays.

Applications:

• Study the effect of chemokine receptors in tumor growth or metastasis.

• Test CXCR4 and CCR10 antagonists in preclinical studies.

• Develop B16 melanoma mouse model mimicking the effect of chemokine receptor antagonists.

Advantages:

• Ability to regulate *in vitro* and *in vivo* expression of the chemokine receptor.

• Ability to investigate the *in vivo* role in cancer cells of doxycycline control of chemokine receptor expression.

Development Status: The technology is currently in the preclinical stage of development.

Market: Cancer is the second leading cause of death in the U.S. and it is estimated that more than 1 million Americans develop cancer in a year.

Inventors: Sam T. Hwang (NCI).

Publication: T Kakinuma, ST Hwang. Chemokines, chemokine receptors, and cancer metastasis. J Leukoc Biol. 2006 Apr;79(4):639–651.

Patent Status: HHS Reference No. E–345–2008/0—Research Material. Patent protection is not being sought for either technology.

Licensing Status: Available for non-exclusive licensing under a Biological Materials License Agreement.

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov.*

Identification of Persons Likely To Benefit From Statin Mediated Cancer Prevention by Pharmacogenetics

Description of Technology: Inhibitors of 3-hydroxy-3-methylglutaryl (HMG) coenzyme A reductase (statins) are a class of well-tolerated compounds that are the most widely used cholesterol-lowering drugs in the United States. Reduced cancer risk among statin users has also been observed as a secondary outcome in randomized controlled clinical trials evaluating effects of statins on cardiovascular outcomes. However the observed cancer risk reduction varied with different clinical studies. Thus there is a need to identify individuals who would benefit from treatment with statins.

The current invention describes a pharmacogenetic method to identify candidates who are most likely to benefit from treatment with statins to reduce cancer risk, and consequently minimizing any unnecessary cost and side effects in individuals who do not benefit. Specifically, we discovered that an HMGCR genetic variant rs12654264 is associated with significantly lower colorectal cancer risk, with most of the benefit seen in HMGCoA reductase inhibitor (statin) users. We also discovered that this same HMGCR genetic variant is associated with significantly higher serum cholesterol levels in Israeli colorectal cancer patients. The same HMGCR genetic variant has also been associated with significantly higher serum cholesterol levels in two independent groups of individuals of mixed European descent [*http://www.broad.mit.edu/diabetes/scandinavs/index.html* and N Engl J Med.2008 March 20;358(12):1240–1249 (*http://www.ncbi.nlm.nih.gov/pubmed/18354102?dopt*)]. These data suggest that the same genetic variant modifies cholesterol metabolism in a manner that affects both colorectal cancer risk and cardiovascular risk.

Applications and Market:

• Statins account for approximately 80% of the cholesterol-lowering drugs prescribed in the United States, and six statins are currently available on the U.S. market. Reduced cancer risk is also associated with statin use. This invention provides a method to indentify individuals who are most likely to benefit from cancer chemopreventive treatment with statins.

• Pharmacogenetic markers can be developed to identify patient population that can be benefit from statins, therefore expands the markets of stains.

Development Status: The inventors have discovered several novel genetic variants of HMG coenzyme A reductase gene, and are further investigating the functional significance of the variants in vitro.

Inventors: Levy Kopelovich (NCI) *et al.*

Patent Status: PCT Application No. PCT/US2008/082359 filed 04 Nov 2008, which published as WO 2009/061734 on 14 May 2009 (HHS Reference No. E–328–2007/0–PCT–02).

Licensing Status: Available for licensing.

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov.*

Dated: October 7, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–24877 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

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Biological/Research Material for H1N1 Influenza Virus Vaccine Research

Description of Technology: Offered for licensing is a recombinant attenuated vaccinia virus, MVA, that expresses the haemagglutinin (HA) and nucleoprotein (NP) of influenza virus A/PR/8/34 (H1N1). The virus has been shown to stimulate protective immunity to influenza virus in mice.

The materials can be used for research purposes and in particular in the area of influenza virus vaccines.

The related publications listed below demonstrate the usefulness of this biological material in influenza virus vaccine research.

Applications: Research reagents useful in research and development in the area of H1N1 Influenza virus vaccines.

Development Status: Fully developed. The usefulness of the materials has been shown in Dr. Moss' laboratory.

Inventors: Bernard Moss and Linda S. Wyatt (NIAID).

Publications:

1. G Sutter, LS Wyatt, PL Foley, JR Bennink, B Moss. A recombinant vector derived from the host range-restricted and highly attenuated MVA strain of vaccinia virus stimulates protective immunity in mice to influenza virus. Vaccine 1994 Aug;12(11):1032–1040.
2. B Bender, CA Rowe, SF Taylor, LS Wyatt, B Moss, PA Small Jr. Oral immunization with a replication-deficient recombinant vaccinia virus protects mice against influenza. J Virol. 1996 Sep;70(9): 6418–6424.

Patent Status: HHS Reference No. E–260–2009/0—Research Material. Patent protection is not being sought for this technology.

Related Technologies: HHS Reference No. E–552–1982/2—

1. U.S. Patent No. 6,998,252 issued 14 Feb 2006, ''Recombinant Poxviruses Having Foreign DNA Expressed Under the Control of Poxvirus Regulatory Sequences''
2. U.S. Patent No. 7,015,024 issued 21 Mar 2006, ''Compositions Containing Poxviruses Having Foreign DNA Expressed Under the Control of Poxvirus Sequences''
3. U.S. Patent No. 7,045,313 issued 16 May 2006, ''Recombinant Vaccinia Virus Containing Chimeric Gene Having Foreign DNA Flanked by Vaccinia Regulatory DNA''
4. U.S. Patent No. 7,045,136 issued 16 May 2006, ''Methods of Immunization Using Recombinant Poxviruses Having Foreign DNA Expressed Under the Control of Poxvirus Regulatory Sequences''

An abstract describing these technologies may be viewed at *http://www.ott.nih.gov/Technologies/abstractDetails.aspx?RefNo=2000.*

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, Ph.D., MBA; 301–435–4616; *UR7a@nih.gov*; RC Tang, JD, LLM; 301–435–5031; *tangrc@mail.nih.gov.*

Biological/Research Material for HIV Vaccine Research

Description of Technology: Offered for licensing is a recombinant attenuated vaccinia virus, MVA, that expresses SIV 239gagpol. The materials can be used for research purposes and in particular in the area of HIV/AIDS vaccines.

Plasmid insertion vector pJH–4, containing the foreign gene SIV 239 GagPol controlled by vaccinia early/late promoter, inserts into del III of attenuated vaccinia MVA virus to make recombinant MVA virus. The resulting recombinant virus made from pJH4, MVA/SIV239gagpol, expresses the SIV 239gagpol gene and thus can be used to conduct vaccine studies in animal models such as Rhesus macaques.

The list of publications shown below demonstrates the usefulness of this biological material in HIV vaccine research.

Applications: Research reagents useful in research and development in the area of HIV/AIDS vaccines.

Development Status: Fully developed. Material has been used extensively in research.

Inventors: Bernard Moss and Linda S. Wyatt (NIAID).

Publications:

1. RR Amara, F Villinger, JD Altman, SL Lydy, SP O'Neil, SI Staprans, DC Montefiori, Y Xu, JG Herndon, LS Wyatt, MA Candido, NL Kozyr, PL Earl, JM Smith, HL Ma, BD Grimm, ML Hulsey, J Miller, HM McClure, JM McNicholl, B Moss, HL Robinson. Control of a mucosal challenge and prevention of AIDS by a multiprotein DNA/MVA vaccine. Science 2001 Apr 6;292(5514):69–74.
2. PL Earl, LS Wyatt, DC Montefiori, M Bilska, R Woodward, PD Markbam, JD Malley, TU Vogel, TM Allen, DI Watkins, N Miller, B Moss. Comparison of vaccine strategies using recombinant env-gag-pol MVA with or without an oligomeric Env protein boost in the SHIV rhesus macaque model. Virology 2002 Mar 15;294(2):270–281.
3. RR Amara, JM Smith, SI Staprans, DC Montefiori, F Villinger, JD Altman, SP O'Neil, NL Kozyr, Y Xu, LS Wyatt, PL Earl, JG Herndon, JM McNicholl, HM McClure, B Moss, HL Robinson. Critical role for Env as well as Gag-Pol in control of a simian-human immunodeficiency virus 89.6P challenge by a DNA prime/recombinant modified vaccinia virus Ankara vaccine. J Virol. 2002 Jun;76(12):6138–6146.
4. RR Amara, F Villinger, SI Staprans, JD Ahman, DC Montefiori, NL Kozyr, Y Xu, LS Wyatt, PL Earl, JG Herndon, HM McClure, B Moss, HL Robinson. Different patterns of immune responses but similar control of simian human immunodeficiency virus 89.6P mucosal challenge by modified vaccinia virus Ankara (MVA) and DNA/MVA vaccines. J Virol. 2002 Aug;76(15):7625–7631.
5. S Sadagopal, RR Amara, DC Montefiori, LS Wyatt, SI Staprans, NL Kozyr, HM McClure, B Moss, HL Robinson. Signature for long-term vaccine-mediated control of a Simian and human immunodeficiency virus 89.6P challenge: stable low-breath and low-frequency T-cell response capable of coproducing gamma interferon and interleukin-2. J Virol. 2005 Mar;79(6):3243–3253.

Patent Status: HHS Reference No. E–258–2009/0—Research Material. Patent protection is not being pursued for this technology.

Related Technologies: HHS Reference No. E–552–1982/2—

1. U.S. Patent No. 6,998,252 issued 14 Feb 2006, ''Recombinant Poxviruses Having Foreign DNA Expressed Under the Control of Poxvirus Regulatory Sequences''
2. U.S. Patent No. 7,015,024 issued 21 Mar 2006, ''Compositions Containing Poxviruses Having Foreign DNA Expressed Under the Control of Poxvirus Sequences''
3. U.S. Patent No. 7,045,313 issued 16 May 2006, ''Recombinant Vaccinia Virus Containing Chimeric Gene Having Foreign DNA Flanked by Vaccinia Regulatory DNA''
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An abstract describing these technologies may be viewed at *http://www.ott.nih.gov/Technologies/abstractDetails.aspx?RefNo=2000.*

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, Ph.D., MBA; 301–435–4616; *UR7a@nih.gov*; RC Tang, JD, LLM; 301–435–5031; *tangrc@mail.nih.gov.*

A Target for the Development of Diagnostics and Therapeutics for Abnormal Hematopoiesis

Description of Technology: The zinc finger protein ZFP36L2 has been shown by the inventors to play an essential role in hematopoiesis, a process that is dysregulated in hematological cancers, anemia, and other conditions. Thus, ZFP36L2 has promise for use in a diagnostic test to detect abnormal hematopoiesis, or as a target for the development of therapeutics to treat abnormal hematopoiesis.

Hematopoiesis is the formation of blood cellular components, through the differentiation of hematopoietic stem cells into lineages with a variety of roles, such as carrying oxygen, immune function, and blood clotting. Abnormally high hematopoiesis can be caused by hematological cancers such as leukemia or lymphoma, or by other myeloproliferative disorders. Abnormally low hematopoiesis can be caused by diseases such as anemia, thrombocytopenia, or myelodysplastic syndrome, and is often a secondary symptom of other conditions, such as cancer, infection, or dialysis.

The inventors have discovered that Zinc finger protein 36 like type-2 (ZFP36L2) plays an essential role in hematopoiesis, possibly by affecting the stability of mRNAs involved in this process. ZFP36L2 is a member of the tristetraprolin (TTP) family, which are mRNA-binding proteins involved in mRNA processing and degradation. The invention discloses methods of detecting abnormal hematopoiesis by detecting abnormal ZFP36L2 expression or a mutation in the ZFP36L2 gene, and methods of controlling abnormal hematopoiesis by modulating levels of ZFP36L2 protein.

Applications:

- Diagnostic test to detect abnormal hematopoiesis.
- Therapy for abnormal hematopoiesis.

Development Status: Discovery stage.

Market:

- Over 3.5 million people in the United States suffer from anemia, according to NHLBI, and more than half of all chemotherapy treatment for cancer results in anemia.
- The American Cancer Society estimates that approximately 4300 cases of chronic myelogenous leukemia are diagnosed in the United States every year.

Inventors: Perry J. Blackshear and Deborah J. Stumpo (NIEHS).

Related Publication: DJ Stumpo, HE Broxmeyer, T Ward, S Cooper, G Hangoc, YJ Chung, WC Shelley, EK Richfield, MK Ray, MC Yoder, PD Aplan, PJ Blackshear. Targeted disruption of Zfp36l2, encoding a CCCH tandem zinc finger RNA-binding protein, results in defective hematopoiesis. Blood 2009 Sep 17;114(12):2401–2410.

Patent Status: PCT Application Serial No. PCT/US08/68900 filed on 01 Jul 2008 (HHS Reference No. E–255–2007/0–PCT–02).

Licensing Status: Available for licensing.

Licensing Contact: Tara Kirby, Ph.D.; 301–435–4426; *tarak@mail.nih.gov.*

Collaborative Research Opportunity: The NIEHS Laboratory of Signal Transduction, Polypeptide Hormone Action Group, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Elizabeth M. Denholm, Ph.D., Director, Office of Technology Transfer, NIEHS, at *denholme@niehs.nih.gov* for more information.

Susceptibility-Matched Multiwell Plates for High-Throughput Screening by Magnetic Resonance Imaging and Nuclear Magnetic Resonance Spectroscopy

Description of Technology: Available for licensing and commercial development is a patent estate that covers multi-well assay plates for high-throughput screening by magnetic resonance imaging (MRI) and nuclear magnetic resonance (NMR) spectroscopy. Multi-well plates are used in a wide variety of high-throughput measurements in clinical chemistry and immunology, as well as in drug discovery and other research applications. Magnetic resonance imaging (MRI) of multi-well plates offers the possibility of performing new kinds of high-throughput assays, including the detection of magnetic nanoparticles attached to or within cells. Moreover, MRI-guided localized nuclear magnetic resonance (NMR) spectroscopy could be used to perform detailed chemical analysis of complex mixtures of metabolites not possible by any other common analytical technique. Best of all, conventional MRI techniques exist which would permit all samples in one or more multi-well plate(s) to be analyzed simultaneously. Unfortunately, conventional multi-well plates typically give poor performance for MRI-based assays since they provide inadequate matching of magnetic susceptibility between the plate, the sample and their surroundings. This results in distortion of the magnetic field within the scanner and thus reduces the sensitivity for detecting magnetic particles and the resolution of NMR spectra.

This invention relates to a new multi-well plate design incorporating one-piece polyetherimide plastic construction for improved magnetic susceptibility matching for aqueous samples. This design can easily be extended to non-aqueous samples by the selection of an appropriate, commercially available plastic resin or resin blend. Further enhancement in susceptibility matching can be accomplished by combining the new plate design with plugs for each well constructed from the same plastic as the plate. These plugs would allow the entire thickness of each sample to be scanned in chemical analyses, improving signal-to-noise ratio and sensitivity. These plugs can optionally be integrated into a single ''cap mat'' so that the entire assembly can be filled and manipulated by standard robotic laboratory equipment already in wide use in the pharmaceutical industry. Alternatively, spherical wells, accessed by narrow fill holes, may be molded into a solid plate, eliminating the need for individual plugs to seal each well. The new multi-well plate/plug design reduces magnetic field distortions and should dramatically improve spectral resolution and sensitivity for NMR and MRI-based high-throughput screening.

Applications:

- NMR Spectroscopy,
- MRI Imaging of magnetic nanoparticles,
- Clinical Chemistry,
- Immunology,
- Drug Discovery,
- Combinatorial Chemistry, and
- Quality Control in the pharmaceutical, chemical and agricultural industries.

Advantages:

- Increased signal-to-noise ratio and sensitivity relative to conventional multi- well plates
- Portability
- Compatible with existing high-throughput robots.

Development Status: Used actively in inventor's lab.

Inventor: Kenneth W Fishbein (NIA).

Patent Status: U.S. Patent Application No. 12/083,501 filed 30 Dec 2008 (HHS Reference No. E–243–2005/0–US–03).

Licensing Status: Available for licensing.

Licensing Contact: Michael Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The National Institute on Aging, Magnetic Resonance Imaging & Spectroscopy Section, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Nicole Darack, Ph.D. at 301–435–3101 or *darackn@mail.nih.gov* for more information.

Dated: October 5, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–24871 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

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Engineered Biological Pacemakers

Description of Invention: A common symptom of many heart diseases is an abnormal heart rhythm or arrhythmia. While effectively improving the lives of many patients, implantable pacemakers have significant limitations such as limited power sources, risk of infections, potential for interference from other devices, and absence of autonomic rate modulation.

The technology consists of biological pacemakers engineered to generate normal heart rhythm. The biological pacemakers include cardiac cells or cardiac-like cells derived from embryonic stem cells or mesenchymal stem cells. The biological pacemakers naturally integrate into the heart. Their generation of rhythmic electric impulses involves coupling factors, such as cAMP-dependent PKA and Ca^{2+}-dependent CaMK II, which are regulatory proteins capable of modulating/enhancing interactions (*i.e.* coupling) of the sarcoplasmic reticulum-based, intracellular Ca^{2+} clock and the surface membrane voltage clock, thereby converting irregularly or rarely spontaneously active cells into pacemakers generating rhythmic excitations.

Applications: This technology can be utilized in heart disease characterized by arrhythmia or situations requiring an implantable cardiac pacemaker.

Advantages: In contrast to current implantable cardiac pacemaker technology, this technology is not externally powered, has a lower risk of infection, has decreased potential for interference from other devices, and has full autonomic rate modulation.

Development Status: Early stage.

Inventors: Victor A. Maltsev *et al.* (NIA).

Publications:

1. VA Maltsev and EG Lakatta. Synergism of coupled subsarcolemmal Ca^{2+} clocks and sarcolemmal voltage clocks confers robust and flexible pacemaker function in a novel pacemaker cell model. Am J Physiol Heart Circ Physiol. 2009 Mar;296(3):H594–H615.
2. VA Maltsev and EG Lakatta. Dynamic interactions of an intracellular Ca^{2+} clock and membrane ion channel clock underlie robust initiation and regulation of cardiac pacemaker function. Cardiovasc Res. 2008 Jan 15;77(2):274–284.

Patent Status: U.S. Provisional Application No. 61/180,491 filed 22 May 2009 (HHS Reference No. E–134–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Fatima Sayyid, M.H.P.M.; 301–435–4521; *sayyidf@mail.nih.gov*.

Collaborative Research Opportunity: The National Institute on Aging, Cellular Biophysics Section, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact Vio Conley at 301–496–0477 or *conleyv@mail.nih.gov* for more information.

Sensitizing Cancer Cells to DNA Targeted Therapies

Description of Invention: Chk2 is a protein kinase activated in response to DNA double strand breaks. In normal tissues, Chk2 phosphorylates and thereby activates substrates that induce programmed cell death, or apoptosis, via interactions with p53, E2F1, PML proteins. In cancer tissues, where apoptosis is suppressed, Chk2 phosphorylates and inactivates cell cycle checkpoints (via interactions with Cdc25, phosphatases and Brca1 proteins), which allows cancer cells to repair and tolerate DNA damage. Hence, Chk2 inhibitors would be expected to protect normal tissues by reducing apoptosis, and to sensitize cancer cells to DNA-targeted agents.

Applications:

- Combination with DNA targeted chemotherapeutic agents for the treatment of cancers.
- Single agents therapy for cancers with endogenously activated (''addicted to'') Chk2.
- Antiviral agent against hepatitis, herpes viruses and retroviral infections (HIV).

Advantages: Selective enhancement of the antiproliferative and proapoptotic activities of DNA targeted chemotherapeutic agents in tumors with inactivated p53, while protection of normal tissues by blocking p53-mediated apoptosis (''side effects'') induced by the DNA targeted agents.

Development Status: Optimization of chemical structure for improving drug delivery and pharmacokinetics.

Inventors: Yves G Pommier *et al.* (NCI).

Related Publications:

1. AG Jobson, JH Cardellina 2nd, D Scudiero, S Kondapaka, H Zhang, H Kim, R Shoemaker, Y Pommier. Identification of a Bis-guanylhydrazone [4,4'-Diacetyldiphenylurea-bis(guanylhydrazone); NSC 109555] as a Novel Chemotype for Inhibition of Chk2 Kinase. Mol Pharmacol. 2007 Oct;72(4):876–884.
2. AG Jobson, GT Lountos, PL Lorenzi, J Llamas, J Connelly, D Cerna, JE Tropea, A Onda, G Zoppoli, S Kondapaka, G Zhang, NJ Caplen, JH Cardellina, SS Yoo, A Monks, C Self, DS Waugh, RH Shoemaker, Y Pommier. Cellular inhibition of Chk2 kinase and potentiation of camptothecins and radiation by the novel Chk2 inhibitor PV1019. J Pharmacol Exp Ther. 2009 Sep 9; In press (Epub ahead of print).
3. GT Lountos, JE Tropea, D Zhang, AG Jobson, Y Pommier, RH Shoemaker, DS Waugh. Crystal structure of checkpoint kinase 2 in complex with NSC 109555, a potent and selective inhibitor. Protein Sci. 2009 Jan;18(1):92–100.

Patent Status: U.S. Patent Application No. 11/989,737 filed 29 Jan 2008 (HHS Reference No. E–211–2005/0–US–06); Related international patent application filings.

Licensing Status: Available for licensing.

Licensing Contact: Betty B. Tong, Ph.D.; 301–594–6565; *tongb@mail.nih.gov*.

Collaborative Research Opportunity: The National Cancer Institute, Laboratory of Molecular Pharmacology, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Dated: October 5, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–24869 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0328]

Guidance for Industry and Food and Drug Administration Staff; Class II Special Controls Guidance Document: Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) Additive; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Class II Special Controls Guidance Document: Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) (pDADMAC) Additive.'' This guidance document describes a means by which wound dressing with Poly (diallyl dimethyl ammonium chloride) (pDADMAC) additive may comply with the requirement of special controls for class II devices. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule to classify wound dressing with pDADMAC additive into class II (special controls). This guidance document is being immediately implemented as the special control for wound dressing with pDADMAC additive, but it remains subject to comment in accordance with the agency's good guidance practices (GGPs).

DATES: Submit written or electronic comments on the guidance at any time. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Class II Special Controls Guidance Document: Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) (pDADMAC) Additive'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20850. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8502. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit written comments concerning this 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*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Sam Arepalli, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 3612, Silver Spring, MD 20993, 301–796–6434.

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule classifying into class II (special controls) under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)). This guidance document will serve as the special control for wound dressing with pDADMAC additive. Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)) for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1) of the act, request FDA to classify the device under the criteria set forth in section 513(a)(1) of the act. FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification. Because of the timeframes established by section 513(f)(2) of the act, FDA has determined, under § 10.115(g)(2) (21 CFR 10.115(g)(2)), that it is not feasible to allow for public participation before issuing this guidance as a final guidance document. Thus, FDA is issuing this guidance document as a level 1 guidance document that is immediately in effect. FDA will consider any comments that are received in response to this notice to determine whether to amend the guidance document.

II. Significance of Guidance

This guidance is being issued consistent with FDA's GGPs regulation (§ 10.115). The guidance represents the agency's current thinking on wound dressings with pDADMAC additive. 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 statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. To receive ''Class II Special Controls Guidance Document: Wound Dressing With Poly (Diallyl Dimethyl Ammonium Chloride) (pDADMAC) Additive,'' you may either send an e-mail request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 240–276–3151 to receive a hard copy. Please use the document number 1684 to identify the guidance you are requesting.

CDRH maintains an entry on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturer's assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information. The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available at *http://www.regulations.gov.*

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR

part 801 have been approved under OMB control number 0910–0485.

V. 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.

Dated: October 2, 2009.

Jeffrey Shuren,

Acting Director, Center for Devices and Radiological Health.

[FR Doc. E9–24964 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2009–M–0299, FDA–2009–M–0300, FDA–2009–M–0182, FDA–2009–M–0244, FDA–2009–M–0243, FDA–2009–M–0255]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the agency's Division of Dockets Management.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness data to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in Table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Nicole Wolanski, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1650, Silver Spring, MD 20993, 301–796–6570.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule that revised 21 CFR 814.44(d) and 814.45(d) to discontinue individual publication of PMA approvals and denials in the **Federal Register**. Instead, the agency now posts this information on the Internet on FDA's home page at *http://www.fda.gov*. FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30 day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30 day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30 day period will begin when the applicant is notified by FDA in writing of its decision.

The regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from April 1, 2009, through June 30, 2009. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE FROM APRIL 1, 2009, THROUGH JUNE 30, 2009.

PMA No./Docket No.	Applicant	TRADE NAME	Approval Date
P080014 FDA–2009–M–0299	Third Wave Technologies, Inc.	CERVISTA HPV HR	March 12, 2009
P080015 FDA–2009–M–0300	Third Wave Technologies, Inc.	CERVISTA HPV 16/18	March 12, 2009
P080006 FDA–2009–M–0182	Medtronic Inc.	MEDTRONIC ATTAIN ABILITY MODEL 4196 LEAD	April 7, 2009
P080023 FDA–2009–M–0244	Abbott Laboratories	ARCHITECT CORE REAGENT KIT, ARCHITECT CORE CALIBRATOR AND ARCHITECT CORE CONTROLS	April 10, 2009
P060023 FDA–2009–M–0243	Medtronic Sofamor Danek	BRYAN CERVICAL DISC	May 12, 2009
P060008 (S8) FDA–2009–M–0255	Boston Scientific Co.	TAXUS LIBERTE ATOM PACLITAXEL–ELUTING CORONARY STENT SYSTEM	May 21, 2009

II. Electronic Access

Persons with access to the Internet may obtain the documents at *http://www.fda.gov/cdrh/pmapage.html*.

Dated: October 2, 2009.

Jeffrey Shuren,

Acting Director, Center for Devices and Radiological Health.

[FR Doc. E9–24967 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Special Emphasis Panel; NIGMS Knowledgebase Resource Review.

Date: November 9, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Brian R. Pike, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikbr@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Minority Biomedical Research Score.

Date: November 16–17, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Palomar Hotel, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Lisa Dunbar, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, MD 20892, 301–594–2849, *dunbarl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 7, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24704 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences; Special Emphasis Panel Minority Biomedical Research Score.

Date: November 9, 2009.

Time: 1 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Margaret J. Weidman, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3ANI8B, Bethesda, MD 20892, 301–594–3663, *weidmanma@nigms.nih.gov*.

Name of Committee: National Institute of General Medical Sciences; Special Emphasis Panel ZGM1 BRT–X (TR).

Date: November 13, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: John J. Laffan, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18J, Bethesda, MD 20892, 301–594–2773.

Name of Committee: National Institute of General Medical Sciences; Special Emphasis Panel Minority Biomedical Research Score.

Date: November 16, 2009.

Time: 1 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Margaret J. Weidman, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18B, Bethesda, MD 20892, 301–594–3663, *weidmanma@nigms.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 7, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24708 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Initial Review Group; Biomedical Research and Research Training Review Subcommittee B.

Date: November 9, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arthur L. Zachary, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Biomedical Research and Research Training Review Subcommittee A.

Date: November 9, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Carole H. Latker, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18, Bethesda, MD 20892, (301) 594–2848, *latkerc@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Minority Programs Review Subcommittee B.

Date: November 16, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Rebecca H. Johnson, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18C, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Minority Programs Review Subcommittee A.

Date: November 18, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mona R. Trempe, PhD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN 12, Bethesda, MD 20892, 301–594–3998, *trempemo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: October 7, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24706 Filed 10–15–09; 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; Transporters, Receptors, and Synapses.

Date: November 6, 2009.

Time: 1 p.m. to 4 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: Joanne T. Fujii, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; HIV Program Project.

Date: November 17, 2009.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.

Contact Person: Hilary D. Sigmon, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, (301) 594–6377, *sigmonh@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: October 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24875 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel, Conference Grant Meeting 2.

Date: November 9–12, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Lisa A Newman, SCD, Scientific Review Officer, DHHS, National Institutes of Health, National Center for Research Resources, 6701 Democracy Boulevard, Room 1074—MSC 4874, Bethesda, MD 20892–4874, (301) 435–0965, *newmanla2@mail.nih.gov.*

Name of Committee: National Center for Research Resources Special Emphasis Panel, INBRE 2009.

Date: November 12, 2009.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center Facility, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Lee Warren Slice, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, Bethesda, MD 20892, 301–435–0965.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333; 93.702, ARRA Related Construction Awards., National Institutes of Health, HHS)

Dated: October 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24872 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''Population Genetics Analysis Program: Immunity to Vaccines/Infections''.

Date: November 12, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Mount Vernon Room, Washington, DC 20037.

Contact Person: Katrin Eichelberg, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2899, *keichelberg@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24870 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; 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: Microbiology, Infectious Diseases and AIDS Initial Review Group, Acquired Immunodeficiency Syndrome Research Review Committee.

Date: November 13, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Erica L. Brown, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–2639, *ebrown@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: October 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24866 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

National Mammography Quality Assurance Advisory Committee; Notice of Postponement of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is postponing the meeting of the National Mammography Quality Assurance Advisory Committee scheduled for November 2, 2009. This meeting was announced in the **Federal Register** of October 1, 2009 (74 FR 50803). The postponement is due to guidance documents planned for discussion at the meeting are not yet available. A future meeting date will be announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Normica Facey, Center for Devices and Radiological Health, 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.

Dated: October 9, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–24895 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Vaccines and Related Biological Products 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). At least one portion of the meeting will be closed to the public.

Name of Committee: Vaccines and Related Biological Products 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 18, 2009 from 8 a.m. to approximately 5:45 p.m. and on November 19, 2009 from 8 a.m. to approximately 3:15 p.m.

Location: Bethesda Marriott, 5151 Pooks Hill Rd., Bethesda, MD.

Contact Person: Christine Walsh or Denise Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852,

301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512391. 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 cannot 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: In open session on November 18, 2009, the committee will discuss and make recommendations on the safety and effectiveness of a Pneumococcal 13-valent Conjugate Vaccine (Diphtheria CRM197 Protein), BLA 125324, and will hear an update on FDA's Influenza A (H1N1) 2009 monovalent vaccine activities; Postmarketing surveillance. On November 19, 2009, the committee will discuss and make recommendations on the safety and effectiveness of an Influenza Vaccine, Purified Recombinant Influenza Hemagglutinin, BLA STN125285.

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: On November 18, 2009, from 8 a.m. to approximately 5:45 p.m. and on November 19, 2009, from approximately 9 a.m. to approximately 3:15 p.m., the meeting is open to the public. 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 November 16, 2009. Oral presentations from the public will be scheduled between approximately 1:20 p.m. and 1:50 p.m. on November 18, 2009, and approximately 1:30 p.m. and 2 p.m. on November 19, 2009. 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 November 9, 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 November 10, 2009.

Closed Committee Deliberations: On November 19, 2009, from 8 a.m. to approximately 9 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential commercial information (5 U.S.C. 552b(c)(4)).

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 Christine Walsh or Denise Royster 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: October 9, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–24894 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

The Neurological Devices Panel of the Medical Devices 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: Neurological Devices Panel of the Medical Devices 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 20, 2009, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Deborah Falls, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–6459, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512513. 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 cannot 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 20, 2009, the committee will discuss, make recommendations and vote on a premarket approval application for the Deep Brain Stimulation System for Epilepsy sponsored by Medtronic, Inc. This device is indicated as adjunctive therapy for reducing the frequency of seizures in individuals diagnosed with epilepsy. For this device, a patient's epilepsy should be characterized by partial-onset seizures (affecting only a part of the brain when they begin), with or without secondary generalization, that are refractory to antiepileptic medications. ''Secondary generalization'' is used to describe a partial-onset seizure that later spreads to the whole brain. ''Refractory'' to antiepileptic medications means that the patient's epilepsy does not respond to approved medications.

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 on the FDA Internet under the appropriate date 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 November 16, 2009. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.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 November 12, 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 November 13, 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, 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: October 9, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–24893 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, November 13, 2009, from 9 a.m. to 3 p.m.

ADDRESSES: The meeting will be held at the Eisenberg Conference Center, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Deborah Queenan, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850, (301) 427–1330. For press-related information, please contact Karen Migdail at (301) 427–1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than October 30, 2009. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality was established in accordance with Section 921 (now Section 931) of the Public Health Service Act 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of AHRQ to enhance the quality, improve the outcomes, and reduce the costs of health care services; improve access to such services through scientific research; and promote improvements in clinical practice and in the organization, financing, and delivery of health care services. The Council is composed of members of the public, appointed by the Secretary, and Federal *ex-officio* members.

II. Agenda

On Friday, November 13, the Council meeting will convene at 9 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The AHRQ director will present her update on current research, programs, and initiatives. The agenda will include a report from the subcommittee of Child Health Insurance Program Reauthorization Act (CHIPRA) Quality Provisions, and discussion of the Patient Safety and Medical Liability Reform Demonstration Project.

The final agenda will be available on the AHRQ Web site at *http://www.ahrq.gov* no later than November 9, 2009.

Dated: October 7, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9–24885 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Council on Graduate Medical Education (COGME).

Dates and Times: November 18, 2009, 8:30 a.m.–4:45 p.m., November 19, 2009, 7:30 a.m.–4:15 p.m.

Place: Hilton Washington DC/Rockville Executive Meeting Center, Regency Ballroom, 1750 Rockville Pike, Rockville, MD 20854, Telephone: (301) 468–1100.

Status: The meeting will be open to the public.

Agenda: On the morning of November 18, following the welcoming remarks from the COGME Chair and the Executive Secretary of COGME, there will be a presentation on the AAMC and the Physician Workforce given by Darrell G. Kirch, M.D., followed by a panel presentation: ''Does the Nation Have the Right Number and Mix of GME Slots,'' given by Edward Salsberg, M.P.A.; David Sundwall, M.D.; and Fitzhugh Mullan, M.D. The Vice Chair of COGME, Robert Phillips, Jr., M.D., M.S.P.H., will be the facilitator.

In the late morning there will be a presentation of Bureau of Health Professions

physician workforce studies in development by Tim Dall; Roger Straw, Ph.D.; and Charles Roehrig, Ph.D.

In the afternoon there will be several presentations. Thomas Russell, M.D., F.A.C.S. will present on the adequacy of the general surgery workforce. Patrick Dowling, M.D. will present on a primary care recruitment initiative. Francis J. Crosson, M.D. will explore the role of MedPAC in health reform and its implications for COGME. And finally, Fitzhugh Mullan, M.D. will present on the state of health reform in legislation and its implications for COGME.

On November 19, the Council will convene into writing groups to further work on the Council's emerging 20th Report. There will be a plenary discussion of near final drafts of the report. Agenda items are subject to change as priorities dictate.

For Further Information Contact: Anyone interested in obtaining a roster of members or other relevant information should write or contact Jerald M. Katzoff, Executive Secretary, COGME, Division of Medicine and Dentistry, Bureau of Health Professions, Parklawn Building, Room 9A–27, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–4443. The Web address for information on the Council and the November 18–19, 2009 meeting agenda is *http://cogme.gov.*

Dated: October 7, 2009.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E9–24918 Filed 10–15–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Behavioral Economics.

Date: November 9, 2009.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C218, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Alfonso R. Latoni, PhD, Deputy Chief, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–402–7702, *latonia@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Mechanisms of Longevity in Rodents.

Date: November 24, 2009.

Time: 11 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Elaine Lewis, PhD, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2C212, MSC–9205, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7707, *elainelewis@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Diet Restriction.

Date: December 2, 2009.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Alicja L Markowska, PhD, DSC, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: October 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24878 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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; Molecular Genetics Member Conflicts.

Date: October 26, 2009.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Barbara J. Thomas, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2218, MSC 7890, Bethesda, MD 20892, 301–435–0603, *bthomas@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; Biophysical and Biochemical Sciences Fellowship Panel.

Date: November 4, 2009.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Denise Beusen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7806, Bethesda, MD 20892, (301) 435–1267, *beusend@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Mass Spectral Instruments.

Date: November 11–12, 2009.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, 1515 Rhode Island Avenue, NW., Washington, DC 20005.

Contact Person: David R. Jollie, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–OD–09–008 BRDG–SPAN and RFA–OD–09–009 Catalyst ARRA Review Panel 3.

Date: November 16, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bonnie L. Burgess-Beusse, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RM09–005 Natural Products Roadmap.
Date: November 16–17, 2009.
Time: 9 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)
Contact Person: Mike Radtke, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, 301–435–1728, *radtkem@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; BRDG–SPAN and Catalyst ARRA Panel #6.
Date: November 19, 2009.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.
Contact Person: Michael M. Sveda, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@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: October 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24876 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; 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 Center for Complementary and Alternative Medicine Special Emphasis Panel; SM17 PAR09–066 PCCTR U19 applications.
Date: November 5–6, 2009.
Time: 5 p.m. to 5 p.m.
Agenda: To review and evaluate cooperative agreement applications.
Place: Courtyard Marriott Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20814.
Contact Person: Martina Schmidt, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Complementary, & Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: October 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24978 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed 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, Infectious Disease and Microbiology Small Business Grant Applications.
Date: November 3, 2009.
Time: 10 a.m. to 2 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: Soheyla Saadi, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892. 301–435–0903. *saadisoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Muscle Physiology and Differentiation.
Date: November 5–6, 2009.
Time: 9 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)
Contact Person: Rajiv Kumar, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7802, Bethesda, MD 20892. 301–435–1212. *kumarra@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group, AIDS-associated Opportunistic Infections and Cancer Study Section.
Date: November 9, 2009.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.
Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892. (301) 435–1168. *montalve@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychosocial Health and Cognitive Functioning.
Date: November 12, 2009.
Time: 3 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: Karen Lechter, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3128, MSC 7759, Bethesda, MD 20892. 301–496–0726. *lechterk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Predoctoral Fellowships to Promote Diversity in Health-Related Research (DABP).
Date: November 13, 2009.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.
Contact Person: Maribeth Champoux, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892. 301–594–3163. *champoum@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health Communication and Interventions.
Date: November 13, 2009.
Time: 3 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: Karen Lechter, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3128, MSC 7759, Bethesda, MD 20892. 301–496–0726. *lechterk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA–OD–09–008 BRDG–SPAN and RFA–OD–09–009 Catalyst ARRA Review Panel 9.

Date: November 17, 2009.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Aftab A. Ansari, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892. 301–594–6376. *ansaria@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: October 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24976 Filed 10–15–09; 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, November 5, 2009, 8 a.m. to November 6, 2009, 5:00 PM, Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA, 94102 which was published in the **Federal Register** on October 2, 2009, 74 FR 50975–50977.

The meeting title has been changed to ''Fellowship: Cell Biology and Development''. The meeting is closed to the public.

Dated: October 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24975 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Special Emphasis Panel; NINDS T–32 Review.

Date: December 1–2, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Argonaut Hotel, 495 Jefferson Street, San Francisco, CA 94109.

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, DHHS/NIH/NINDS/DER/SRB, 6001 Executive Boulevard; MSC 9529, Neuroscience Center; Room 3203, Bethesda, MD 20892–9529, (301) 496–5388, *wiethorp@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: October 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24972 Filed 10–15–09; 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 Special Emphasis Panel, IERDA.

Date: November 13, 2009.

Time: 10 a.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: Michele C. Hindi-Alexander, PhD, Division of Scientific Review, National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6100 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892. (301) 435–8382. *hindialm@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: October 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24966 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Coordinating Center for Infectious Diseases (CCID)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates:

9 a.m.–5 p.m., November 4, 2009 (Working Groups).

8:30 a.m.–3:30 p.m., November 5, 2009 (Full Board).

Place: Emory Conference Center, 1615 Clifton Road, NE., Atlanta, Georgia 30329, Telephone: (404) 712–6000.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, CCID, provides advice and

guidance to the Director, CDC, and Director, CCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters To Be Discussed: Agenda items will include:

1. *Working Groups:* Environmental Microbiology, research to guide public health practice (National Center for Preparedness, Detection, and Control of Infectious Diseases; National Center for Immunization and Respiratory Diseases (NCIRD); and National Center for Zoonotic, Vector-Borne, and Enteric Diseases (NCZVED) Morning Session); Strategic Plan (National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention); Review of Funding provided through the American Recovery and Reinvestment Act of 2009 (ARRA) for immunization programs funded under Section 317 of the Public Health Service Act (NCIRD Afternoon Session); Strategic Framework and Program Reviews and Strategies (NCZVED Afternoon Session).

2. *Full Board:*

H1N1 discussion; announcements and introductions; and follow-up on actions recommended by the board.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person For More Information: Harriette Lynch, Office of the Director, CCID, CDC, Mailstop E–77, 1600 Clifton Road, NE., Atlanta, Georgia 30333, e-mail: *hlynch@cdc.gov*, Telephone (404) 498–2726.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: October 8, 2009.

Andre Tyler,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–24937 Filed 10–15–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Health Resources and Services Administration; CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment

In accordance with section l0(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC and HRSA announce the following meeting of the aforementioned committee:

Times and Dates:

8 a.m.–5:30 p.m., November 2, 2009.

8 a.m.–3 p.m., November 3, 2009.

Place: Hyatt Regency Bethesda, 7400 Wisconsin Avenue (One Bethesda Metro Center), Bethesda, Maryland 20814, Telephone: (301) 657–1234.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This Committee is charged with advising the Director, CDC, and the Administrator, HRSA, regarding activities related to prevention and control of HIV/AIDS and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV/AIDS and other STDs.

Matters to be Discussed: Agenda items include issues pertaining to: (1) HIV/STD/HCV Prevention, Treatment and Care in Federally Qualified Health Centers; (2) Biomedical Approaches to HIV Prevention—Pre-Exposure Prophylaxis; (3) Federal Adolescent Sexual Health Education Initiatives; and (4) Role of Surveillance in Informing CDC and HRSA Activities.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, Coordinating Center for Infectious Diseases, Strategic Business Unit, CDC, 1600 Clifton Road, NE., Mailstop E–07, Atlanta, Georgia 30333, Telephone: (404) 639–8317.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 8, 2009.

Andre Tyler,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–24934 Filed 10–15–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Request for Nominations for Voting Members on Public Advisory Panels or Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Device Good Manufacturing Practice Advisory Committee, certain device panels of the Medical Devices Advisory Committee, the National Mammography Quality Assurance Advisory Committee, and the Technical Electronic Products Radiation Safety Standards Committee in the Center for Devices and Radiological Health. Nominations will be accepted for current vacancies and those that will or may occur through August 31, 2010.

FDA has a special interest in ensuring that women, minority groups, and individuals with disabilities are adequately represented on advisory committees and, therefore, encourages nominations of qualified candidates from these groups.

DATES: Because scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. However, when possible, nominations should be received at least 6 months before the date of scheduled vacancies for each year, as indicated in this notice.

ADDRESSES: All nomination for membership should be sent electronically to *CV@OC.FDA.GOV*, or by mail to Advisory Committee Oversight & Management Staff (HF–4), 5600 Fishers Lane, rm. 14C03, Rockville, MD 20857. Information about becoming a member on a FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER INFORMATION CONTACT: For specific Committee questions, contact the following persons listed in table 1 of this document.

TABLE 1.—CONTACT INFORMATION FOR COMMITTEES AND PANELS

Contact Person	Committee/Panel
Geretta P. Wood, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., White Oak Bldg. 66, Room #1682, Silver Spring, MD 20993, 301–796–5550, e-mail *Geretta.Wood@fda.hhs.gov*	Device Panels of the Medical Devices Advisory Committee
Normica Facey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., White Oak Bldg. 66, Room #4652, Silver Spring, MD 20993, e-mail: *Normica.Facey@fda.hhs.gov*	National Mammography Quality Assurance Advisory Committee
Collin L. Figueroa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., White Oak Bldg. 66, Room #3438, Silver Spring, MD 20993, e-mail: *Collin.Figueroa@fda.hhs.gov*	Device Good Manufacturing Practice Advisory Committee
Richard V. Kaczmarek, Center for Devices and Radiological Health, Food and Drug Administration,10903 New Hampshire Ave., White Oak Bldg. 66, Room #4536, Silver Spring, MD 20993, e-mail: *Richard.Kaczmarek@fda.hhs.gov*	Technical Electronic Product Radiation Safety Standards Committee

SUPPLEMENTARY INFORMATION:

I. Vacancies

FDA is requesting nominations of voting members for vacancies listed as follows:

TABLE 2.—COMMITTEE/PANEL EXPERTISE NEEDED AND VACANCIES

Committee/Panel expertise needed	Current and Upcoming Vacancies	Approximate Date Needed
Anesthesiology and Respiratory Therapy Devices Panel of the Medical Devices Advisory Committee—anesthesiologists, pulmonary medicine specialists, or other experts who have specialized interests in ventilator support, pharmacology, physiology, or the effects and complications of anesthesia	3	December 1, 2009
Circulatory System Devices Panel of the Medical Devices Advisory Committee—interventional cardiologists, electrophysiologists, invasive (vascular) radiologists, vascular and cardiothoracic surgeons, and cardiologists with special interest in congestive heart failure	1	July 1, 2010
Clinical Chemistry and Clinical Toxicology Devices Panel of the Medical Devices Advisory Committee—doctors of medicine or philosophy with experience in clinical chemistry, clinical toxicology, clinical pathology, clinical laboratory medicine, endocrinology, and diabetes	2	March 1, 2010
Dental Products Panel of the Medical Devices Advisory Committee—dentists, engineers and scientists who have expertise in the areas of dental implants, dental materials, periodontology, tissue engineering, and dental anatomy	3 2	Immediately November 1, 2009
Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee—experts with broad, cross-cutting scientific, clinical, analytical or mediation skills	2	Immediately
Ear, Nose and Throat Devices Panel of the Medical Devices Advisory Committee—otologists, neurotologists, audiologists	1	Immediately
Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee—transplant specialists, gastroenterologists, urologists and nephrologists	2	January 1, 2010
General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee—surgeons (general, plastic, reconstructive, pediatric, thoracic, abdominal, pelvic and endoscopic); dermatologists; experts in biomaterials, lasers, wound healing, and quality of life; and biostatisticians	2 1	Immediately September 1, 2010
General Hospital and Personal Use Devices Panel of the Medical Devices Advisory Committee—internists, pediatricians, neonatologists, endocrinologists, gerontologists, nurses, biomedical engineers or microbiologists/infection control practitioners or experts	3	January 1, 2010
Hematology and Pathology Devices Panel of the Medical Devices Advisory Committee—hematologists (benign and/or malignant hematology), hematopathologists (general and special hematology, coagulation and homeostasis, and hematological oncology), gynecologists with special interests in gynecological oncology, cytopathologists, and molecular pathologists with special interests in development of predictive and prognostic biomarkers	5 1	Immediately March 1, 2010

TABLE 2.—COMMITTEE/PANEL EXPERTISE NEEDED AND VACANCIES—Continued

Committee/Panel expertise needed	Current and Upcoming Vacancies	Approximate Date Needed
Immunology Devices Panel of the Medical Devices Advisory Committee—persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine	3	Immediately
Microbiology Devices Panel of the Medical Devices Advisory Committee—infectious disease clinicians, e.g., pulmonary disease specialists, sexually transmitted disease specialists, pediatric infectious disease specialists, experts in tropical medicine and emerging infectious diseases, biofilm development; mycologists; clinical microbiologists and virologists; clinical virology and microbiology laboratory directors, with expertise in clinical diagnosis and in vitro diagnostic assays, e.g., hepatologists; molecular biologists	1 3	Immediately March 1, 2010
Molecular and Clinical Genetics Devices Panel of the Medical Devices Advisory Committee—experts in human genetics and in the clinical management of patients with genetic disorders, e.g., pediatricians, obstetricians, neonatologists; individuals with training in inborn errors of metabolism, biochemical and/or molecular genetics, population genetics, epidemiology and related statistical training, and clinical molecular genetics testing (e.g., genotyping, array CGH, etc.); individuals with experience in genetics counseling, medical ethics; and individuals with experience in ancillary fields of study	1 1	Immediately June 1, 2010
Neurological Devices Panel of the Medical Devices Advisory Committee—neurosurgeons (cerebrovascular and pediatric), neurologists (stroke, pediatric, pain management, and movement disorders), interventional neuroradiologists, psychiatrists, and biostatisticians	5 2	Immediately December 1, 2009
Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee—experts in perinatology, embryology, reproductive endocrinology, pediatric gynecology, gynecological oncology, operative hysteroscopy, pelviscopy, electrosurgery, laser surgery, assisted reproductive technologies, contraception, postoperative adhesions, and cervical cancer and colposcopy; biostatisticians and engineers with experience in obstetrics/gynecology devices; urogynecologists; experts in breast care, gynecology in the older patient, diagnostic (optical) spectroscopy, midwifery, and labor and delivery nursing	1	February 1, 2010
Ophthalmic Devices Panel of the Medical Devices Advisory Committee—ophthalmologists specializing in cataract and refractive surgery and vitreo-retinal surgery, in addition to vision scientists, optometrists, and biostatisticians practiced in ophthalmic clinical trials	3	November 1, 2009
Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee—orthopedic surgeons (joint, spine, trauma, and pediatric); rheumatologists; engineers (biomedical, biomaterials, and biomechanical); experts in rehabilitation medicine, sports medicine, and connective tissue engineering; and biostatisticians	3 2 2	Immediately Immediately September 1, 2010
Radiological Devices Panel of the Medical Devices Advisory Committee—physicians with experience in general radiology, mammography, ultrasound, magnetic resonance, computed tomography, other radiological subspecialties and radiation oncology; scientists with experience in diagnostic devices, radiation physics, statistical analysis, digital imaging and image analysis	2	February 1, 2010
National Mammography Quality Assurance Advisory Committee—physicians, practitioners, or other health professionals whose clinical practice, research specialization, or professional expertise include a significant focus on mammography	6	Immediately
Device Good Manufacturing Practice Advisory Committee—vacancies include three government representatives, two public representatives and two health professionals	7	Immediately
Technical Electronic Product Radiation Safety Standards Committee—vacancies include five government representatives, five industry representatives and five general public representatives	15	Immediately

II. Functions

A. Medical Devices Advisory Committee

The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. The panels engage in a number of activities to fulfill the functions of the Federal Food, Drug, and Cosmetic Act (the act) envisions for device advisory panels. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area performs the following duties: (1) Advises the Commissioner of Food and Drugs (the Commissioner) regarding recommended classification or reclassification of devices into one of three regulatory categories, (2) advises on any possible risks to health associated with the use of devices, (3) advises on formulation of product development protocols; (4) reviews premarket approval applications for medical devices, (5) reviews guidelines and guidance documents, (6) recommends exemption of certain devices from the application of portions of the act, (7) advises on the necessity to ban a device, and (8) responds to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical

Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Dental Products Panel also functions at times as a dental drug panel. The functions of the dental drug panel are to evaluate and recommend whether various prescription drug products should be changed to over-the-counter status and to evaluate data and make recommendations concerning the approval of new dental drug products for human use.

The Medical Devices Dispute Resolution Panel provides advice to the Commissioner on complex or contested scientific issues between FDA and medical device sponsors, applicants, or manufacturers relating to specific products, marketing applications, regulatory decisions and actions by FDA, and agency guidance and policies. The panel makes recommendations on issues that are lacking resolution, are highly complex in nature, or result from challenges to regular advisory panel proceedings or agency decisions or actions.

B. National Mammography Quality Assurance Advisory Committee

The functions of the committee are to advise FDA on the following topics: (1) Developing appropriate quality standards and regulations for mammography facilities; (2) developing appropriate standards and regulations for bodies accrediting mammography facilities under this program; (3) developing regulations with respect to sanctions; (4) developing procedures for monitoring compliance with standards; (5) establishing a mechanism to investigate consumer complaints; (6) reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities; (7) determining whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determining the effects of personnel on access to the services of such facilities in such areas; (8) determining whether there will exist a sufficient number of medical physicists after October 1, 1999, and (9) determining the costs and benefits of compliance with these requirements.

C. Device Good Manufacturing Practice Advisory Committee

The functions of the committee are to review proposed regulations issuance regarding good manufacturing practices governing the methods used in, and the facilities and controls used for manufacture, packaging, storage, installation, and servicing of devices, and make recommendations regarding the feasibility and reasonableness of those proposed regulations. The committee also reviews and makes recommendations on proposed guidelines developed to assist the medical device industry in meeting the good manufacturing practice requirements, and provides advice with regard to any petition submitted by a manufacturer for an exemption or variance from good manufacturing practice regulations.

Section 520 of the act, (21 U.S.C. 360(j)), as amended, provides that the Device Good Manufacturing Practice Advisory Committee shall be composed of nine members as follows: (1) Three of the members shall be appointed from persons who are officers or employees of any Federal, State, or local government; (2) two shall be representatives of the interests of the device manufacturing industry: (3) two shall be representatives of the interests of physicians and other health professionals; and (4) two shall be representatives of the interests of the general public. The agency will publish a separate notice announcing the vacancies of two representatives of interests of the device manufacturing industry as they become available.

D. Technical Electronic Product Radiation Safety Standards Committee

The function of the committee is to provide advice and consultation on the technical feasibility, reasonableness, and practicability of performance standards for electronic products to control the emission of radiation from such products. The committee may recommend electronic product radiation safety standards for consideration.

Section 534(f) of the act (21 U.S.C. 360kk(f)), as amended by the Safe Medical Devices Act of 1990, provides that the Technical Electronic Product Radiation Safety Standards Committee include five members from governmental agencies, including State or Federal Governments, five members from the affected industries, and five members from the general public, of which at least one shall be a representative of organized labor.

III. Qualifications

A. Panels of the Medical Devices Advisory Committee

Persons nominated for membership on the panels should have adequately diversified experience appropriate to the work of the panel in such fields as clinical and administrative medicine, engineering, biological and physical sciences, statistics, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the panel. The particular needs at this time for each panel are listed in section I of this document. The term of office is up to 4 years, depending on the appointment date.

B. National Mammography Quality Assurance Advisory Committee

Persons nominated for membership should be physicians, practitioners, and other health professionals, whose clinical practice, research specialization, or professional expertise include a significant focus on mammography and individuals identified with consumer interests. Prior experience on Federal public advisory committees in the same or similar subject areas will also be considered relevant professional expertise. The particular needs at this time for this committee are listed in section I of this document. The term of office is up to 4 years, depending on the appointment date.

C. Device Good Manufacturing Practice Advisory Committee

Persons nominated for membership as a health professional or officer or employee of any Federal, State, or local government should have knowledge of or expertise in any one or more of the following areas: Quality assurance concerning the design, manufacture, and use of medical devices. To be eligible for selection as a representative of the general public, nominees should possess appropriate qualifications to understand and contribute to the committee's work. The particular needs at this time for this committee are listed in section I of this document. The term of office is up to 4 years, depending on the appointment date.

D. Technical Electronic Product Radiation Safety Standards Committee

Persons nominated should be technically qualified by training and experience in one or more fields of science or engineering applicable to electronic product radiation safety. The particular needs at this time for this committee are listed in section I of this document. The term of office is up to 4

years, depending on the appointment date.

IV. Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory panels or advisory committees. Self-nominations are also accepted. Nominations must include a current, complete resume or curriculum vitae of each nominee, current business and/or home address, telephone number, and e-mail address if available. Nominations must specify the advisory panel(s) or advisory committee(s) for which the nominee is recommended. Nominations must also acknowledge that the nominee is aware of the nomination, unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14 relating to advisory committees.

Dated: October 9, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–24896 Filed 10–15–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Request for Nominations for Voting Members To Serve on the National Institutes of Health (NIH), National Institute of Environmental Health Sciences' (NIEHS) Interagency Breast Cancer and Environmental Research Coordinating Committee

SUMMARY: The National Institute of Environmental Health Sciences of the National Institutes of Health is requesting nominations for members to serve on the Interagency Breast Cancer and Environmental Research Coordinating Committee. This Committee will coordinate information on existing activities related to breast cancer and environmental research and make recommendations to the National Institutes of Health and other Federal agencies on how to improve existing research programs.

DATES: Nominations received on or before December 1, 2009 will be considered in a pool of candidates gathered from numerous sources for membership on the Committee. Nominations received after December 1, 2009 will be considered for future vacancies.

ADDRESSES: All nominations for membership should be sent to the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer Collins, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, P.O. Box 12233, MD K3–12, RTP, NC 27709, Phone: 919–541–0117, FAX: 919–316–4606, E-mail: *collins6@niehs.nih.gov.*

I. Function of the Interagency Breast Cancer and Environmental Research Coordinating Committee

The Committee will (1) share and coordinate information on existing research activities, and make recommendations to the National Institutes of Health and other Federal agencies regarding how to improve existing research programs, that are related to breast cancer research; (2) develop a comprehensive strategy and advise the NIH and other Federal agencies in the solicitation of proposals for collaborative, multidisciplinary research, including proposals to evaluate environmental and genomic factors that may be related to the etiology of breast cancer; (3) develop a summary of advances in breast cancer research supported or conducted by Federal agencies relevant to the diagnosis, prevention, and treatment of cancer and other diseases and disorders; and (4) make recommendations to the Secretary regarding any appropriate changes to research activities, to ensure that federal research activities are free of unnecessary duplication of effort, regarding public participation in decisions relating to breast cancer research to increase the involvement of patient advocacy and community organizations representing a broad geographical area, on how best to disseminate information on breast cancer research progress, and how to expand partnerships between public and private entities to expand collaborative, cross-cutting research.

II. Criteria for Voting Members

A. Scientists, Physicians, and Other Health Professionals

Committee Members will include scientists, physicians, and health professionals who are not officers or employees of the United States; represent multiple disciplines, including clinical, basic, and public health sciences; represent different geographical regions of the United States; are from practice settings, academia, or other research settings; and are experienced in the scientific peer review process.

B. Other Public Members

Committee Members will also include members of the general public, who represent individuals with breast cancer.

III. Nomination Procedures

Any interested person may nominate one or more qualified persons for membership on the Interagency Breast Cancer and Environmental Research Coordinating Committee. Self-nominations are also accepted. In an effort to ensure that women, minority groups, and individuals with disabilities are adequately represented on advisory committees, NIEHS encourages nominations of qualified candidates from these groups. Nominations must include a current resume or curriculum vitae of each nominee, including current business address, telephone number, and email address, and a brief explanation of the nominee's qualifications for the committee. Experience and activity on boards, committees, and/or membership in advocacy groups dealing with breast cancer and the environment, participation in the review process for federal programs, and/or involvement with programs regarding the support of scientific research in this area should be indicated. Nominations must also acknowledge that the nominee is aware of the nomination, is willing to serve as a member, and appears to have no conflict of interest that would preclude membership. NIEHS will ask the potential candidates to provide detailed information concerning matters related to financial holdings, employment, and research grants and/or contracts.

Dated: October 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–24969 Filed 10–15–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Advisory Committee on Immunization Practices, (ACIP)

The Centers for Disease Control and Prevention (CDC) is soliciting nominations for possible membership on the ACIP. This committee provides advice and guidance to the Secretary, Department of Health and Human Services (HHS), and the Director, CDC, regarding the most appropriate application of antigens and related agents for effective communicable disease control in the civilian population. The committee reviews and reports regularly on immunization practices and recommends improvements in the national immunization efforts.

The committee also establishes, reviews, and as appropriate, revises the list of vaccines for administration to children eligible to receive vaccines through the Vaccines for Children (VFC) Program. Nominations are being sought for individuals who have the expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based upon expertise in the field of immunization practices; multi-disciplinary expertise in public health; expertise in the use of vaccines and immunologic agents in both clinical and preventive medicine; knowledge of vaccine development, evaluation, and vaccine delivery; or knowledge about consumer perspectives and/or social and community aspects of immunization programs. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms.

Consideration is given to representation from diverse geographic areas, both genders, ethnic and minority groups, and the disabled. Nominees must be U.S. citizens. The following information must be submitted for each candidate: Name, affiliation, address, telephone number, e-mail address and current curriculum vitae. Nominations should be accompanied with a letter of recommendation stating the qualifications of the nominee and postmarked by November 15, 2009 to: Antonette Hill, Immunization Service Division, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop E–05, Atlanta, Georgia 30333, Telephone: (404) 639–8836.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 8, 2009.

Andre Tyler,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E9–24936 Filed 10–15–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form G–1145; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Form G–1145, Notification of Application/Petition Acceptance; OMB Control No. 1615–0109.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until December 15, 2009.

During this 60-day period, USCIS will be evaluating whether to revise the Form G–1145. Should USCIS decide to revise Form G–1145 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 G–1145.

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. 1615–0109 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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Notification of Application/Petition Acceptance.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G–1145; 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. If an applicant or petitioner wants to be notified via e-mail and/or text message on their cell phone that their application or petition has been accepted, they are requested to provide their e-mail address and/or cell phone number on Form G–1145, and attach the form to the application or petition.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,000,000 responses at 3 minutes (.05) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50,000 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: October 13, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–24973 Filed 10–15–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–590; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review; Form I–590, Registration for Classification as Refugee; OMB Control No. 1615–0068.

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 December 15, 2009.

During this 60 day period, USCIS will be evaluating whether to revise the Form I–590. Should USCIS decide to revise Form I–590 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–590.

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. 1615–0068 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 agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Registration for Classification as Refugee.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–590; 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–590 provides a uniform method for applicants to apply for refugee status and contains the information needed for USCIS to adjudicate such applications.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 140,000 responses at 35 minutes (.583) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 81,620 annual burden hours.

If you need a copy of the information collection instrument, please visit the website 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: October 13, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–24954 Filed 10–15–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1859–DR; Docket ID FEMA–2008–0018]

American Samoa; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Territory of American Samoa (FEMA–1859–DR), dated September 29, 2009, and related determinations.

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

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective October 6, 2009.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9–24914 Filed 10–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1860–DR; Docket ID FEMA–2008–0018]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1860–DR), dated September 30, 2009, and related determinations.

DATES: *Effective Date:* September 30, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 30, 2009, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from severe storms and flooding during the period of July 8–14, 2009, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later requested and warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael R. Scott, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Kansas have been designated as adversely affected by this major disaster:

Anderson, Bourbon, Franklin, Linn, and Sedgwick Counties for Public Assistance.

All counties within the State of Kansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9–24907 Filed 10–15–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0017]

Voluntary Private Sector Accreditation and Certification Preparedness Program

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Homeland Security (DHS) announces its intent to select standards for adoption in the Voluntary Private Sector Accreditation and Certification Preparedness Program (''PS-Prep''). This notice (1) finalizes the criteria to be used in selecting standards for the PS-Prep Program; (2) discusses the prospective adoption of the three identified standards, including (a) the approach for collaboration with the Critical Infrastructure and Key Resources (CIKR) sectors and (b) considerations for small business in the adoption of the three identified standards; and (3) poses specific questions for which comment is sought. Although DHS intends to select only the three identified preparedness standards at this time, DHS may select additional standards in the future.

Instructions: DHS will accept comments on PS-Prep and these standards at any time, and comments will be considered as they are received. Within 30 days after publication of this notice, DHS requests comments regarding the adoption of the standard selections or any other similar standard that satisfies the Target Criteria presented in the December 24, 2008 notice (73 FR 79140). Those interested may submit comments, identified by Docket ID FEMA–2008–0017, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. (**Note**: This process applies to all government requests for comments—even though as in the case of PS-Prep, they may not be for regulatory purposes.)
- *E-mail: FEMA-POLICY@dhs.gov.* Include Docket ID FEMA–2008–0017 in the subject line of the message.
- *Fax:* 703–483–2999.
- *Mail/Hand Delivery/Courier:* Office of Chief Counsel, Federal Emergency Management Agency, 500 C Street, SW., Room 840, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID FEMA–2008–0017. All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Because comments are made available to the public, submitters should take caution to not include any sensitive, personal information, trade secret, or any commercial or financial information which is obtained from any person and which is deemed privileged or confidential. Submitters may wish to read the Privacy Act Notice available on the Privacy and Use Notice link on the Administration Navigation Bar of *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov*. Submitted comments may also be inspected at FEMA, Office of Chief Counsel, 500 C Street, SW., Room 840, Washington, DC 20472.

Availability of the Identified Standards: The three identified standards are available in two ways in

addition to being available on the individual Web sites of the three respective standards development organizations (SDOs).

1. FEMA will maintain copies of the standards proposed under this notice and make them available upon request for viewing in person at FEMA's reading room, located at 500 C Street SW., Room 835, Washington, DC 20472. Due to licensing and copyright restrictions, however, these documents will be available for review only, not for copying.

2. FEMA's PS-Prep Web site, *http://www.fema.gov/privatesector/preparedness,* contains links to the Web sites for each of the three SDOs. Each of these SDOs is making its standards available through this link for inspection, downloading, and printing, especially for the PS-Prep Program. Through the above link, the National Fire Protection Association and the American Society for Industrial Security have made NFPA 1600 and ASIS SPC 1–2009, respectively, available at no cost. Also through this link, the British Standards Institution has made the U.S. editions of BS25999–1 and BS25999–2 available for a reduced fee of $19.99 each. At DHS's request, the British Standards Institution reduced its regular fee for BS25999–1 from $132.00 to $19.99, and its regular fee for BS25999–2 from $152.00 to $19.99, for the comment period.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Grant, Incident Management Systems Integration Division, National Preparedness Directorate, National Integration Center, 500 C Street, SW., Washington, DC 20472. Phone: 202–646–3850 or e-mail: *FEMA–NIMS@dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the ''Implementing Recommendations of the 9/11 Commission Act of 2007'' (Pub. L. 110–53), Congress mandated DHS to establish a voluntary private sector preparedness accreditation and certification program. This program, now known as ''PS-Prep,'' will assess whether a private sector entity complies with one or more voluntary preparedness standards adopted by DHS, through a system of accreditation and certification developed by DHS in close coordination with the private sector.

DHS published a notice in the **Federal Register** on December 24, 2008, requesting comment on a voluntary private sector preparedness accreditation and certification program (''PS-Prep''), target criteria for voluntary preparedness standards under the program, and recommendations for standards. *See* 73 FR 79140. DHS also held two public meetings, on January 13 and February 23, 2009, and had other interaction with stakeholders, to obtain comments on standards that DHS should approve under PS-Prep. DHS has considered the information gathered through these channels in the identification of the three standards discussed in this notice and further development of the PS-Prep Program.

II. Elements Considered in the Evaluation of Standards for Selection

On December 24, 2008, DHS published and sought public comment on its proposed target criteria for preparedness standards. Upon review of comments, DHS has determined the target criteria are appropriate, valid, and consistent with the DHS mission and the goals of PS-Prep Program. DHS, therefore, will adopt standards based on the target criteria as previously listed.

III. Intent To Adopt Three Initial Standards for the PS-Prep Program

Based on public comments, the suitability of standards considered to accomplish the purposes of the PS-Prep Program, and coverage of the target criteria, DHS intends to adopt the following three standards. Although the focus of each standard may be slightly different, each meets the spirit and intent of Public Law 110–53, which defines ''voluntary preparedness standards'' as a ''* * * common set of criteria for preparedness, disaster management, emergency management, and business continuity programs. * * *'' These standards were chosen because, among other things, they meet the target criteria and are not industry specific.

1. *NFPA 1600—Standard on Disaster/Emergency Management and Business Continuity Programs, 2007 Edition.* This standard establishes a common set of criteria for preparedness, disaster management, emergency management, and business continuity. NFPA 1600 specifies the management and essential elements of a preparedness program for disaster management, emergency management, and business continuity. The particular strength of this standard is that it focuses on planning and preparation in anticipation of a disaster and does not prescribe a program development process.

2. *BS25999—Business Continuity Management*. This standard defines requirements for a management systems approach to business continuity, and integrates risk management disciplines and processes. BS25999 is comprised of two parts: Part 1 dated 2006; Code of Practice, and Part 2 dated 2007; Specification. The particular strength of this standard is that it specifically provides a management systems approach to business continuity and also integrates risk management disciplines and processes. The standard also provides the user the basis for understanding and implementing in business-to-business and business-to-customer dealings to reassure business resilience.

3. *ASIS SPC. 1–2009—Organizational Resilience: Security Preparedness, and Continuity Management Systems—Requirements with Guidance for Use.* This standard was released in 2009 and defines requirements for a management systems approach to organizational resilience. The particular strength of this standard is that it applies a management systems approach to organizational resilience. The standard encompasses an assortment of risk management mechanisms and follows a plan-do-check-act approach associated with other International Standard Organization management system based standards.

IV. Adoption of Initial Standards in the PS-Prep Program

DHS, after considering the public comments received on this notice, will publish a notice in the **Federal Register** to announce the standards that DHS will adopt. DHS may adopt any or all of the three standards identified above.

V. Critical Infrastructure and Key Resources (CIKR) Sector Specific Issues

Following adoption of the initial standards, DHS will collaborate with the CIKR sectors and their respective Sector Coordinating Councils to identify the regulations, guidelines, sector codes of practice, and best practices of the sector that may affect implementation of the adopted standards.

The DHS Office of Infrastructure Protection will then work with individual CIKR sectors to develop a framework in which the identified sector specific considerations can be built into the application of the adopted standards to individual sectors. Any such framework could be used both by an entity seeking certification of conformity to a standard and by the certifying body.

VI. Small Business Consideration

Title IX of Public Law 110–53 recognized that small businesses need to be treated differently in the PS-Prep Program, and requires DHS to give special consideration to small business

concerns (as defined by Section 3 of the Small Business Act (15 U.S.C. 632)). The December 24, 2008 **Federal Register** notice contained an extensive discussion of DHS' approaches to best reflect the interests of small businesses and the purpose of the PS-Prep Program. DHS continues to seek comments from small businesses and others on the adoption of these standards and their impact on future decisions to seek certification under the PS-Prep Program.

VII. Questions for Which Comment or Recommendations Are Specifically Sought

The Department requests comments, suggestions, or other advice regarding the PS-Prep Program, including but not limited to responses to the following questions:

1. Are there reasons that DHS should not adopt any one of the three standards listed above?

2. Are there any supporting guidance materials in addition to the three identified standards that are needed to help the private sector attain certification to one of the three standards?

3. What factors would a business consider in determining which DHS adopted standard(s) to pursue for certification under the PS-Prep Program?

4. What are the reasons for businesses to seek certification under these identified standards?

5. How would the fact that an organization is certified under the PS-Prep Program affect or otherwise influence your decision to do business with them?

6. In response to the December 2008 **Federal Register** notice, DHS received numerous comments promoting the use of a ''maturity model process improvement approach'' for business preparedness and continuity. The maturity model was described as an approach whereby certifications on certain standards could be incremental, *i.e.,* grading on a scale of conformance, rather than a conformance/non-conformance basis. The notice noted that certifications will determine conformity or non-conformity with a particular standard. How could the use of a maturity model approach be applied to certification to any of these standards?

7. What may be the potential impact (*e.g.,* cost, return on investment, other considerations, *etc.*) on small businesses when attempting to implement any of the above identified standards?

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9–24968 Filed 10–15–09; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–40]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 8, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–24735 Filed 10–15–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Proposed Renewal of Information Collection

AGENCY: Office of the Secretary, Take Pride in America Program.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary of the Department of the Interior announces the proposed extension of a public information collection required by the Take Pride in America Program Act, 16 U.S.C. 4601–4608, ''Take Pride in America National Awards Application/Nomination Process,'' OMB Control No. 1093–0004, and that it is seeking comments on its provisions. After public review, the Office of the Secretary will submit the information collection to the Office of Management and Budget for review and approval.

DATES: Consideration will be given to all comments received by December 15, 2009.

ADDRESSES: Written comments and recommendations on the information collection should be sent to the Office of the Secretary Executive Director of the Take Pride in America Program, Lisa Young, Department of the Interior, 1849 C Street, NW., Mail Stop 3559 MIB, Washington, DC 20240. Comments may also be emailed to *lisa_young@ios.doi.gov.* Individuals providing comments should reference OMB control number 1093–0004, ''Take Pride in America National Awards Application/Nomination Process.''

FOR FURTHER INFORMATION CONTACT: To request more information on this information collection, on its proposed renewal or to receive a copy of the collection instrument, contact Executive Director Lisa Young of the Take Pride in America (TPIA) Program at the mailing or e-mail address provided in the **ADDRESSES** section immediately above.

SUPPLEMENTARY INFORMATION:

I. Abstract

Office of Management and Budget (OMB) regulations, which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection activity that the Office of the Secretary will submit to OMB for extension or re-approval. Under the Take Pride in America Program Act (the Act), 16 U.S.C. Sec. 46–01–4608, the Secretary of the Interior is to: (1) ''Conduct a national awards program to honor those individuals and entities which, in the opinion of the Secretary * * * have

distinguished themselves in activities'' under the purposes of the Act, and also to (2) ''establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals—(A) To instill in the public the importance of the appropriate use of, and appreciation for Federal, State and local lands, facilities, and natural and cultural resources; (B) to encourage an attitude of stewardship and responsibility towards these lands, facilities, and resources; and (C) to promote participation by individuals, organizations, and communities of a conservation ethic in caring for these lands, facilities, and resources.'' The Act states that ''[t]he Secretary is authorized * * * generally to do any and all lawful acts necessary or appropriate to further the purposes of the TPIA Program.''

If this information were not collected from the public, Take Pride in America awards would be limited to individuals and organizations nominated by Federal agencies based on projects within their sphere of influence. This would effectively block many worthy individuals and organizations from being considered for these awards. The TPIA Program was launched in April of 2003 with the stated intent of honoring the best in the nation, without restriction. It would reflect poorly on the Department and on the President if only volunteers to Federal agencies could be honored for their service to America.

II. Data

(1) *Title:* Take Pride in America National Awards; Application/Nomination Process.

OMB Control Number: 1093–0004.

Current Expiration Date: March 31, 2010.

Type of Review: Information Collection Renewal.

Affected Entities: Individuals or households. Businesses and other institutions. State, local and tribal Governments.

Estimated annual number of public respondents: 130.

Frequency of response: On occasion.

(2) *Annual reporting and record keeping burden.*

Estimated annual number of public responses: 130.

Estimated burden per response: 1 hour.

Total annual reporting: 130 hours.

(3) *Description of the need and use of the information:* The statutorily-required information is needed to provide the Office of the Secretary with a vehicle to collect the information needed to include individuals and organizations nominated by the public in applicant pools for TPIA National Awards and to recognize them for the valuable contributions that they make in support of the stewardship of America's lands, facilities, and cultural and natural resources.

III. Request for Comments

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection by appointment with the Federal Consulting Group at the contact information given in the Addresses section. The comments, with names and addresses, will be available for public view during regular business hours. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to extent allowable by law.

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 Office of Management and Budget control number.

Dated: October 13, 2009.

Lisa Young,

Executive Director, Take Pride in America Program.

[FR Doc. E9–24980 Filed 10–15–09; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Senior Executive Service Performance Review Board Membership

AGENCY: Office of Inspector General for the Department of the Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the names and titles of the current membership of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) Performance Review Board as of October 1, 2009.

DATES: *Effective Date:* October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Individual Offices of Inspectors General at the telephone numbers listed below.

SUPPLEMENTARY INFORMATION:

I. Background

The Inspector General Act of 1978, as amended, created the Offices of Inspectors General as independent and objective units to conduct and supervise audits and investigations relating to Federal programs and operations. The Inspector General Reform Act of 2008 established the Council of the Inspectors General on Integrity and Efficiency (CIGIE) to address integrity, economy, and effectiveness issues that transcend individual Government agencies; and increase the professionalism and effectiveness of personnel by developing policies, standards, and approaches to aid in the establishment of a well trained and highly skilled workforce in the Offices of Inspectors General. The CIGIE is an interagency council whose executive chair is the Deputy Director for Management, Office of Management and Budget, and is comprised principally of the 69 Inspectors General (IGs).

II. CIGIE Performance Review Board

Under 5 U.S.C. 4314(c)(1)–(5), and in accordance with regulations prescribed by the Office of Personnel Management, each agency is required to establish one or more Senior Executive Service (SES) performance review boards. The purpose of these boards is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive. The current

members of the Council of the Inspectors General on Integrity and Efficiency Performance Review Board, as of October 1, 2009, are as follows:

Agency for International Development

Phone Number: (202) 712–1170.
CIGIE Liaison—Thereasa L. Lyles (202) 712–1393.
Michael G. Carroll—Deputy Inspector General.
Joe Farinella (SFS)—Assistant Inspector General for Audit.
Melinda Dempsey—Deputy Assistant Inspector General for Audit.
Adrienne Rish—Assistant Inspector General for Investigations.
Howard I. Hendershot—Deputy Assistant Inspector General for Investigations.
Paula Hayes—Assistant Inspector General for Management.
Alvin A. Brown—Assistant Inspector General, Millennium Challenge Corporation.
Lisa Goldfluss—Legal Counsel.

Department of Agriculture

Phone Number: (202) 720–8001.
CIGIE Liaison—Cheryl Viani (202) 720–8001.
Kathleen S. Tighe—Deputy Inspector General.
David R. Gray—Counsel to the Inspector General.
Robert W. Young, Jr.—Assistant Inspector General for Audit.
Rod DeSmet—Deputy Assistant Inspector General for Audit.
Gilroy Harden—Deputy Assistant Inspector General for Audit.
Tracy A. LaPoint—Deputy Assistant Inspector General for Audit.
Karen L. Ellis—Deputy Assistant Inspector General for Investigations.
Suzanne M. Murrin—Assistant Inspector General for Management.

Department of Commerce

Phone Number: (202) 482–4661.
CIGIE Liaison—Lisa Allen (202) 482–5422.
Edward L. Blansitt—Deputy Inspector General.
Wade Green, Jr.—Counsel to the Inspector General.
Judith J. Gordon—Principal Assistant Inspector General for Audit and Evaluation.
Brett M. Baker—Assistant Inspector General for Audit.
Allen Crawley—Assistant Inspector General for Systems Acquisition and IT Security.
Ronald C. Prevost—Assistant Inspector General for Economic and Statistical Program Assessment.
Scott Berenberg—Assistant Inspector General for Investigations.

Department of Defense

Phone Number: (703) 604–8324.
CIGIE Liaison—John R. Crane (703) 604–8324.
Michael Child—Chief of Staff.
James Burch—Deputy Inspector General for Investigations.
Patricia Brannin—Deputy Inspector General for Intelligence.
Donald Horstman—Deputy Inspector General for Administrative Investigations.
Charles Beardeall—Deputy Inspector General for Policy and Oversight.
John Crane—Assistant Inspector General for Communications and Congressional Liaison.

Department of Education

Phone Number: (202) 245–6900.
CIGIE Liaison—Theresa Clark (202) 245–6340.
Mary Mitchelson—Acting Inspector General and Deputy Inspector General.
Wanda Scott—Assistant Inspector General for Evaluations, Inspections and Management Services.
Keith West—Assistant Inspector General for Audit Services.
Patrick Howard—Deputy Assistant Inspector General for Audit Services.
William Hamel—Assistant Inspector General for Investigative Services.
Charles Coe—Assistant Inspector General for Information Technology and Computer Crimes Investigation.
Marta Erceg—Counsel to the Inspector General.

Department of Energy

Phone Number: (202) 586–4393.
CIGIE Liaison—Juston Fontaine (202) 586–1959.
John Hartman—Assistant Inspector General for Investigations.
Rickey Hass—Deputy Inspector General for Audit Services.
Linda Snider—Assistant Inspector General for Resource Management.
Sanford Parnes—Counsel to the Inspector General.
George Collard—Assistant Inspector General for Performance Audits.

Department of Health and Human Services

Phone Number: (202) 619–3148.
CIGIE Liaison—Elise Stein (202) 619–2686.
Larry Goldberg—Principal Deputy Inspector General.
Lewis Morris—Chief Counsel to the Inspector General.
Joseph Green—Assistant Inspector General for Financial Management and Regional Operations.
George Reeb—Assistant Inspector General for Centers for Medicare and Medicaid Audits.
Joseph S. Shellenberger—Deputy Inspector General for Management and Policy.

Department of Homeland Security

Phone Number: (202) 254–4100.
CIGIE Liaison—Denise S. Johnson (202) 254–4100.
James L. Taylor—Deputy Inspector General.
Matt Jadacki—Deputy Inspector General for Emergency Management Oversight.
Mark McLachlan—Assistant Deputy Inspector General for Emergency Management Oversight.
Richard N. Reback—Counsel to the Inspector General.
Anne L. Richards—Assistant Inspector General for Audits.
Edward M. Stulginsky—Deputy Assistant Inspector General for Audits.
Sondra McCauley—Deputy Assistant Inspector General for Planning and Oversight, Audits.
Carlton I. Mann—Assistant Inspector General for Inspections.
Thomas M. Frost—Assistant Inspector General for Investigations.
James Gaughran—Deputy Assistant Inspector General for Investigations.
Frank Deffer—Assistant Inspector General for Information Technology.
Charles Edwards—Assistant Inspector General for Administration.

Department of Housing and Urban Development

Phone Number: (202) 708–0430.
CIGIE Liaison—Helen Albert (202) 708–0614, Ext. 8187.
Michael P. Stephens—Deputy Inspector General.
James A. Heist—Assistant Inspector General for Audit.
John McCarty—Deputy Assistant Inspector General for Inspections and Evaluations.
Lester Davis—Deputy Assistant Inspector General for Investigations.
Randy McGinnis—Deputy Assistant Inspector General for Audit.
Helen Albert—Deputy Assistant Inspector General for Management and Policy.

Department of the Interior

Phone Number: (202) 208–5745.
CIGIE Liaison—Deborah Holmes (202) 208–5745.
Stephen Hardgrove—Chief of Staff.
Kimberly Elmore—Assistant Inspector General for Audits, Inspections and Evaluations.
Robert Romanyshyn—Deputy Assistant Inspector General for Financial Audits.
John Dupuy—Assistant Inspector General for Investigations.

Renee Pettis—Assistant Inspector General for Management.
Eddie Saffarinia—Assistant Inspector General for Information Technology.
Bruce Delaplaine—General Counsel.

Department of Justice

Phone Number: (202) 514–3435.
CIGIE Liaison—Cynthia Schnedar (202) 514–3435.
Paul K. Martin—Deputy Inspector General.
Gail A. Robinson—General Counsel.
Raymond J. Beaudet—Assistant Inspector General for Audit.
Carol F. Ochoa—Assistant Inspector General for Oversight and Review.
Gregory T. Peters—Assistant Inspector General for Management and Planning.
Thomas F. McLaughlin—Assistant Inspector General for Investigations.
Michael D. Gulledge—Assistant Inspector General for Evaluation and Inspections.
Caryn A. Marske—Deputy Assistant Inspector General for Audit.
George L. Dorsett—Deputy Assistant Inspector General for Investigations.

Department of Labor

Phone Number: (202) 693–5100.
CIGIE Liaison—Constance Christakos (202) 693–5238.
Daniel R. Petrole—Acting Inspector General.
Nancy F. Ruiz de Gamboa—Assistant Inspector General for Management and Policy.
Thomas F. Farrell—Assistant Inspector General for Labor Racketeering and Fraud Investigations.
Elliot P. Lewis—Assistant Inspector General for Audit.
Michael A. Rapoini—Deputy Assistant Inspector General for Audit.
Howard L. Shapiro—Counsel to the Inspector General.
Richard Clark—Deputy Assistant Inspector General for Labor Racketeering and Fraud Investigations.
Eugene Cunningham—Assistant Inspector General for Inspections and Special Investigation.

Department of State and the Broadcasting Board of Governors

Phone Number: (202) 663–0340.
CIGIE Liaison—Michael Wolfson (703) 284–2710.
Robert B. Peterson—Assistant Inspector General for Inspections.
Evelyn R. Klemstine—Deputy Assistant Inspector General for Audits.

Department of Transportation

Phone Number: (202) 366–1959.
CIGIE Liaison—Nathan P. Richmond (202) 366–1959.
Calvin L. Scovel III—Inspector General.
David A. Dobbs—Deputy Inspector General.
Brian A. Dettelbach—Assistant Inspector General for Legal, Legislative, and External Affairs.
Susan L. Dailey—Assistant Inspector General for Administration.
Ann M. Calvaresi Barr—Principal Assistant Inspector General for Auditing and Evaluation.
Lou E. Dixon—Assistant Inspector General for Aviation and Special Program Audits.
Matthew E. Hampton—Deputy Assistant Inspector General for Aviation and Special Program Audits.
Rebecca C. Leng—Assistant Inspector General for Financial and Information Technology Audits.
Joseph W. Come´—Assistant Inspector General for Surface and Maritime Programs.
Rosalyn G. Millman—Deputy Assistant Inspector General for Surface and Maritime Programs.
David E. Tornquist—Assistant Inspector General for Amtrak, High Speed Rail and Economic Analysis.
Mark H. Zabarsky—Assistant Inspector General for Acquisition and Procurement Audits.
Timothy M. Barry—Principal Assistant Inspector General for Investigations.
Richard C. Beitel, Jr.—Assistant Inspector General for Special Investigations and Analysis.

Department of the Treasury

Phone Number: (202) 622–1090.
CIGIE Liaison—John Czajkowksi (202) 927–5835.
Dennis S. Schindel—Deputy Inspector General.
Richard Delmar—Counsel to the Inspector General.
John Czajkowsk—Assistant Inspector General for Management.
P. Brian Crane—Assistant Inspector General for Investigations.
Marla Freedman—Assistant Inspector General for Audit.
Robert Taylor—Deputy Assistant Inspector General for Audit (Program Audits).
Joel Grover—Deputy Assistant Inspector General for Audit (Financial Management Audits).

Treasury Inspector General for Tax Administration/Department of the Treasury

Phone Number: (202) 622–6500.
CIGIE Liaison—John Chase (202) 927–7053.
Margaret Begg—Assistant Inspector General for Audit (Compliance and Enforcement Operations).
Timothy Camus—Assistant Inspector General for Investigations.
Michael Delgado—Assistant Inspector General for Investigations.
Alan Duncan—Assistant Inspector General (Security & IT Services).
Roderick Fillinger—Chief Counsel.
Gregory Holley—Deputy Assistant Inspector General for Investigations.
Richard Holmgren—Deputy Inspector General for Inspections and Evaluations.
Joseph Hungate—Principal Deputy Inspector General.
Steven Jones—Deputy Inspector General for Investigations.
Daniel Devlin—Assistant Inspector General for Audit.
Larry Koskinen—Associate Inspector General for Mission Support.
Michael McKenney—Assistant Inspector General for Audit (Wage & Investment Income Programs).
Nancy Nakamura—Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Program).
Michael Phillips—Deputy Inspector General for Audit.

Department of Veterans Affairs

Phone Number: (202) 565–8620.
CIGIE Liaison—Joanne Moffett (202) 461–4720.
Richard Griffin—Deputy Inspector General.
Maureen Regan—Counselor to the Inspector General.
James O'Neill—Deputy Assistant Inspector General for Investigations.
Belinda Finn—Assistant Inspector General for Audits and Evaluations.
Richard Ehrlichman—Assistant Inspector General for Management and Administration.
John Daigh—Assistant Inspector General for Healthcare Inspections.

Environmental Protection Agency

Phone Number: (202) 566–0847.
CIGIE Liaison—Eileen McMahon (202) 566–2546.
Mark Bialek—Associate Deputy Inspector General and Counsel to the Inspector General.
Eileen McMahon—Assistant Inspector General for Congressional, Public Affairs and Management.
Melissa Heist—Assistant Inspector General for Audit.
Wade Najjum—Assistant Inspector General for Program Evaluation.
Stephen Nesbitt—Assistant Inspector General for Investigations.
Patricia Hill—Assistant Inspector General for Mission Systems.

Federal Trade Commission

Phone Number: (202) 326–2800.
CIGIE Liaison—Cynthia Hogue (202) 326–2800.

John Seeba—Inspector General.

General Services Administration

Phone Number: (202) 501–0450.
CIGIE Liaison—Sarah S. Breen (202) 219–1351.
Robert C. Erickson—Deputy Inspector General.
Richard P. Levi—Counsel to the Inspector General.
Theodore R. Stehney—Assistant Inspector General for Auditing.
Regina M. O'Brien—Deputy Assistant Inspector General for Auditing.
Gregory G. Rowe—Assistant Inspector General for Investigations.
Geoffrey Cherrington—Deputy Assistant Inspector General for Investigations.

National Aeronautics and Space Administration

Phone Number: (202) 358–1220.
CIGIE Liaison—Renee Juhans (202) 358–1712.
Thomas Howard—Deputy Inspector General.
Frank LaRocca—Counsel to the Inspector General.
Kevin Winters—Assistant Inspector General for Investigations.
Alan Lamoreaux—Assistant Inspector General for Management and Policy.

National Archives and Records Administration

Phone Number: (301) 837–3000.
CIGIE Liaison—John Simms (301) 837–1966.
Paul Brachfeld—Inspector General.

National Endowment for the Humanities

Phone Number: (202) 606–8350.
CIGIE Liaison—Laura M.H. Davis (202) 606–8574.
Sheldon Bernstein—Inspector General.

National Science Foundation

Phone Number: (703) 292–7100.
CIGIE Liaison—Susan Carnohan (703) 292–5011 & Maury Pully (703) 292–5059.
Allison C. Lerner—Inspector General.
Thomas (Tim) Cross—Deputy Inspector General.
Deborah H. Cureton—Assistant Inspector General for Audit.
Peggy Fischer—Assistant Inspector General for Investigations.

Peace Corps

Phone Number: (202) 692–2900.
CIGIE Liaison—Kathy Buller (703) 692–2916.
Kathy Buller—Inspector General (Foreign Service).

Nuclear Regulatory Commission

Phone Number: (301) 415–5930.
CIGIE Liaison—Deborah S. Huber (301) 415–5930.
David C. Lee—Deputy Inspector General.
Stephen D. Dingbaum—Assistant Inspector General for Audits.
Joseph A. McMillan—Assistant Inspector General for Investigations.

Office of Personnel Management

Phone Number: (202) 606–1200.
CIGIE Liaison—Gary R. Acker (202) 606–2444.
Norbert E. Vint—Deputy Inspector General.
Terri Fazio—Assistant Inspector General for Management.
Michael R. Esser—Assistant Inspector General for Audits.
Michelle B. Schmitz—Assistant Inspector General for Investigations.
J. David Cope—Assistant Inspector General for Legal Affairs.
Jeffery E. Cole—Deputy Assistant Inspector General for Audits.

Railroad Retirement Board

Phone Number: (312) 751–4690.
CIGIE Liaison—Jill Roellig (312) 751–4993.
William Tebbe—Assistant Inspector General for Investigations.
Letty Benjamin Jay—Assistant Inspector General for Audit.

Small Business Administration

Phone Number: (202) 205–6586.
CIGIE Liaison—Robert F. Fisher (202) 205–6583.
Peter L. McClintock—Deputy Inspector General.
Glenn P. Harris—Counsel to the Inspector General.
Debra S. Ritt—Assistant Inspector General for Auditing.
Daniel J. O'Rourke—Assistant Inspector General for Investigations.
Robert F. Fisher—Assistant Inspector General for Management and Policy.

Social Security Administration

Phone Number: (410) 966–8385.
CIGIE Liaison—Misha Kelly (202) 358–6319.
Wade V. Walters, IV—Assistant Inspector General for External Relations.
Steven L. Schaeffer—Assistant Inspector General for Audit.
Richard A. Rohde—Assistant Inspector General for Investigations.
Jonathan Lasher—Counsel to the Inspector General.

Special Inspector General for Troubled Asset Relief Program

Phone Number: (202) 622–2658.
CIGIE Liaison—(202) 622–2658.
Kevin Puvalowski—Deputy Special Inspector General.
Eileen Ennis—Deputy Special Inspector General, Operations.
Christopher Sharpley—Deputy Special Inspector General, Investigations.
Barry Holman—Deputy Special Inspector General, Audit.
Bryan Saddler—Chief Counsel.

United States Postal Service

Phone Number: (703) 248–2300.
CIGIE Liaison—Agapi Doulaveris (703) 248–2286.
Elizabeth Martin—Assistant Inspector General, General Counsel.
Gladis Griffith—Deputy Assistant Inspector General, General Counsel.
Ron Stith—Assistant Inspector General, Mission Support.
Mary Demory—Deputy Assistant Inspector General, Business Operations.
LaVan Griffith—Deputy Assistant Inspector General, Technical Operations.
David Sidransky—Chief Information Officer.
William Siemer—Assistant Inspector General for Investigations.
Randy Stone—Deputy Assistant Inspector General for Investigations—Field Operations.
Yvette Savoy—Deputy Assistant Inspector General for Investigations—Headquarters.
Tammy Whitcomb—Assistant Inspector General for Audits.
Robert Batta—Deputy Assistant Inspector General for Audits—Mission Operations.
John Cihota—Deputy Assistant Inspector General for Audits—Financial Accountability.
Darrell Benjamin—Deputy Assistant Inspector General for Audits—Revenue and Systems.
Mohammad Adra—Assistant Inspector General for Risk Analysis Research Center.

Mary L. Kendall,

Acting Inspector General, Department of the Interior and Chair, CIGIE Professional Development Committee.

[FR Doc. E9–24905 Filed 10–15–09; 8:45 am]

BILLING CODE 3110–01–P

DEPARTMENT OF THE INTERIOR

Office of the Special Trustee for American Indians

Notice and Request for Comments

AGENCY: Office of the Special Trustee for American Indians.

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork

Reduction Act of 1995, the Office of Special Trustee for American Indians announces the proposed extension of a public information collection, ''Trust Funds for Tribes and Individual Indians, 25 CFR 115,'' OMB Control No. 1035–0004, and that it is seeking comments on its provisions. After public review, the Office of the Secretary will submit the information collection to the Office of Management and Budget for review and approval.

DATES: Comments must be submitted on or before November 16, 2009.

ADDRESSES: You may send comments to John Marshall, Office of the Special Trustee for American Indians, 4400 Masthead Street, NE., Albuquerque, New Mexico 87109 or e-mail them to him at *john_marshall@ost.doi.gov.* Individuals providing comments should reference ''Trust Funds for Tribes and Individual Indians, 25 CFR 115,'' OMB Control No. 1035–0004.

FOR FURTHER INFORMATION CONTACT: You may contact John Marshall at telephone number 505–816–1086, or send e-mail to *john_marshall@ost.doi.gov.*

SUPPLEMENTARY INFORMATION: The American Indian Trust Fund Management Reform Act of 1994 (the Reform Act) makes provisions for the Office of the Special Trustee for American Indians to administer trust fund accounts for individuals and tribes. The collection of information is required to facilitate the processing of deposits, investments, and distribution of monies held in trust by the U.S. Government and administered by the Office of the Special Trustee for American Indians. The collection of information provides the information needed to establish procedures to: deposit and retrieve funds from accounts, perform transactions such as cashing checks, reporting lost or stolen checks, stopping payment of checks, and general verification for account activities.

Request for Comments: The Office of the Special Trustee for American Indians requests your comments on this collection concerning: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

OMB Control Number: 1035–0004.

Type of review: Renewal of existing collection for a 3 year period.

Title: Trust Funds for Tribes and Individuals Indians, 25 CFR 115.

Brief Description of Collection: This information collection is used to process deposits, investments, and distribution of monies held in trust by the Special Trustee for individual Indians in the administration of these accounts. The respondents submit information in order to gain or retain a benefit, namely, access to funds held in trust.

Respondents: Individual Indians who wish to initiate some activity on their accounts.

Number of Respondents: 136,916.

Estimated Time per Response: Averages 35 minutes.

Estimated Number of Responses annually: 136,916.

Frequency of Response: As needed.

Total Annual Burden to Respondents: 79,868 hours.

The Department of the Interior invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection by appointment with the point of contact given in the **ADDRESSES** section. The comments, with names and addresses, will be available for public view during regular business hours. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law.

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 Office of Management and Budget control number.

Dated: October 8, 2009.

Douglas A. Lords,

Deputy Special Trustee—Field Operations.

[FR Doc. E9–24981 Filed 10–15–09; 8:45 am]

BILLING CODE 4310–2W–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Draft General Management Plan/ Environmental Impact Statement, Cumberland Gap National Historical Park, Kentucky, Tennessee, Virginia

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the Draft General Management Plan/ Environmental Impact Statement, Cumberland Gap National Historical Park, Kentucky, Tennessee, Virginia.

SUMMARY: Pursuant to 42 U.S.C. 4332(2)(C) of the National Environmental Policy Act of 1969 the National Park Service (NPS) announces the availability of a Draft General Management Plan and Environmental Impact Statement (GMP/EIS) for the Cumberland Gap National Historical Park, Kentucky, Tennessee, Virginia.

DATES: The GMP/EIS will remain available for public review for 60 days following the publishing of the Notice of Availability in the **Federal Register** by the U.S. Environmental Protection Agency. Public meetings will be held during the 60-day review period on the GMP/EIS, and specific dates and locations will be announced in local and regional media sources of record and on the NPS planning Web site at *http://parkplanning.nps.gov/cuga.*

ADDRESSES: Written comments should be addressed to Mark Woods, Superintendent Cumberland Gap National Historical Park, U.S. 25E South, P.O. Box 1848, Middlesboro, Kentucky 40965–1848. Comments may also be submitted through the NPS

Planning Environment and Public Comment (PEPC) Web site: *http://parkplanning.nps.gov/cuga*. Copies of the Draft GMP/EIS are available by contacting the Park Superintendent. An electronic copy of the Draft GMP/EIS is available on the Internet at *http://parkplanning.nps.gov/cuga*. 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. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Copies of the Draft GMP/EIS will also be available for review at the following locations:

Cumberland Gap National Historical Park, Visitor Center, ¼ Mile U.S. 25E South, P.O. Box 1848, Middlesboro, Kentucky 40965.

Lee County Public Library, 406 Joslyn Avenue, Pennington Gap, Virginia 24277.

Bristol Virginia Public Library, 701 Goode Street, Bristol, Virginia 24201–4199.

Knoxville City Library, Halls Branch, 4518 E Emory Road, Knoxville, Tennessee 37938.

Claiborne County Public Library, P.O. Box 139, Tazewell, Tennessee 37825.

Harlan Public Library, 107 N. 3rd Street, Harlan, Kentucky 40831–2335.

Pineville Public Library, 214 Walnut Street, P.O. Box 1490, Pineville, Kentucky 40977–1490.

Lincoln Memorial University Lincoln Museum, 6965 Cumberland Gap Parkway, Harrogate, Tennessee 37752.

Middlesboro Public Library, 126 S. 20th Street, P.O. Box 1677, Middlesboro, Kentucky 40965–3677.

FOR FURTHER INFORMATION CONTACT: Superintendent Mark Woods, Cumberland Gap National Historical Park, U.S. 25E South, P.O. Box 1848, Middlesboro, Kentucky 40965–1848, telephone: 606–248–2817.

SUPPLEMENTARY INFORMATION: Cumberland Gap National Historical Park was authorized by Congress on June 11, 1940, to commemorate the story of the first doorway to the west. Carved by wind and water, Cumberland Gap forms a major break in the formidable Appalachian Mountain chain. First used by large game animals in their migratory journeys and then followed by American Indians, the Cumberland Gap was the first and foremost avenue for the settlement of the interior of this nation. Subsequent legislation authorized the acquisition of the Fern Lake watershed, an approximately 4,650-acre area located just southwest of and adjacent to the park. The 150 acre lake can be viewed from Pinnacle Overlook, a premier scenic attraction in the park. The purpose of the Draft GMP/EIS is to set forth the basic management philosophy for the park and to provide strategies for addressing issues and achieving identified management objectives. The Draft GMP/EIS describes and analyzes the environmental impacts of the proposed action and one other action alternative for the future management direction of the park. A no action alternative is also evaluated. The preferred alternative (Alternative C) in the Draft GMP/EIS would provide a greater amount of visitor access and facilities in the park as compared to Alternative A. Alternative C would also feature increased levels of education, outreach, and partnering. Otherwise, Alternative C would be similar to Alternative B in that it provides slightly expanded visitor access to the park while minimizing the potential for adverse effects on resources.

Authority: The authority for publishing this notice is contained in 40 CFR 1506.6.

The responsible official for this Draft GMP/EIS is the Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: August 12, 2009.

David Vela,

Regional Director, Southeast Region.

[FR Doc. E9–24999 Filed 10–15–09; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOROR957000–L62510000–PM000: HAG10–0001]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management Oregon/Washington State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 39 S., R. 3 E., accepted September 21, 2009

T. 29 S., R. 12 W., accepted September 25, 2009

T. 27 S., R. 3 W., accepted September 30, 2009

T. 27 S., R. 4 W., accepted September 30, 2009

T. 30 S., R. 8 W., accepted September 30, 2009

Washington

T. 21 N., R. 12 W., accepted September 21, 2009

T. 12 N., R. 17 E., accepted September 28, 2009

ADDRESSES: A copy of the plats may be obtained from the Land Office at the Oregon/Washington State Office, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the Oregon/Washington State Director, Bureau of Land Management, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Geographic Sciences, Bureau of Land Management, 333 SW. 1st Avenue, Portland, Oregon 97204.

Dated: October 7, 2009.

Fred O'Ferrall,

Branch of Lands and Minerals Resources.

[FR Doc. E9–24948 Filed 10–15–09; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Captain John Smith Chesapeake National Historic Trail Advisory Council

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, the National Park Service (NPS) is hereby giving notice that the Advisory Committee on the Captain John Smith Chesapeake National Historic Trail will hold a meeting. Designated through an amendment to the National Trails System Act (16 U.S.C. 1241), the trail consists of ''a series of water routes extending approximately 3,000 miles along the Chesapeake Bay and its tributaries in the States of Virginia, Maryland, Delaware, and in the District of Columbia,'' tracing the 1607–1609 voyages of Captain John Smith to chart

the land and waterways of the Chesapeake Bay. This meeting is open to the public. Preregistration is required for both public attendance and comment. Any individual who wishes to attend the meeting and/or participate in the public comment session should register via email at *Christine_Lucero@nps.gov* or telephone: (757) 258–8914. For those wishing to make comments, please provide a written summary of your comments prior to the meeting. The Designated Federal Official for the Advisory Council is John Maounis, Superintendent, Captain John Smith National Historic Trail, telephone: (410) 260–2471.

DATES: The Captain John Smith Chesapeake National Historic Trail Advisory Council will meet from 10 a.m. to 4:30 p.m. on Thursday, November 12, 2009.

ADDRESSES: The meeting will be held at the Earth Conservation Corps Building, 2000 Half Street, SW., Washington, DC 20024. For more information, please contact the NPS Chesapeake Bay Program Office, 410 Severn Avenue, Suite 314, Annapolis, MD 21403.

FOR FURTHER INFORMATION CONTACT: Christine Lucero, Partnership Coordinator for the Captain John Smith Chesapeake National Historic Trail, telephone: (757) 258–8914 or email: *Christine_Lucero@nps.gov.*

SUPPLEMENTARY INFORMATION: Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), this notice announces a meeting of the Captain John Smith Chesapeake National Historic Trail Advisory Council for the purpose of reviewing Comprehensive Management Plan alternatives.

The Committee meeting is open to the public. Members of the public who would like to make comments to the Committee should preregister via email at *Christine_Lucero@nps.gov* or telephone: (757) 258–8914; a written summary of comments should be provided prior to the meeting. Comments will be taken for 30 minutes at the end of the meeting (from 4 p.m. to 4:30 p.m.). All comments will be made part of the public record and will be electronically distributed to all Committee members.

Dated: September 10, 2009.

John Maounis,

Superintendent, Captain John Smith National Historic Trail, National Park Service, Department of the Interior.

[FR Doc. E9–24998 Filed 10–15–09; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cape Cod National Seashore; South Wellfleet, MA; Cape Cod National Seashore Advisory Commission

ACTION: Two Hundredth Seventieth Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, Section 10) of a meeting of the Cape Cod National Seashore Advisory Commission.

DATES: The meeting of the Cape Cod National Seashore Advisory Commission will be held on November 16, 2009 at 1 p.m.

ADDRESSES: The Commission members will meet in the meeting room at Headquarters, 99 Marconi Station, Wellfleet, Massachusetts.

SUPPLEMENTARY INFORMATION: The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The regular business meeting is being held to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting (September 14, 2009)
3. Reports of Officers
4. Reports of Subcommittees
5. Superintendent's Report
   - Update on Dune Shacks
   - Improved Properties/Town Bylaws
   - Herring River Wetland Restoration
   - Wind Turbines/Cell Towers
   - Highlands Center Update
   - Alternate Transportation funding
   - Other construction projects
   - Land Protection
6. Old Business
7. New Business Ocean initiatives
8. Date and agenda for next meeting
9. Public comment, and
10. Adjournment

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: October 2, 2009.

George E. Price, Jr.,

Superintendent.

[FR Doc. E9–25000 Filed 10–15–09; 8:45 am]

BILLING CODE 4310–WU–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before October 3, 2009. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by November 2, 2009

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARKANSAS

Poinsett County

Tyronza Commercial Historic District, S. Main St. bounded on the N. by Old U.S. Hwy 63 and on the S. by Mullins St., Tyronza, 09000896

ILLINOIS

Fulton County

East Waterford School, Jct. N. Dickson Mounds Rd. and the E. Prairie Rd., Lewistown, 09000897

Sangamon County

Garvey, Hugh M., House, 8 Fair Oaks Dr., Leland Grove, 09000898

LOUISIANA

East Baton Rouge Parish

Downtown Baton Rouge Historic District, 3rd between roughly Main St. and N. Blvd; 210–240 Laurel & 301–355 N. Blvd., Baton Rouge, 09000899

MISSOURI

Saline County

Mt. Carmel Historic District, 290th Rd. and MO Hwy 41 N., Marshall, 09000900

St. Louis County

Ladue Estates, 1–80 Ladue Estates Dr., Creve Coeur, 09000901

St. Louis Independent City

St. Louis Stamping Company Buildings, 101 Cass Ave., St. Louis, 09000902

NEBRASKA

Buffalo County

Masonic Temple and World Theater Building, 2318 Central Ave., Kearney, 09000903

Cuming County

West Point City Auditorium, 237 N. Main St., West Point, 09000904

Thurston County

Picotte, Susan La Flesche, House, 100 Taft, Walthill, 09000905

NEW YORK

Columbia County

Lynch, James, House, 33 Ferry Rd., Nutten Hook, 09000906
Pratt Homestead, 866 Rt. 203, Spencertown, 09000907

Greene County

Brandow, William, House, 480 Rt. 385, Athens, 09000908

Onondaga County

Will, Louis, House, 714 N. McBride St., Syracuse, 09000909

Saratoga County

Rayfiel, David, House, 1266 Kathan Rd., Day, 09000910

OHIO

Montgomery County

Graphic Arts Building, 221–223 S. Ludlow St., Dayton, 09000911

Summit County

Main Exchange Historic District, 1 W. Exchange St., 323–337 S. Main St., 12 E. Exchange St., 380–348 S. Main St., 328–326 S. Main St., Akron, 09000912

SOUTH CAROLINA

Greenville County

Conestee Mill, 1 Spance Dr., Conestee, 09000913

Lee County

Ashwood School Gymnasium and Auditorium, 160 Ashwood School Rd., Bishopville, 09000914

VERMONT

Chittenden County

Church Street Historic District, Generally the Church St. corridor, along with flanking blocks of Bank, Cherry, College, and Main Sts., Burlington, 09000915

Winooski Falls Mills Historic District (Boundary Increase), 110 W. Canal St., Winooski, 09000916

Rutland County

Braintree School, (Educational Resources of Vermont MPS) 9 Warren Switch Rd., Pawlet, 09000917

Windham County

George-Pine-Henry Street Historic District, 5–22 George St; 1–17 Pine St.; 32–44 Henry St., Rockingham, 09000918

VIRGINIA

Albemarle County

Boyd Tavern, VT 616, Boyd Tavern, 09000919

Charlotte County

Annefield, 3200 Sunny Side Rd., Saxe, 09000920

Danville Independent City

Dan River Mill No. 8, 424 Memorial Dr., Danville, 09000923

Loudoun County

Hillsboro Historic District (Boundary Increase), Charles Town Pike, between Hillsboro Rd. and Stony Point Rd., Hillsboro, 09000921

Norfolk Independent City

Virginia Ice & Freezing Corporation Cold Storage Warehouse, 835 Southampton Ave., Norfolk, 09000922

Richmond Independent City

Grace Street Commercial Historic District (Boundary Increase), 626, 700 E. Broad St., 12–118 N. 8th St., 707–715 E. Franklin St., 2–18 and 13 W. Franklin St., Richmond, 09000924

Wythe County

Foster Falls Historic District, New River Trail State Park, 176 Orphanage Dr., Max Meadows, 09000925

Request for REMOVAL has been made for the following resources:

MISSISSIPPI

Hinds County

Armour Company Smokehouse and Distribution Plant, 320 W. Pearl St., Jackson, 83003956

[FR Doc. E9–24960 Filed 10–15–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Weekly Listing of Historic Properties

Pursuant to (36CFR60.13(b,c)) and (36CFR63.5), this notice, through publication of the information included herein, is to apprise the public as well as governmental agencies, associations and all other organizations and individuals interested in historic preservation, of the properties added to, or determined eligible for listing in, the National Register of Historic Places from August 9, to August 14, 2009.

For further information, please contact Edson Beall via: United States Postal Service mail, at the National Register of Historic Places, 2280, National Park Service, 1849 C St. NW., Washington, DC 20240; in person (by appointment), 1201 Eye St. NW., 8th floor, Washington DC 20005; by fax, 202–371–2229; by phone, 202–354–2255; or by e-mail, *Edson_Beall@nps.gov.*

Dated: October 6, 2009.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

KEY: State, County, Property Name, Address/Boundary, City, Vicinity, Reference Number, Action, Date, Multiple Name

ALABAMA

Jefferson County

Belcher-Nixon Building, 1728 29th St. Ensley, Birmingham, 09000603, Listed, 8/12/09

Lee County

Darden, Dr. J.W., House, 1323 Auburn St., Opelika, 09000605, Listed, 8/12/09

Winston County

Feldman's Department Store, 800 20th St., Haleyville, 09000607, Listed, 8/12/09

ARIZONA

Maricopa County

Bennitt Mansion, 126 E. County Club Dr., Phoenix, 09000609, Listed, 8/12/09

DISTRICT OF COLUMBIA

District of Columbia State Equivalent,

Surratt, Mary E., House, 604 H St., NW, Washington, 04000118, Listed, 8/11/09

GEORGIA

De Kalb County

Donaldson-Bannister House and Cemetery, 4831 Chamblee-Dunwoody Rd., Dunwoody vicinity, 09000585, Listed, 8/09/09

HAWAII

Honolulu County

Tantalus—Round Top Road, Tantalus Dr., Round Top Dr., Honolulu vicinity, 08000373, Listed, 8/14/09

IOWA

Guthrie County

Garst, Roswell and Elizabeth, Farmstead Historic District, 1390 IA 141, Coon Rapids vicinity, 09000610, Listed, 8/12/09

MASSACHUSETTS

Essex County

Samuel Brown School, 200 Lynn St., Peabody, 09000611, Listed, 8/12/09

Suffolk County

Evergreen Cemetery, 2060 Commonwealth Ave., Boston, 09000612, Listed, 8/14/09

TENNESSEE

Putnam County

White Plains, 2700 Old Walton Rd., Cookeville vicinity, 09000538, Listed, 8/11/09

VIRGINIA

Bedford County

Liberty Hall, 12000 E. Lynchburg Salem Turnpike, Forest vicinity, 09000613, Listed, 8/12/09

Fauquier County

Orlean Historic District, Area including parts of John Barnton Payne and Leeds Manor Rds., Orlean, 09000615, Listed, 8/14/09

Fauquier County

Woodside, 9525 Maidstone Rd., Delaplane vicinity, 09000616, Listed, 8/12/09

Goochland County

First Union School, 1522 Old Mill Rd., Crozier, 09000614, Listed, 8/12/09 (Rosenwald Schools in Virginia MPS)

Salem Independent City

Valley Railroad Bridge, 1002 Newman Dr., Salem, 09000617, Listed, 8/12/09

[FR Doc. E9–24957 Filed 10–15–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R9-IA-2009-N223]
[96300-1671-0000-P5]

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for permits to conduct certain activities with endangered species. The Endangered Species Act requires that we invite public comment on these permit applications.

DATES: Written data, comments or requests must be received by November 16, 2009.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, Virginia 22203; fax 703/358-2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358-2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Submit your written data, comments, or requests for copies of the complete applications to the address shown in **ADDRESSES**.

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Frank M. Cole, Sidney, NE, PRT-223386

Applicant: Dennis F. Gaines, Connelly Springs, NC, PRT-227937

Applicant: Bobby Whiteaker, Pineville, AR, PRT-228645

Applicant: Deborah M. Filpula, Rancho Cordova, CA, PRT-229192

Dated: October 9, 2009

Lisa J. Lierheimer

Senior Permit Biologist, Branch of Permits, Division of Management Authority

[FR Doc. E9–24874 Filed 10–15–09; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR. 50.7, notice is hereby given that on October 6, 2009, two related Consent Decrees in *United States* v. *Town of Southington, et al*, No. 3:09cv1515, were lodged with the United States District Court for the District of Connecticut.

The proposed Consent Decrees resolve claims of the United States, on behalf of the Environmental Protection Agency (''EPA''), under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601 *et seq.*, in connection with the Old Southington Landfill Superfund Site in Southington, Connecticut (''Site''), against 91 defendants.

One of the Consent Decrees requires five settling defendants (''Performing Parties'') to perform the Remedial Design/Remedial Action (''RD/RA'') set forth in the September 2006 Record of Decision for the Site. The remedy includes: (1) Implementation of institutional controls, in the form of environmental land use restrictions, on properties or portions of properties where groundwater volatile organic compound (''VOC'') concentrations exceed State of Connecticut Remediation Standard Regulations (''RSRs''); (2) installation of engineering controls, including building ventilation systems, sub-slab depressurization systems, or similar technology, in buildings located over properties or portions of properties where VOCs exceed the State RSR volatilization criteria; (3) conducting groundwater monitoring in areas where the potential for vapor intrusion is a concern; (4) performance of operation and maintenance and monitoring of engineering and institutional controls to ensure remedial measures are performing as intended and continue to protect human health and the environment in the long-term; and (5) conducting of five year reviews. The RD/RA Consent Decree also requires the five Performing Parties to: (a) Pay a lump sum of $500,000 to cover EPA's future oversight costs; (b) pay $537,000 to the U.S. Department of the Interior for federal natural resource damages; and (c) pay $2,750,000 to the State of Connecticut for damages to natural resources under the State's trusteeship. The RD/RA Consent Decree also resolves potential contribution claims by United Technologies Corp., one of the five Performing Parties, against the Department of the Army (except regarding disposals from its Quonset Point facility), the Department of the Navy, and the General Services Administration in exchange for a payment of $507,960.

The other Consent Decree provides for 86 *de minimis* potentially responsible parties to pay $4,248,450. Their payments will be deposited into a trust account that is being managed by the five Performing Parties. A portion of these funds will be used by the Performing Parties to help make the payments required under the RD/RA Consent Decree and the remaining funds will remain in the trust to provide financial assurance for the completion of the remedy under the RD/RA Consent Decree. The *De Minimis* Consent Decree

also resolves the direct liability of the Navy regarding disposals from its Quonset Point facility at the Site in exchange for a payment of $9,057.

The two proposed Consent Decrees provide that the settlors are entitled to contribution protection as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. 9613(f)(2), for matters addressed by the settlements.

The Department of Justice will receive for a period of 30 days from the date of this publication comments relating to the proposed Consent Decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and either e-mailed to *pubcommentees.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. *Town of Southington, et al*, No. 3:09cv1515, D.J. No. 90–11–2–420/5. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed Consent Decrees may be examined at the Office of the United States Attorney, District of Connecticut, Connecticut Financial Center, 157 Church Street, New Haven, CT 06510. During the public comment period, the proposed Consent Decrees may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the proposed Consent Decrees may 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 of the any of the proposed Consent Decrees, please enclose a check in the amount of $40.25 for the RD/RA Consent Decree (25 cent per page reproduction cost), and $32.00 for the *De Minimis* Consent Decree, payable to the U.S. Treasury.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–24989 Filed 10–15–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1505]

Vehicular Digital Multimedia Evidence Recording System Standard Special Technical Committee

AGENCY: National Institute of Justice.

ACTION: Notice of Request for Proposals for Certification Expertise.

SUMMARY: The National Institute of Justice (NIJ) is in the process of developing a new Vehicular Digital Multimedia Evidence Recording System Standard and corresponding certification program requirements. This work is being performed by a Special Technical Committee (STC), comprised of practitioners from the field, researchers, testing experts, certification experts, and representatives from stakeholder organizations. The STC members will participate in four 2-day meetings over a 7-month time period with the goal of completing development of the standard and certification program requirements. It is anticipated that STC meetings will begin in November 2009. Travel expenses and per diem will be reimbursed for all STC meetings; however, participation time will not be funded.

NIJ is seeking certification bodies with experience in programs for similar types of electronic equipment. Additional preferred knowledge includes experience with in-car video systems or experience with law enforcement operations. There are two positions to be filled on the STC, and NIJ will accept the first 10 submissions for review.

Interested parties are requested to nominate individuals from their organizations and submit no more than two pages describing the nominee's applicable experience, preferred knowledge, and affiliations with standards development organizations. This information shall be submitted to Frances Scott at *frances.scott@usdoj.gov* by October 16, 2009. The submissions will be reviewed, and participants will be notified regarding their acceptance by October 30, 2009.

FOR FURTHER INFORMATION CONTACT: Casandra Robinson by telephone at 202–305–2296 [**Note:** this is not a toll-free telephone number], or by e-mail at *Casandra.robinson@usdoj.gov.*

Kristina Rose,

Acting Director, National Institute of Justice.

[FR Doc. E9–24901 Filed 10–15–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (NIJ) Docket No. 1504]

Walk-Through and Handheld Metal Detector Standards Panel

AGENCY: National Institute of Justice.

ACTION: Notice of request for proposals for Certification Expertise.

SUMMARY: The National Institute of Justice (NIJ) is in the process of revising the Walk-through and Handheld Metal Detector Standards and developing corresponding certification program requirements. This work is being performed by a panel of experts, comprised of practitioners from the field, researchers, testing experts, certification experts, and representatives from stakeholder organizations. The panel members will participate in four 2-day meetings over a 7-month time period with the goal of completing development of the standards and certification program requirements. It is anticipated that panel meetings will begin in early November 2009. Travel expenses and per diem will be reimbursed for all panel meetings; however, participation time will not be funded.

NIJ is seeking certification bodies with experience in programs for similar types of electronic equipment. Additional preferred knowledge includes experience with metal detectors or experience with corrections, courts or school safety. There are two positions to be filled on the panel, and NIJ will accept the first 10 submissions for review.

Interested parties are requested to nominate individuals from their organizations and submit no more than two pages describing the nominee's applicable experience, preferred knowledge, and affiliations with standards development organizations. This information shall be submitted to Casandra Robinson at *Casandra.robinson@usdoj.gov* by October 9, 2009. The submissions will be reviewed, and participants will be notified regarding their acceptance by October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Casandra Robinson by telephone at 202–305–2296 [**Note:** this is not a toll-free telephone number], or by e-mail at *Casandra.robinson@usdoj.gov.*

Kristina Rose,

Acting Director, National Institute of Justice.

[FR Doc. E9–24903 Filed 10–15–09; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

149th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans

Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 149th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on November 3–4, 2009.

The meeting will take place in Room S–4215, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 on November 3, from 1 p.m. to approximately 5 p.m. On November 4, the meeting will start at 9 a.m. and conclude at approximately 4:30 p.m., with a break for lunch. The morning meeting on November 4 also will be in Room S–4215. The afternoon session will take place in Room S–2508 at the same address. The purpose of the open meeting is for the Advisory Council members to finalize their recommendations to be presented by the Advisory Council to the Secretary. At the November 4 afternoon session, the Council members will receive an update from the Assistant Secretary of Labor for the Employee Benefits Security Administration (EBSA) and present their recommendations.

The Council recommendations will be on the following issues: (1) Promoting Retirement Literacy and Security by Streamlining Disclosures to Participants and Beneficiaries, (2) Stable Value Funds and Retirement Security in the Current Economic Conditions, and (3) Approaches for Retirement Security in the United States. Descriptions of these topics are available on the Advisory Council page of the EBSA Web site at *http://www.dol.gov/ebsa/aboutebsa/erisa_advisory_council.html.*

Organizations or members of the public wishing to submit a written statement may do so by submitting 30 copies on or before October 27, 2009 to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5623, 200 Constitution Avenue, NW., Washington, DC 20210. Statements also may be submitted as e-mail attachments in text or pdf format transmitted to *good.larry@dol.gov.* It is requested that statements not be included in the body of the e-mail. Relevant statements received on or before October 27, 2009 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by October 27 at the address indicated.

Signed at Washington, DC this 9th day of October, 2009.

Michael L. Davis,

Deputy Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. E9–24892 Filed 10–15–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: MCA Media Industries, LLC/Graniteville, South Carolina.

Principal Product/Purpose: The loan, guarantee, or grant application is to enable an existing screen printing and point-of-sale (POS) advertising business to open a new branch or facility. The NAICS industry code for this enterprise is: 339950 Sign Manufacturing.

DATES: All interested parties may submit comments in writing no later than October 30, 2009. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail *Dais.Anthony@dol.gov;* or transmit via fax (202) 693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202) 693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR Part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed: at Washington, DC this 1st day of October, 2009.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. E9–24883 Filed 10–15–09; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Request for Certification of Compliance—Rural Industrialization Loan and Grant Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration is issuing this notice to announce the receipt of a ''Certification of Non-Relocation and Market and Capacity Information Report'' (Form 4279–2) for the following:

Applicant/Location: NewWood Corporation/Elma, Washington.

Principal Product/Purpose: The loan, guarantee, or grant application is to enable a new business venture to open a wood/plastic composite sheet

manufacturing facility. The NAICS industry code for this enterprise is: 326130 Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing.

DATES: All interested parties may submit comments in writing no later than October 30, 2009. Copies of adverse comments received will be forwarded to the applicant noted above.

ADDRESSES: Address all comments concerning this notice to Anthony D. Dais, U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue, NW., Room S–4231, Washington, DC 20210; or e-mail *Dais.Anthony@dol.gov;* or transmit via fax (202)693–3015 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Anthony D. Dais, at telephone number (202)693–2784 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 188 of the Consolidated Farm and Rural Development Act of 1972, as established under 29 CFR part 75, authorizes the United States Department of Agriculture to make or guarantee loans or grants to finance industrial and business activities in rural areas. The Secretary of Labor must review the application for financial assistance for the purpose of certifying to the Secretary of Agriculture that the assistance is not calculated, or likely, to result in: (a) A transfer of any employment or business activity from one area to another by the loan applicant's business operation; or, (b) An increase in the production of goods, materials, services, or facilities in an area where there is not sufficient demand to employ the efficient capacity of existing competitive enterprises unless the financial assistance will not have an adverse impact on existing competitive enterprises in the area. The Employment and Training Administration within the Department of Labor is responsible for the review and certification process. Comments should address the two bases for certification and, if possible, provide data to assist in the analysis of these issues.

Signed: at Washington, DC, this 1st day of October, 2009.

Jane Oates,

Assistant Secretary for Employment and Training.

[FR Doc. E9–24884 Filed 10–15–09; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL INSTITUTE FOR LITERACY

Notice Inviting Proposals for Ownership and Operation of America's Literacy Directory

AGENCY: National Institute for Literacy.

ACTION: Notice inviting proposals for ownership and operation of America's Literacy Directory.

SUMMARY: America's Literacy Directory (ALD) provides information about adult literacy, preparation for General Educational Development (GED) tests and other testing, and English language learning programs for individuals in need of those services through an easy-to-use, extensive nationwide database.

As authorized by 20 U.S.C. 9252(c), the National Institute for Literacy (NIFL) developed and created ALD and has been operating it since 2004. NIFL now plans to turn over ownership and operation of ALD to one or more entities outside of the Federal Government that would, with its or their own resources, continue the maintenance and upkeep of ALD, make improvements to it, and continue to make it readily available at no cost to the public. Through this notice, we are inviting proposals from an entity or entities interested in owning and operating ALD in this manner. NIFL believes that the effectiveness of ALD will be enhanced by being owned by a non-Federal entity or entities, which would take responsibility for its continued operation.

ALD is currently supported in part through both an interagency agreement and a contract for data verification and technical support, respectively. To the extent possible, consistent with the terms of those agreements, NIFL plans to provide the entity or entities ultimately selected through the selection process outlined in this notice with non-proprietary information on the design, use, and maintenance of ALD in order to help the selected entity or entities maintain, operate, and enhance ALD. A text file providing the technical data to ALD is available to prospective bidders in ''Structured Query Language'' (SQL) format. This SQL data would assist the selected entity or entities in building a database containing all ALD tables and relationships of those tables. Prospective bidder(s) may request the text file by contacting NIFL at *Daniel.Miller@ed.gov.*

NIFL believes that turning over ownership and operation of the Directory to a non-Federal entity or entities will provide long-lasting benefits to the intended audience and to the nation.

DATES: To receive consideration, proposals must be submitted to NIFL no later than 5 p.m. (EST) on November 9, 2009. NIFL's goal is to turn over ownership and operation of ALD on or about December 30, 2009.

Address for Submission of Proposals: Interested entities should submit a proposal for owning and operating ALD, addressing the factors and associated criteria outlined in this notice, by an express carrier or by e-mail to: Daniel J. Miller, Acting Director, National Institute for Literacy, 1775 I Street, NW., 7th Floor, Washington, DC 20006–2050, or at *Daniel.Miller@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Daniel Miller, (202) 245–7731, *Daniel.Miller@ed.gov.*

SUPPLEMENTARY INFORMATION:

Background

America's Literacy Directory (ALD) is an effective, national online site for the referral of adults to local literacy programs. The site is currently housed on the NIFL Web site at *http://www.nifl.gov* or at *http://literacydirectory.org.* From the site, adults and young adults can find assistance with reading or writing, study for the GED or other high school equivalency program(s), find an official GED test center, learn English, and get help with mathematics. Adults can enter their zip code or city and State and find programs within a selected geographic range. Through the site, and a toll-free telephone number, providers of adult literacy services may add program information to the ALD database.

NIFL intends, through an appropriate agreement or agreements signed by NIFL and the selected entity or entities, to set forth the rights and responsibilities of each party, and to transfer ownership and operation of ALD to a non-Federal entity or entities, which would support ALD with the entity's or entities' own resources. The agreement will include, among other things, a privacy policy that protects the privacy of the users of ALD, and limits the use of data about the users by the entity or entities selected.

Responsibilities of the Selected Entity or Entities

NIFL anticipates that the duties of the ALD owner will include: Maintaining and enhancing the ALD database of approximately 5,000 literacy programs as appropriate; providing technical assistance via email, phone, and online training sessions to States to assist them in integrating State and local program data into ALD (5–10 questions or

requests for inclusion on the site per month are anticipated); providing technical assistance in implementing the ALD administration features for the national, regional, and State end users through e-mail and telephone (3–5 such questions or requests are anticipated per month); providing technical assistance and training support to literacy programs on maintaining, updating, and adding records or additional fields through email or online forms; providing technical assistance for special features of the ALD infrastructure, such as the capability for State and national organizations to share data and to customize ALD to aggregate data; making ALD available to the public at no cost; solving any implementation problems; maintaining and enhancing the quality of the operation of ALD and the content made available through ALD; and making improvements, as appropriate, to make ALD more effective.

Based on these general expectations, a non-Federal entity or entities interested in acquiring ownership of ALD should submit a proposal that addresses the following key factors, which will help demonstrate the organization's or organizations' commitment to adult literacy and to the effective management of ALD:

Key Factors

The entity demonstrates the following:

- A commitment to helping improve adult literacy.
- A substantive interest in the goals of ALD (the recruitment and referral of adult learners into high-quality literacy programs) and in assisting adults in need of basic skills acquisition, secondary preparation, and English language acquisition.
- A demonstrated history of national involvement in the service delivery system, either as a direct provider of services to adult learners or as a provider of services to State and/or local providers of adult literacy programs.
- The technological infrastructure and other resources to operate and maintain ALD and make it available to the public free of charge.
- Staff expertise in Web site development, maintenance, and appropriate telephone support.
- A plan to use an advisory committee with appropriate expertise to help the entity administer ALD.
- A demonstrated history of fiscal and management responsibility over a sustained period of time.

NIFL will use the following criteria to evaluate how well the proposals submitted in response to this notice address these factors:

Note: The maximum total score any proposal can receive is 100 points. The maximum score for each criterion is indicated in parentheses below.

Technical Approach (35 Points)

- The extent to which the entity or entities that submit a proposal (the ''offeror'') demonstrates a commitment to adult literacy through previous projects and thorough knowledge of the field. (15 points)
- The extent to which the offeror demonstrates a thorough understanding of the target population that needs the services of ALD, and of how to provide appropriate resources to that target population. (10 points)
- The extent to which the offeror describes a clear vision for ALD and plans for its enhancement and continued operation. (10 points)

Organizational Capacity (30 Points)

- The quality of the proposed project personnel, and the extent to which the personnel have the appropriate qualifications, competencies, and experience in the management of this type of project. (15 points)
- The extent to which the offeror has the technological and financial resources to maintain and operate ALD and ensure that it is made available to the public free of charge and that it is improved, as appropriate. (15 points)

Management Plan (35 Points)

- The extent to which the offeror provides a description of its plan for managing the project in a clear and sequential fashion, and the extent to which that plan provides credible evidence that the management of personnel, physical resources, activities, and work production will result in a readily available and robust directory containing current program information with a 99.99 percent ''uptime rate.'' (20 points)
- The quality of the offeror's plans to establish and work with an outside advisory committee that has appropriate expertise to advise the offeror on its implementation of the project. (5 points)
- The extent to which the time commitments of the offeror's staff are appropriate to operating, maintaining, and as appropriate, improving, ALD. (5 points)
- The extent to which the offeror submitted a summary of a plan to evaluate the use of ALD and the accuracy of its content. (5 points)

Other Requirements for the Content of Proposals

Proposals submitted in response to this notice also must include the following information:

- The name, address, and contact information for the entity or entities submitting the proposal;
- The names, addresses, and contact information for the persons within the entity or entities that would be primarily responsible for the operation of ALD within the entity or entities submitting the proposal;
- Mission statement of the entity or entities;
- Capability statement (must address the key factors and each component of the selection criteria);
- Entity's or entities' Web site URL;
- Annual report or similar report on the condition of the entity or entities; and,
- A signed assurance by an appropriate officer(s) of the entity or entities indicating that the entity or entities agree to own and operate ALD consistent with their proposal and with the purposes and provisions of this notice, and understand that if they do not do so, the ownership of ALD, all content therein provided by NIFL, and all databases needed to operate ALD will revert to NIFL or to its surviving entity, which can award it to another entity or entities in accordance with a notice published in the **Federal Register**. If there is no surviving entity, then all content provided by the Institute, and all databases needed to operate ALD will revert to the U.S. Department of Education which can award it to another entity or entities in accordance with a notice published in the **Federal Register**. The assurance must indicate the entity's or entities' intent to enter into a signed agreement with NIFL for the transfer of the ownership and operation of ALD; this agreement shall acknowledge that NIFL shall transfer its specific rights and interest in data and content of ALD. In addition, the agreement shall acknowledge that, in the event of any reversion of ALD to NIFL or to its successor agency, NIFL or its successor agency shall possess the rights and interest in data and content of ALD provided by NIFL, including all databases needed to operate ALD. Finally, in the assurance the entity or entities must also agree to submit semi-annual reports on the operation and use of ALD in such detail as NIFL or its successor specifies in the agreement that the parties will sign. If there is no successor to NIFL, these reports will be submitted to the U.S. Department of Education as specified above.

Availability of Funds

There are no Federal funds available to support ALD once ownership and operation have been transferred from the Federal Government. It will be the sole responsibility of the selected entity or entities to bear all costs associated with ownership and operation of ALD.

Interests of the Federal Government

NIFL will transfer ownership of ALD and its content to the entity or entities selected. NIFL will transfer the rights and interest it possesses in data and content transferred to the entity or entities. In addition, as noted above, if the entity or entities selected operate ALD in a manner that is not consistent with its proposal and with the purposes and provisions of this notice, or if the entity or entities cease to operate ALD or suffer a loss of funding or support for ALD such that the quality of the ALD data declines, the ownership of ALD, all content therein provided by NIFL, and all databases needed to operate ALD will revert to NIFL or to its successor agency, and the entity or entities will not be authorized to operate ALD. If there is no surviving entity, then all content provided by the Institute, and all databases needed to operate ALD will revert to the U.S. Department of Education, which can award it to another entity or entities in accordance with a notice published in the **Federal Register**. Upon such a reversion, the Federal Government shall possess the rights and interest in data and content of ALD originally provided by NIFL, including all databases needed to operate ALD. Under these circumstances, NIFL may award the ownership of the Directory to another entity or entities in accordance with a notice published in the **Federal Register.**

Electronic Access to This Document: You can view this document, as well as all other documents of NIFL published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.nifl.gov.*

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Daniel J. Miller,

Acting Director, National Institute for Literacy.

[FR Doc. E9–24841 Filed 10–15–09; 8:45 am]

BILLING CODE 6055–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 16, 2009. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means:

Mail: NARA (NWML), 8601 Adelphi Road, College Park, MD 20740–6001.

E-mail: request.schedule@nara.gov.

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Laurence Brewer, Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1539. E-mail: *records.mgt@nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1228.24(b)(3).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or

indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending:

1. Department of Agriculture, Food Safety and Inspection Service (N1–462–09–4, 1 item, 1 temporary item). Master files associated with an electronic information system used to process questions submitted by consumers via the agency Web site.

2. Department of Agriculture, Grain Inspection, Packers and Stockyards Administration (N1–545–08–4, 18 items, 12 temporary items). Records relating to communications and information dissemination. Included are such records as files relating to outreach activities, publications dealing with routine operational matters, background materials relating to projects, and case files on projects that do not set a precedent. Proposed for permanent retention are such records as policy files, annual reports, speeches, and publications. The proposed disposition instructions are limited to paper records.

3. Department of Health and Human Services, Centers for Medicare and Medicaid Services (N1–440–09–2, 1 item, 1 temporary item). Master files of an electronic information system that contains documentation related to public complaints pertaining to the Health Insurance Portability and Accountability Act.

4. Department of Justice, Justice Management Division (N1–60–09–28, 1 item, 1 temporary item). Master files for an electronic information system used to manage agency financial matters.

5. Department of Justice, Office of the Inspector General (N1–60–09–34, 2 items, 2 temporary items). Inputs and master files for a tracking system used for correspondence relating to administrative management and planning.

6. Department of State, Bureau of Consular Affairs (N1–59–09–39, 2 items, 2 temporary items). Master files and outputs for an electronic information system used to support management and budget functions for overseas posts.

7. Department of State, Bureau of East Asian and Pacific Affairs (N1–59–09–8, 3 items, 2 temporary items). Subject files relating to economic matters and trade and administrative files relating to Asia-Pacific Economic Cooperation. Substantive files relating to Asia-Pacific Economic Cooperation are proposed for permanent retention.

8. Department of Transportation, National Highway Traffic Safety Administration (N1–416–09–1, 1 item 1 temporary item). Master files associated with an electronic information system used to maintain data concerning problem drivers.

9. Department of the Treasury, Community Development Financial Institution (N1–56–09–9, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to create and review contracts for monetary allocations.

10. Department of the Treasury, Community Development Financial Institution (N1–56–09–10, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to track the usage of funds granted through awards and allocations.

11. Department of the Treasury, Community Development Financial Institution (N1–56–09–15, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to monitor compliance with monetary award agreements.

12. Department of the Treasury, Community Development Financial Institution (N1–56–09–16, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with a web-based electronic information system used to communicate with applicants, awardees, and financial institutions.

13. Department of the Treasury, Community Development Financial Institution (N1–56–09–17, 4 items, 4 temporary items). Master files, inputs, outputs, and system documentation associated with an electronic information system used to track the status of monetary awards from the application phase through disbursement of funds.

14. Department of the Treasury, Internal Revenue Service (N1–58–09–28, 2 items, 2 temporary items). Master files and system documentation associated with an electronic information system used to store and update E–File applications and related data.

15. Department of the Treasury, Internal Revenue Service (N1–58–09–30, 8 items, 8 temporary items). Master files, outputs, system documentation, and other records associated with an electronic information system used to verify the accuracy of settlement notices.

16. Department of the Treasury, Internal Revenue Service (N1–58–09–53, 3 items, 3 temporary items). Master files, inputs, and system documentation associated with an electronic information system used to allow tax professionals to request and view taxpayer information.

17. Department of the Treasury, Internal Revenue Service (N1–58–09–56, 5 items, 5 temporary items). Master files, inputs, outputs, and system documentation associated with an electronic information system used to analyze information obtained from financial institutions in order to identify individuals with illegal off-shore accounts.

18. Department of the Treasury, Internal Revenue Service (N1–58–09–68, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to identify individuals who have not filed tax returns and to determine if they should receive notices of failure to file.

19. Department of the Treasury, Internal Revenue Service (N1–58–09–69, 2 items, 2 temporary items). Master files and system documentation associated with an electronic information system which contains data concerning electronic tax filers that is gathered as part of efforts to expand the use of electronic filing.

20. Department of the Treasury, Internal Revenue Service (N1–58–09–70, 4 items, 4 temporary items). Master files, inputs, outputs, and system documentation associated with an electronic information system which contains demographic information used in connection with marketing and product development related to electronic tax filing.

21. Department of the Treasury, Internal Revenue Service (N1–58–09–71, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to process and issue refunds to taxpayers for photocopying fees.

22. Department of the Treasury, Internal Revenue Service (N1–58–09–72, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to

generate and manage temporary taxpayer identification numbers.

23. Department of the Treasury, Internal Revenue Service (N1–58–09–81, 4 items, 4 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to manage taxpayer cases involving hardship and other critical tax problems.

24. Department of the Treasury, Internal Revenue Service (N1–58–09–82, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system which receives data from various submission processing systems and prepares data for further processing.

25. Department of the Treasury, Internal Revenue Service (N1–58–09–83, 3 items, 3 temporary items). Master files, outputs, and system documentation associated with an electronic information system used to select taxpayer notices for quality review and compose corrected notices.

26. Court Services and Offender Supervision Agency, Pre-Trial Services Agency (N1–562–09–1, 1 item, 1 temporary item). Initial interview files of defendants who are apprehended but not charged.

27. Environmental Protection Agency, Agency-wide (N1–412–08–6, 4 items, 3 temporary items). Records relating to the issuance of permits, including minor pollutant discharge elimination permits, dredging and fill permits, and underground injection control permits when the agency is not the permitting authority. Underground injection control permits where the agency is the permitting authority are proposed for permanent retention.

28. Export-Import Bank of the United States, Chief Information Office (N1–275–09–1, 1 item, 1 temporary item). Master files associated with an electronic information system used to provide access to scanned images of documents relating to transactions.

Dated: October 13, 2009.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. E9–25068 Filed 10–15–09; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that ten meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows (ending times are approximate):

Theater (application review): November 3–6, 2009 in Room 714. This meeting, from 9 a.m. to 5:30 p.m. on November 3rd—4th, from 9 a.m.—6 p.m. on November 5th, and from 9 a.m. to 3 p.m. on November 6th, will be closed.

Presenting (application review): November 3–4, 2009 in Room 730. This meeting, from 9 a.m. to 5:15 p.m. on November 3rd and from 9 a.m. to 3:15 p.m. on November 4th, will be closed.

Visual Arts (application review): November 4–6, 2009 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on November 4th and 5th, and from 9 a.m. to 4 p.m. on November 6th, will be closed.

Presenting (application review): November 5–6, 2009 in Room 730. This meeting, from 9 a.m. to 5:30 p.m. on November 5th and from 9 a.m. to 4:15 p.m. on November 6th, will be closed.

Music (application review): November 9–10, 2009 in Room 714. This meeting, from 9 a.m. to 5:30 p.m. on November 9th, and from 9 a.m. to 4:30 p.m. on November 10th, will be closed.

Musical Theater (application review): November 12–13, 2009 in Room 714. This meeting, from 9 a.m. to 6 p.m. on November 12th, and from 9 a.m. to 3 p.m. on November 13th, will be closed.

Dance (application review): November 16–18, 2009 in Room 730. This meeting, from 9 a.m. to 6 p.m. on November 16th and 17th, and from 9 a.m. to 4 p.m. on November 18th, will be closed.

Learning in the Arts (application review): November 16–20, 2009 in Room 716. A portion of this meeting, from 2:30 p.m. to 3 p.m. on November 20th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 6 p.m. on November 16th—19th, and from 9 a.m. to 2:30 p.m. and 3 p.m. to 3:30 p.m. on November 20th, will be closed.

Music (application review): November 18–20, 2009 in Room 716. A portion of this meeting, from 2:30 p.m. to 3:30 p.m. on November 20th, will be open to the public for policy discussion. The remainder of the meeting, from 9 a.m. to 5:30 p.m. on November 18th—19th, and from 9 a.m. to 2:30 p.m. and 3:30 p.m. to 4 p.m. on November 20th, will be closed.

Local Arts Agencies (application review): November 19–20, 2009 in Room 730. This meeting, from 9 a.m. to 5:30 p.m. on November 19th, and from 9 a.m. to 2:30 p.m. on November 20th, will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 28, 2008, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: October 13, 2009.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. E9–24962 Filed 10–15–09; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On September 2, 2009, the National Science Foundation published a notice in the **Federal Register** of permit applications

received. Permits were issued on October 9, 2009 to: Carlos Gutierrez, Permit No. 2010–008; Alexander R. Simms, Permit No. 2010–009.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. E9–24845 Filed 10–15–09; 8:45 am]

BILLING CODE 7555–01–P

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

Proposed Information Collection; Comment Request; Application for Relocation Benefits Under the Navajo and Hopi Indian Settlement Act (as Amended)

AGENCY: Office of Navajo and Hopi Indian Relocation (''ONHIR'').

ACTION: Notice.

SUMMARY: ONHIR, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)), as part of its continuing effort to reduce paperwork and reduce respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on this collection of information.

DATES: Written comments must be submitted on or before December 30, 2009.

Address for Comments: Direct all comments in writing to Diane Pratte, Chief Information Officer, ONHIR, P.O. Box KK, Flagstaff, AZ 86002 (or via the Internet at *eligibility@onhir.gov.*)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instruments and instructions should be directed to ONHIR's Paralegal Specialist Karen Glanz, at 928–779–2721 x 152, or at *eligibility@onhir.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Submitting an Application for Relocation Benefits (''Application'') ONHIR Form MM#1110.9 (for Navajo individuals) or ONHIR Form MM#1110.10 (for Hopi individuals) to ONHIR is required for all persons seeking such benefits under the Navajo-Hopi Settlement Act, as amended, Public Law 93–531 *et al.,* 25 U.S.C. 640d *et seq.* (''the Act''). The eligibility requirements are detailed in 25 CFR part 700 and summarized in ONHIR Policy Memorandum No. 14 (7/27/2009 Revision), a copy of which may be requested from ONHIR or found on the ONHIR Web site (onhir.gov, ''ONHIR Eligibility'' tab.) The information is used to determine whether an applicant is eligible for Relocation Benefits.

II. Method of Collection

Navajo individuals interested in applying for relocation benefits must submit a completed, signed form MM#1110.9, Application for Relocation Benefits (Navajo), to the Office of Navajo and Hopi Indian Relocation. Hopi individuals interested in applying for relocation benefits must submit a completed, signed form MM#1110.10, Application for Relocation Benefits (Hopi), to the Office of Navajo and Hopi Indian Relocation. Documents (Applications) must be signed and executed subject to the penalties for perjury. Signed documents may be hand delivered, mailed (USPS or private delivery service [FedEx, UPS]); faxed or scanned and then e-mailed.

III. Data

Application for Relocation Benefits

*Form Number*s: MM #1110.9 and MM1110.10.

Type of Review: Regular submission.

Affected Public: Enrolled members of the Navajo Nation or Hopi Tribe contemplating filing Applications for Relocation Benefits and members of their families.

Estimated Number of Respondents: 500.

Proposed Frequency of Responses: One-time only.

The time needed to complete and file an Application for Relocation Benefits will vary depending on individual circumstances. As provided in 5 CFR § 1320.3(b)(2), the information sought on the Application is information that Applicants can be assumed to have gathered and maintained in the normal course of their lives such as their age, marital status, children and employment and residence history. Consequently it is the Agency's position that the burden involved in completion of an Application would be limited to the time needed to read the Application, fill in the Application form itself and then transmit it to the Agency. The estimated average time is thirty minutes.

(1) Reviewing instructions—10 minutes;

(2) Acquiring, installing, and utilizing technology and systems—0;

(3) Adjusting the existing ways to comply with any previously applicable instructions and requirements—0;

(4) Searching data sources—5 minutes;

(5) Completing and reviewing the collection of information (form)—10 minutes;

(6) Transmitting, or otherwise disclosing the information—5 minutes.

IV. Request for Comments

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected, and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this existing information collection in use without an OMB control number; they also will become a matter of public record.

Dated: October 7, 2009.

Lawrence A. Ruzow,

Alternate Certifying Officer—Attorney, ONHIR.

[FR Doc. E9–24932 Filed 10–15–09; 8:45 am]

BILLING CODE 7560–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0459; Docket No. 030–01786]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 19–00296–10, for Amendment of the License and Unrestricted Release of the Department of Health & Human Services, National Institutes of Health's Facilities in Rockville, MD

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Penny Lanzisera, Senior Health Physicist, Medical Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406; telephone (610) 337–5169; fax number (610) 337–5269; or by e-mail: *penny.lanzisera@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the

issuance of a license amendment to Byproduct Materials License No. 19–00296–10. This license is held by the Department of Health & Human Services, National Institutes of Health (the Licensee), for, in part, its Danac-5 Building (also called the Park-5 Building) and Danac-4 Building (also called the Flow Building). These two buildings (collectively, the Facilities) are located in close proximity to each other at 12420 Parklawn Drive and 12501 Washington Avenue in Rockville, Maryland, respectively. Issuance of the amendment would authorize release of the Facilities for unrestricted use. The Licensee requested this action in a letter dated February 5, 2009. Licensed activities at other locations under License No. 19–00296–10 will continue.

The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, *Code of Federal Regulations* (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register.**

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's February 5, 2009, license amendment request, resulting in release of the Facilities for unrestricted use. License No. 19–00296–10 was issued on December 7, 1956, pursuant to 10 CFR Part 30, and has been amended periodically since that time. This license authorizes the Licensee to use unsealed byproduct material for purposes of conducting medical research and development activities on laboratory bench tops and in hoods.

The Facilities consist of office space and laboratories sited in two buildings, both of which are located in a commercial area. Within the Facilities, use of licensed materials was confined to 21,061 square feet in the Danac-5 Building and 26,700 square feet in the Danac-4 Building.

In 2004, the Licensee ceased licensed activities within the facilities and initiated a survey and decontamination of them. Based on the Licensee's historical knowledge of the site and the conditions of the Facilities, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release of the Facilities.

In addition, a historical review of the Facilities identified that within the area subsequently occupied by the Licensee in the Danac-4 Building, Flow Laboratories, Inc. was also licensed from May 18, 1967, until May 31, 1972, to use unsealed byproduct material for purposes of conducting laboratory tracer studies on laboratory bench tops and in hoods. The license for Flow Laboratories, Inc. expired on May 31, 1972, and no surveys were then performed. However, the assessment that was conducted by the Licensee included areas previously used by Flow Laboratories, Inc, and there is no indication that such use prevents the criteria in Subpart E of 10 CFR Part 20 for unrestricted release from being met.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facilities, and seeks their unrestricted use.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facilities shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: hydrogen-3, carbon-14, chlorine-36, and calcium-45. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas affected by these radionuclides.

The Licensee conducted final status surveys on December 11 through 15, 2005, and in January 2009, covering all laboratories, counting rooms, hallways, animal facilities, and offices located in the Facilities. The final status survey report was attached to the Licensee's amendment request dated February 5, 2009. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC–Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facilities. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facilities. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facilities for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facilities and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the requirements of 10 CFR 20.1402 for unrestricted release are met here. Additionally, denying the amendment

request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the State of Maryland's Department of the Environment's Air and Radiation Management Administration and Hazardous Waste Administration for review on July 30, 2009. On August 31, 2009, the State of Maryland's Department of the Environment's Air and Radiation Management Administration and Hazardous Waste Administration responded by e-mail. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. Letter dated February 5, 2009, requesting amendment (ML090440394);
2. Letter dated October 6, 2008, providing additional information (ML082910930);
3. Historical Assessment received July 10, 2009 (ML092110007);
4. Mercury decontamination results dated October 9, 2007 (ML092160003);
5. Document received August 24, 2009, providing additional information (ML092360695);
6. Document received August 24, 2009, providing instrument calibrations (ML092360704);
7. Document received August 24, 2009, providing instrument calibrations (ML092360751);
8. Document received August 24, 2009, providing instrument calibrations (ML092360759);
9. Document received August 24, 2009, providing instrument calibrations (ML092360764);
10. Document received August 24, 2009, providing instrument calibrations (ML092580244);
11. Document received September 1, 2009 describing survey plan (ML092510133);
12. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance;''
13. Title, 10 *Code of Federal Regulations,* Part 20, Subpart E, ''Radiological Criteria for License Termination;''
14. Title 10, *Code of Federal Regulations,* Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions;'' and
15. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC–Licensed Nuclear Facilities.''

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I, 475 Allendale Road, King of Prussia, PA this 8th day of October 2009.

For the Nuclear Regulatory Commission.

Pamela J. Henderson,

Branch Chief, Medical Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E9–24979 Filed 10–15–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0457]

Office of New Reactors; Interim Staff Guidance on Implementation of a Seismic Margin Analysis for New Reactors Based on Probabilistic Risk Assessment

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Solicitation of public comment.

SUMMARY: The NRC staff is soliciting public comment on its Proposed Interim Staff Guidance (ISG) DC/COL–ISG–020 titled ''Interim Staff Guidance on Implementation of a Seismic Margin Analysis for New Reactors Based on Probabilistic Risk Assessment, ''(Agencywide Documents Access and Management System (ADAMS) Accession No. ML092650342). This ISG supplements the guidance provided to the staff in Section 19.0 of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants,'' issued March 2007 and DC/COL–ISG–03, ''Probabilistic Risk Assessment Information to Support Design Certification and Combined License Applications,'' dated June 11, 2008 (ADAMS Accession No. ML081430087) concerning the review of probabilistic risk assessment (PRA) information and severe accident assessments submitted to support design certification (DC) and combined license (COL) applications. The NRC staff intends to incorporate the final approved DC/COL–ISG–020 into the next revision of SRP Section 19.0 and Regulatory Guide 1.206, ''Combined License Applications for Nuclear Power Plants (LWR Edition),'' June 2007.

DATES: Comments must be filed no later than 30 days from the date of publication of this notice in the **Federal Register**. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only 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–

0457 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC website and on the Federal rulemaking Web site at *http://www.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 Website: Go to *http://www.Regulations.gov* and search for documents filed under Docket ID: NRC–2009–0457. Address questions about NRC dockets to Carol Gallagher at 301–492–3668; e-mail at *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.

The NRC ADAMS provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail at *pdr.resource@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. William F. Burton, Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone at 301–415–6332 or e-mail at *william.burton@nrc.gov.*

SUPPLEMENTARY INFORMATION: The agency posts its issued staff guidance in the agency external web page (*http://www.nrc.gov/reading-rm/doc-collections/isg/*).

The NRC staff is issuing this notice to solicit public comments on the proposed DC/COL–ISG–020. After the NRC staff considers any public comments, it will make a determination regarding the proposed DC/COL–ISG–020.

Dated at Rockville, Maryland, this 8th day of October 2009.

For the Nuclear Regulatory Commission,

William F. Burton,

Chief, Rulemaking and Guidance Development Branch, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. E9–24977 Filed 10–15–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

[OMB Control No. 3206–0034; RI 30–2]

Submission for OMB Review; Request for Review of a Revised Information Collection:

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a revised information collection. This information collection, ''Annuitant's Report of Earned Income'' (OMB Control No. 3206–0034; Form RI 30–2), is used annually to determine if disability retirees under age 60 have earned income which will result in the termination of their annuity benefits.

We estimate 21,000 RI 30–2 forms are completed annually. The RI 30–2 takes approximately 35 minutes to complete for an annual burden of 12,250 hours.

For copies of this proposal, contact Cyrus S. Benson by telephone (202) 606–4808, FAX (202) 606–0623 or by E-mail to *Cyrus.Benson@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

James K. Freiert, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3500, and

OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725 17th Street, NW., Room 10235, Washington, DC 20503.

For information regarding administrative coordination contact: Cyrus S. Benson, Team Leader, Publications Team, RIS Support Services/Support Group, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H28, Washington, DC 20415, (202) 606–0623.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. E9–24847 Filed 10–15–09; 8:45 am]

BILLING CODE 6325–38–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, October 22, 2009 at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting scheduled for Thursday, October 22, 2009 will be:

institution and settlement of injunctive actions; institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: October 14, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–25037 Filed 10–14–09; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Notice

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on October 21, 2009, at 10 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

The Commission will consider recommendations to propose amendments to the regulatory requirements that apply to non-public trading interest, including so-called ''dark pools'' of liquidity. The recommended proposals are to: (1) Amend the definition of ''bid'' or ''offer '' in Regulation NMS under the Securities Exchange Act of 1934 (''Exchange Act'') to address actionable indications of interest; (2) amend the display obligations of alternative trading systems in Regulation ATS under the Exchange Act; and (3) amend the joint-industry plans for disseminating consolidated trade data.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: October 14, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–25048 Filed 10–14–09; 4:15 pm]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0070]

Future Systems Technology Advisory Panel Meeting

AGENCY: Social Security Administration (SSA)

ACTION: Notice of fifth panel meeting.

DATES: November 5, 2009, 8:30 a.m.–5 p.m. and November 6, 2009, 8:30 a.m.–12 p.m.

Location: Omni Shoreham Hotel.

ADDRESSES: 2500 Calvert Street, NW., Washington, District of Columbia 20008.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting is open to the public.

Purpose: The Panel, under the Federal Advisory Committee Act of 1972, as amended, (hereinafter referred to as ''the FACA'') shall report to and provide the Commissioner of Social Security independent advice and recommendations on the future of systems technology and electronic services at the agency five to ten years into the future. The Panel will recommend a road map to aid SSA in determining what future systems technologies may be developed to assist in carrying out its statutory mission. Advice and recommendations can relate to SSA's systems in the area of Internet application, customer service, or any other arena that would improve SSA's ability to serve the American people.

Agenda: The Panel will meet on Thursday, November 5, 2009 from 8:30 a.m. until 5 p.m. and Friday, November 6, 2009 from 8:30 a.m. to 12 p.m. The agenda will be available on the Internet at *http://www.ssa.gov/fstap/index.htm* or available by e-mail or fax on request, one week prior to the starting date.

During the fifth meeting, the Panel may have experts address items of interest and other relevant topics to the Panel. This additional information will further the Panel's deliberations and the effort of the Panel subcommittees.

Public comments will be heard on Thursday, November 5, 2009, from 4:30 p.m. until 5 p.m. Individuals interested in providing comments in person should contact the Panel staff as outlined below to schedule a time slot. Members of the public must schedule a time slot in order to comment. In the event public comments do not take the entire scheduled time period, the Panel may use that time to deliberate or conduct other Panel business. Each individual providing public comment will be acknowledged by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute, verbal presentation. In addition to or in lieu of public comments provided in person, written comments may be provided to the panel for their review and consideration. Comments in written or oral form are for informational purposes only for the Panel. Public comments will not be specifically addressed or receive a written response by the Panel.

For hearing impaired persons and those in need of sign language services please contact the Panel staff as outlined below at least 10 business days prior to the meeting so that timely arrangements can be made to provide this service.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

Mail addressed to SSA, Future Systems Technology Advisory Panel, Room 800, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–0001; Telephone at 410–966–4150; Fax at 410–965–0201; or E-mail to FSTAP@ssa.gov.

Dated: October 8, 2009.

Dianne L. Rose,

Designated Federal Officer, Future Systems Technology Advisory Panel.

[FR Doc. E9–24919 Filed 10–15–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending September 26, 2009

The following Agreements were filed with the Department of Transportation under Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1383 and 1384), and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2009–0227.

Date Filed: September 21, 2009.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 610—Resolution 010j—TC3 Special Passenger Amending Resolution between China (excluding Hong Kong SAR and Macao SAR) and Japan (Memo 1318). Intended Effective Date: October 1, 2009.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E9–24784 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice Providing Guidance on Reimbursement of Passenger Expenses Incurred as a Result of Lost, Damaged or Delayed Baggage

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice Providing Guidance on Reimbursement of Passenger Expenses Incurred as a Result of Lost, Damaged or Delayed Baggage.

SUMMARY: The Department is publishing the following notice providing guidance on air carrier contract terms and policies relating to reimbursement of passenger expenses incurred in connection with lost, damaged or delayed baggage.

FOR FURTHER INFORMATION CONTACT: Nicholas Lowry, Attorney, Office of Aviation Enforcement and Proceedings (C–70), 1200 New Jersey Ave., SE., Washington, DC 20590, (202) 366–9349.

United States of America

Department of Transportation

Office of the Secretary

Washington, DC

Guidance on Reimbursement of Passenger Expenses Incurred as a result of Lost, Damaged or Delayed Baggage

Notice

This notice is intended to give guidance to air carriers on their policies relating to the reimbursement of passengers' expenses in cases where baggage has been lost, damaged or delayed. We have learned that a number of airlines have adopted policies that purport to limit reimbursement for such expenses in a variety of ways.

These policies may be contained in contracts of carriage or, more often, in informal printed advisory handouts available from ticket counters or carrier agents. For example, we are aware of one such advisory handout that denies any reimbursement ''for necessities'' where the baggage is ''expected'' to reach the passenger within 24 hours of filing a delayed baggage report and limits reimbursement to actual expenses up to a fixed maximum amount per day after the first day. Also, some carriers may be providing reimbursement to passengers for incidental expenses incurred only after the outbound leg of a roundtrip.

The Department's baggage liability rule, 14 CFR part 254, contains no such limitations, and it is the enforcement policy of the Office of Aviation Enforcement and Proceedings (Aviation Enforcement Office) to consider any arbitrary limits on expense reimbursement incurred in cases involving lost, damaged or delayed baggage to violate part 254 and to constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. 41712. Section 254.4 states that an air carrier ''shall not limit its liability for *provable direct or consequential damages* [emphasis added]'' relating to lost, damaged or delayed baggage to less than $3,300 per passenger. To meet the requirements of part 254 and the requirements implicit in 49 U.S.C. 41712, carriers should remain willing to cover all reasonable, actual and verifiable expenses related to baggage loss, damage or delay up to the amount stated in part 254.

Carriers should, therefore, review their contracts of carriage and any supplemental printed materials with respect to provisions for reimbursement of direct or incidental expenses related to baggage loss, damage or delay. These should not include terms setting arbitrary limits on reimbursement, apart from those set forth in part 254. If appropriate, carriers should promptly modify any printed documents, such as internal procedures and guidance and consumer informational materials, to conform to the Department's rules and this guidance. After 90 days from the date of issue of this notice, the Aviation Enforcement Office will pursue enforcement action in appropriate cases where unlawful reimbursement policies are not corrected. Questions regarding this notice may be addressed to the Office of Aviation Enforcement and Proceedings (C–70), U.S. Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590.

Dated: October 9, 2009.

Dayton Lehman Jr.,

Deputy Assistant General Counsel for Aviation Enforcement and Proceedings.

An electronic version of this document is available at http://www.regulations.gov.

[FR Doc. E9–24982 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Service Difficulty Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Operators and repair stations are required to report any malfunctions and defects to the Administrator.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Service Difficulty Report.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0663.

Forms(s): 8070–1.

Affected Public: A total of 7,695 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 9 minutes per response.

Estimated Annual Burden Hours: An estimated 6,107 hours annually.

Abstract: The administrator has determined, based on evaluation of previous accidents arid other incidents, that certain events involving malfunctions and defects may be precursors to the recurrence of these accidents. As a result, operators and repair stations are required to report any malfunctions and defects to the Administrator.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24750 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The information collected is needed for the applicant's noise certification compliance report in order to demonstrate compliance with 14 CFR part 36.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Noise Certification Standards for Subsonic Jet Airplanes and Subsonic Transport Category Large Airplanes.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0659.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 10 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 135 hours per response.

Estimated Annual Burden Hours: An estimated 1,350 hours annually.

Abstract: Sections A36.5.2 and A36.5.2.5 of the Federal Aviation Administration (FAA) noise certification standards for subsonic jet airplanes and subsonic transport category large airplanes (14 CFR part 36) contain information collection requirements. The information collected is needed for the applicant's noise certification compliance report in order to demonstrate compliance with part 36.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility: The accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division. AES–200.

[FR Doc. E9–24751 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Type Certification Procedures for Changed Products

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This rule may require applicants to comply with the latest regulations in effect on the date of application for amended Type Certificates (TC) or a Supplemental TCs for aeronautical products.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Type Certification Procedures for Changed Products.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0657.

Forms(s): There are no FAA forms associated with this collection.

Affected Public: A total of 2,558 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 7.35 hours per response.

Estimated Annual Burden Hours: An estimated 18,815 hours annually.

Abstract: This rule may require applicants to comply with the latest regulations in effect on the date of application for amended Type Certificates (TC) or a Supplemental TCs for aeronautical products. They now may incur an additional incremental administrative cost to determine the level of significance of the product change.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division. AES–200.

[FR Doc. E9–24752 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Aviation Research Grants Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information

collection. The FAA Aviation Research and Development Grants Program establishes uniform policies and procedures for the award and administration of research grants to colleges, universities, not for profit organizations, and profit organizations for security research.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Aviation Research Grants Program.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0559.

Form(s): SF–3881, 9550–5, SF–269, SF–270, SF–272, SF–424.

Affected Public: A total of 100 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 6.5 hours per response.

Estimated Annual Burden Hours: An estimated 650 hours annually.

Abstract: The FAA Aviation Research and Development Grants Program establishes uniform policies and procedures for the award and administration of research grants to colleges, universities, not for profit organizations, and profit organizations for security research. This program implements OMB Circular A–110, Public Law 101–508, Section 9205 and 9208 and Pub. L. 101–604, Section 107(d).

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24753 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Passenger Facility Charge (PFC) Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. 49 U.S.C. 40117 authorizes airports to impose passenger facility charges (PFC).

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Passenger Facility Charge (PFC) Application.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0557.

Form(s): 5500–1.

Affected Public: A total of 450 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 10 hours per response.

Estimated Annual Burden Hours: An estimated 24,025 hours annually.

Abstract: 49 U.S.C. 40117 authorizes airports to impose passenger facility charges (PFC). This program requires public agencies and certain members of the aviation industry to prepare and submit applications and reports to the FAA. This program provides additional funding for airport development which is needed now and in the future.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24754 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Bird/Other Wildlife Strike Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Wildlife strike data are collected to develop standards and monitor hazards to aviation.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Bird/Other Wildlife Strike Report.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0045.

Form(s): 5200–7.

Affected Public: A total of 7,133 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 5 minutes per response.

Estimated Annual Burden Hours: An estimated 592 hours annually.

Abstract: Wildlife strike data are collected to develop standards and monitor hazards to aviation. Data identify wildlife strike control requirements and provide in service data on aircraft component failure. The FAA form 5200–7, Bird/Other Wildlife Strike Report, is most often completed by the pilot-in-charge of an aircraft involved in a wildlife collision or by Air Traffic Control Tower personnel, or other airline or airport personnel who have knowledge of the incident.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24755 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Domestic and International Flight Plans

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection.

Information is collected to provide services to aircraft inflight and protection of persons/property on the ground.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Domestic and International Flight Plans.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0026.

Forms(s): 7233–1, 7233–4.

Affected Public: A total of 300,000 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 1 minute per response.

Estimated Annual Burden Hours: An estimated 287,447 hours annually.

Abstract: Title 49 U.S.C., paragraph 40103(b) authorizes regulations governing the flight of aircraft. 14 CFR 91 prescribes requirements for filing domestic and international flight plans. Information is collected to provide services to aircraft in flight and protection of persons/property on the ground.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24757 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Recording of Aircraft Conveyances and Security Documents

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Approval is needed for security reasons such as mortgages submitted by the public for recording against aircraft, engines, propellers, and spare parts locations.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Recording of Aircraft Conveyances and Security Documents.

Type of Request: Extension without change of an approved collection. OMB Control Number: 2120–0043.

Form(s): 8050–41.

Affected Public: A total of 45,469 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 1 hour per response.

Estimated Annual Burden Hours: An estimated 45,469 hours annually.

Abstract: Approval is needed for security reasons such as mortgages submitted by the public for recording against aircraft, engines, propellers, and spare parts locations.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information

collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24758 Filed 10–15–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Human Space Flight Requirements for Crew and Space Flight Participants

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The FAA has established requirements for human space flight crew and space flight participants as required by the Commercial Space Launch Amendments Act of 2004.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Human Space Flight Requirements for Crew and Space Flight Participants.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0720.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 5 respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 4 hours per response.

Estimated Annual Burden Hours: An estimated 2,975 hours annually.

Abstract: The FAA has established requirements for human space flight crew and space flight participants as required by the Commercial Space Launch Amendments Act of 2004. This rulemaking established requirements for crew qualifications, training and notification, and training and informed consent requirements for space flight participants. The rulemaking also modified existing financial responsibility requirements to account for space flight participants, crew, and FAA's new authority to issue an experimental permit.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24759 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Extended Operations (ETOPS) of Multi-Engine Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The rule codified previous practices that permitted certificated air carriers to operate two-engine airplanes over long-range routes.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Extended Operations (ETOPS) of Multi-Engine Airplanes.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0718.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 6 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 3 hours per response.

Estimated Annual Burden Hours: An estimated 106,587 hours annually.

Abstract: The rule codified previous practices that permitted certificated air carriers to operate two-engine airplanes over long-range routes.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24760 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; National Air Tour Safety Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This final rule sets safety and oversight rules for a broad variety of sightseeing and commercial air tour flights.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: National Air Tour Safety Standards.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0717.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 3,480 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 3.5 minutes per response.

Estimated Annual Burden Hours: An estimated 33,569 hours annually.

Abstract: This final rule sets safety and oversight rules for a broad variety of sightseeing and commercial air tour flights.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24761 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Application for Employment With the Federal Aviation Administration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This collection is necessary for gathering data concerning potential new hires for the FAA.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Application for Employment with the Federal Aviation Administration.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0597.

Form(s): 3330–42, 3330–52, OF 304, 3330–43–1. AF–SRG–005, AF–SRG–002, 3330–43, AF SRG–001, OPM 1635, 54972, AC–3300–70, 3330–473, AF–SRG–007, 3330–71, ASG–MFG–001, OF 612, SF 15, AF–SRG–004, OPM–1170, AF–SRG–003, AF–SRG–006, AF 3330.1A. 52569, FTP 001. 2105–0557.

Affected Public: A total of 81,526 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.5 hours per response.

Estimated Annual Burden Hours: An estimated 123,000 hours annually.

Abstract: This collection of information is necessary for gathering data concerning potential new hires for the FAA. The information will be used to evaluate the qualifications of applicants for a variety of positions. Without this information there would be no reliable means to accurately evaluate applicants' skills, knowledge, and abilities to perform the duties of these positions.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24762 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Anti-Drug Program for Personnel Engaged in Specified Aviation Activities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. The FAA uses this information for determining program compliance or non-compliance of regulated aviation employers, oversight planning, determining who must

provide annual MIS testing information, and communicating with entities subject to the program regulations.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Anti-Drug Program for Personnel Engaged in Specified Aviation Activities.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0535.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 7,000 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 4.3 minutes per response.

Estimated Annual Burden Hours: An estimated 22,902 hours annually.

Abstract: The FAA uses this information for determining program compliance or noncompliance of regulated aviation employers, oversight planning, determining who must provide annual MIS testing information, and communicating with entities subject to the program regulations. In addition, the information is used to ensure that appropriate action is taken in regard to crew members and other safety-sensitive employees who have tested positive for drugs or alcohol, or have refused to submit to testing.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents. including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24763 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Notice of Landing Area Proposal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. FAR Part 157 requires that each person who intends to construct, deactivate, or change the status of an airport, runway, or taxiway must notify the FAA of such activity.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov*.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Notice of Landing Area Proposal.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0036.

Form(s): 7480–1.

Affected Public: A total of 1,500 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 45 minutes per response.

Estimated Annual Burden Hours: An estimated 1,125 hours annually.

Abstract: FAR Part 157 requires that each person who intends to construct, deactivate, or change the status of an airport, runway, or taxiway must notify the FAA of such activity. The information collected provides the basis for determining the effect the proposed action would have on existing airports and on the safe and efficient use of airspace by aircraft, the effects on existing or contemplated traffic patterns of neighboring airports, the effects on the existing airspace structure and projected programs of the FAA, and the effects that existing or proposed manmade objects (on file with the FAA) and natural objects within the affected area would have on the airport proposal.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24764 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Representatives of the Administrator, 14 CFR Part 183

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. Title 49, United States Code, Section 44702 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, test and certify other persons for the purpose of issuing them pilot and instructor certificates.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Representatives of the Administrator, 14 CFR part 183.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0033.

Form(s): 8110–14, 8110–28, 8710–6, 8710–10.

Affected Public: A total of 5,015 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.4 hours per response.

Estimated Annual Burden Hours: An estimated 7,098 hours annually.

Abstract: Title 49, United States Code, Section 44702 authorizes the appointment of appropriately qualified persons to be representatives of the Administrator to allow those persons to examine, test and certify other persons for the purpose of issuing them pilot and instructor certificates.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24765 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Pilot Schools—FAR 141

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. 49 CFR Part 44707 authorizes certification of civilian schools giving instruction in flying. Information collected is used for certification and to determine applicant compliance.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Pilot Schools—FAR 141.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0009.

Form(s): 8420–8.

Affected Public: A total of 546 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 54.5 hours per response.

Estimated Annual Burden Hours: An estimated 29,770 hours annually.

Abstract: 49 CFR Part 44707 authorizes certification of civilian schools giving instruction in flying. Information collected is used for certification and to determine applicant compliance.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24768 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Request Revision From the Office of Management and Budget of a Currently Approved Information Collection Activity, Request for Comments; Safe Disposition of Life-Limited Aircraft Parts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget (OMB) to approve a current information collection. This action responds to the Wendall Fl. Ford Investment and Reform Act for the 21st Century by requiring that all persons who remove any life-limited aircraft part have a method to prevent the installation of that part after it has reached its life limit.

DATES: Please submit comments by December 15, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney on (202) 267–9895, or by e-mail at: *Carla.Mauney@faa.gov.*

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Safe Disposition of Life-Limited Aircraft Parts.

Type of Request: Extension without change of an approved collection.

OMB Control Number: 2120–0665.

Form(s): There are no FAA forms associated with this collection.

Affected Public: A total of 8,000 Respondents.

Frequency: The information is collected on occasion.

Estimated Average Burden per Response: Approximately 1.04 hours per response.

Estimated Annual Burden Hours: An estimated 104,000 hours annually.

Abstract: This action responds to the Wendall H. Ford Investment and Reform Act for the 21st Century by requiring that all persons who remove any life-limited aircraft part have a method to prevent the installation of that part after it has reached its life limit. This action reduces the risk of life-limited parts being used beyond their life limits. This action would also require that manufacturers of life-limited parts provide marking instructions when requested.

ADDRESSES: Send comments to the FAA at the following address: Ms. Carla Mauney, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 8, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–24769 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2009–0103]

Agency Information Collection Activities: Notice of Correction to a Previously Approved Information Collection Titled: Federal Highway Administration (FHWA) State Reports for American Recovery and Reinvestment Act (RECOVERY ACT)

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of correction.

SUMMARY: The FHWA is advising the public about a correction to a previously approved request for information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. The correction concerns executive compensation reporting requirements under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, February 17, 2009) (Recovery Act). We published a **Federal Register** Notice with a 30-day public comment period on this information collection on July 30, 2009. This correction does not increase the information collection burden. No revision to the approved information collection request is needed.

DATES: This notice is effective immediately.

ADDRESSES: You may submit comments identified by DOT Docket ID Number FHWA–2009–0103 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

Hand Delivery or Courier: 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. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Dougherty, 202–366–9474, Office of Policy and Governmental Affairs, HPTS, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Federal Highway Administration (FHWA) State Reports for American Recovery and Reinvestment Act (RECOVERY ACT), OMB Control # 2125–0623.

Background: The Recovery Act provides the State Departments of Transportation and Federal Lands Agencies with $27.5 billion for highway infrastructure investment. With these funds also comes an increased level of data reporting with the stated goal of improving transparency and accountability at all levels of government. According to President Obama *''Every American will be able to hold Washington accountable for these decisions by going online to see how and where their tax dollars are being spent.''* The Federal Highway Administration (FHWA) in concert with the Office of the Secretary of Transportation (OST) and the other modes within the U.S. Department of Transportation (DOT) will be taking the appropriate steps to ensure that this accountability and transparency is in place for all infrastructure investments.

The July 30, 2009, notice incorrectly advised that States are required to provide information on the five most highly compensated officers of States' vendors for all Recovery Act projects. The executive compensation reporting requirement, contained in section 1512(c)(4) of the Recovery Act, does not apply to vendors. The executive compensation reporting requirement does apply to States, as prime recipients under the Recovery Act's Highway Infrastructure Investment appropriation. The requirement also applies to any sub-recipients of the States. The terms ''prime recipient'', ''sub-recipient'', ''vendor'', and ''compensation'' are defined, and further information is provided on the executive compensation reporting requirement, in guidance issued by the President's Office of Management and Budget titled ''Implementing Guidance for Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009'' (June 22, 2009) and Supplements 1 and 2 thereto. These documents are available at *http://www.whitehouse.gov/omb/memoranda_default/*.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: October 6, 2009.

Tina Campbell,

Acting Chief, Management Programs and Analysis Division.

[FR Doc. E9–24916 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–21036]

Mr. Zev Marmurstein—Continuance in Control—R.W. Express, LLC

AGENCY: Surface Transportation Board.

ACTION: Notice of Finance Application.

SUMMARY: On September 16, 2009, Mr. Zev Marmurstein (Applicant), a noncarrier, filed an application under 49 U.S.C. 14303 to acquire control of R.W. Express, LLC (RW Express), a motor passenger carrier (MC–474958). Applicant is also seeking control, through an intermediate entity known as City Sights Twin, LLC (City Sights

Twin), of Twin America, LLC (Twin America) once that carrier obtains motor carrier authority,[1] in *Stagecoach Group PLC and Coach USA, Inc., et al.—Acquisition of Control—Twin America, LLC,* STB Docket No. MC–F–21035 (STB served Sept. 18, 2009).[2] Persons wishing to oppose this application must follow the rules at 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by November 30, 2009. Applicants may file a reply by December 15, 2009. If no comments are filed by November 30, 2009, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–21036 to: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, send one copy of comments to Applicant's representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave., NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Julia Farr, (202) 245–0359 [Federal Information Relay (FIRS) for the hearing impaired: 1–800–877–8339].

SUPPLEMENTARY INFORMATION: Applicant is an individual who attained control of RW Express in 2003 when he attained a 48% interest in its stock. Applicant's sister owns a 3% share and a corporate entity, Continental Air Transport Company I, owns a 49% share. Applicant states that he serves as the president of RW Express, directs the day-to-day operations, and is engaged in major managerial decisions. According to Applicant, RW Express operates a fleet of 65 vehicles and drivers and provides charter service within New York and between New York and points in nearby states.

Applicant is also the sole member and owner of City Sights Twin, a noncarrier formed for the purpose of owning an interest in Twin America. Applicant, along with City Sights Twin, Stagecoach Group PLC, its intermediate subsidiaries, Coach USA, Inc., and International Bus Services, seek control of Twin America in *Stagecoach Group PLC and Coach USA, Inc., et al.—Acquisition of Control—Twin America, LLC,* STB Docket No. MC–F–21035, served and published in the **Federal Register** on September 18, 2009 (74 FR 47985–86). The Board did not grant tentative authority in that proceeding, but instead instituted a proceeding to address matters raised by the application.

According to Mr. Marmurstein, he was previously unaware that under 49 U.S.C. 14303(a)(5), Board approval is required for the acquisition of control of a carrier by a person that is not a motor passenger carrier, but that controls any number of such carriers. Accordingly, he is filing this application in anticipation of Board approval in STB Docket No. MC–F–21035. If the filing in STB Docket No. MC–F–21035 is not approved, this request is moot.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction found to be consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of the affected carrier employees.

Applicant has submitted the information required by 49 CFR 1182.2, and submitted a statement that the 12-month aggregate gross operating revenues of RW Express exceed the $2 million jurisdictional threshold of 49 U.S.C. 14303(g). Applicant states that the proposed transaction will not affect the adequacy of transportation services available to the public because the charter/tour bus segment is competitive, the proposed transaction will not adversely impact competition, and this agency's prior finding regarding low entry barriers in this segment continues to be accurate. Applicant states that the proposed transaction will not adversely impact fixed charges because RW Express will continue to be controlled by Mr. Marmurstein as it was prior to this application. According to Applicant, the employees of RW Express will not be adversely affected. Additional information, including a copy of the application, may be obtained from Applicant's representative.

On the basis of the application, we find that the proposed acquisition is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated, and unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at: *http://www.stb.dot.gov*.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed finance transaction is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this notice will be deemed as having been vacated.

3. This notice will be effective November 30, 2009, unless timely opposing comments are filed.

4. A copy of this decision will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 950 Pennsylvania Avenue, NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue, SE., Washington, DC 20590.

Decided: October 13, 2009.

By the Board, Chairman Elliott, Vice Chairman Nottingham, and Commissioner Mulvey.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–24931 Filed 10–15–09; 8:45 am]

BILLING CODE 4915–01–P

[1] Twin America is in the process of applying with the Federal Motor Carrier Safety Administration (FMCSA) to be a registered motor passenger carrier. It holds USDOT number 1924173 and has been assigned docket number MC–688284 by FMCSA.

[2] In that proceeding, the Board published notice of the application but did not grant tentative authority under 49 CFR 1182.4(b).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in Ohio

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to a proposed highway project, the Cleveland Innerbelt Project, within the City of Cleveland, Cuyahoga County, Ohio. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway

project will be barred unless the claim is filed on or before April 14, 2010. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Herman Rodrigo, Office Director, Office of Engineering and Operations, Federal Highway Administration, 200 North High Street, Room 328, Columbus, Ohio 43215; telephone: (614) 280–6896; e-mail: *ohio.fhwa@dot.gov;* FHWA Ohio Division Office's normal business hours are 8 a.m. to 4:30 p.m. (eastern time). You may also contact Mr. Craig K. Hebebrand, PE, Project Manager, Ohio Department of Transportation (ODOT), District 12, 5500 Transportation Blvd., Garfield Heights, Ohio 44125; telephone: (216) 584–2113; e-mail: *Craig.Hebebrand@dot.state.oh.us;* ODOT District 12's normal business hours are 8 a.m. to 4:30 p.m. (eastern time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following major highway improvement project in the State of Ohio: The Cleveland Innerbelt Project provides for the major reconstruction and reconfiguration of Interstates 71 and 90, the I–90/I–77 interchange, the intersecting and overlapping local roadways, intersections, and interchanges, and the transitional connections to adjoining radial freeways and roadways. The Cleveland Innerbelt is routed across the Cuyahoga River valley and around the south and east sides of downtown Cleveland, Ohio. The Project length is approximately 3.24 miles. The Project's three main termini are located approximately at: (1) The merge/diverge point of State Route 176, (the Jennings Freeway) and Interstate 71 southwest of downtown, (2) the Pershing Avenue interchange on Interstate 77 south of downtown, and; (3) east of the Interstate 90/State Route 2 interchange east of downtown along the shore of Lake Erie and adjacent to the Burke Lakefront Airport. The current estimated Project cost to implement Alternative A, the approved environmentally preferred alternative, is $2.7 to $3.5 billion, based upon expected year of expenditure. Implementation is expected to occur in phases over the period from 2010 to 2033. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Cleveland Innerbelt Project, CUY—71/90—16.79/14.90, PID 77510, Conceptual Alternatives Study, dated and accepted on August 11, 2006, the Draft Environmental Impact Statement/Section 4(f) Evaluation, approved on March 3, 2009, the March 2009 Interchange Justification Study, the Final Environmental Impact Statement/Section 4(f) Evaluation, approved on July 22, 2009, and the Record of Decision, Section 4(f) Approval, and Interchange Justification Study Approval issued on September 18, 2009, and in other documents specifically incorporated into the listed documents by reference or by extension which in total constitute the Project environmental record. The Project environmental record and other Project records reside within the FHWA and ODOT administrative record/Project files. Project records are available for review by contacting either the FHWA or the ODOT at the addresses provided above. All of the above records as expressly listed are available for review on, and for downloading from, the Project's Web site as maintained by the ODOT District 12 Office in Garfield Heights, Ohio which is located within the City of Cleveland metro area. The Project Web site address is as follows: *http://www.dot.state.oh.us/projects/ClevelandUrbanCoreProjects/Innerbelt/Pages/default.aspx.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109, 23 U.S.C. 128 and 23 U.S.C. 139].
2. Design: Federal-Aid Highway Act [23 U.S.C. 101 and 23 U.S.C. 109] FHWA, February 11, 1998 Interstate Access Policy: Additional Interchanges to the Interstate System.
3. Air: Clean Air Act, 42 U.S.C. 7401–7671(q).
4. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Federal-Aid Highway Act [23 U.S.C. 138]; Landscaping and Scenic Enhancement (Wildflowers) [23 U.S.C. 319].
5. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536]; Marine Mammal Protection Act [16 U.S.C. 1361]; Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)]; Migratory Bird Treaty Act [16 U.S.C. 703–712].
6. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–(11)]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
7. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].
8. Wetlands and Water Resources: Clean Water Act (Section 404, Section 401, Section 319) [33 U.S.C. 1251–1377]; Land and Water Conservation Fund (LWCF) [16 U.S.C. 4601–4604]; Safe Drinking Water Act (SDWA) [42 U.S.C. 300(f)–300(j)(6)]; Rivers and Harbors Act of 1899 [33 U.S.C. 401–406]; Wild and Scenic Rivers Act [16 U.S.C. 1271–1287]; Emergency Wetlands Resources Act [16 U.S.C. 3921, 3931]; Wetlands Mitigation [23 U.S.C. 103(b)(6)(M) and 133(b)(11)]; Flood Disaster Protection Act [42 U.S.C. 4001–4128].
9. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: October 1, 2009.

Patrick A. Bauer,

Acting Division Administrator, Columbus, Ohio.

[FR Doc. E9–24321 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation Advisory Board

Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the

Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held from 3 p.m. to 4 p.m. (EDT) on Monday, October 26, 2009, via conference call at the Corporation's Administration Headquarters, Suite W32–300, 1200 New Jersey Avenue, SE., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than Friday, October 23, 2009, Anita K. Blackman, Chief of Staff, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue, SE., Washington, DC 20590; 202–366–0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on October 8, 2009.

Collister Johnson, Jr.,

Administrator.

[FR Doc. E9–24810 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Safety Advisory 2009–02

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Safety Advisory 2009–02; Inspection of Bottom Outlet Valves and Assemblies.

SUMMARY: FRA is issuing Safety Advisory 2009–02 to ensure that tank cars with defective or inoperable bottom outlet valves are not loaded with hazardous materials and offered for transportation, or in the event that a bottom outlet valve becomes inoperable en route, adequate unloading procedures are followed to prevent any unintended release of the car's contents. This safety advisory recommends specific loading and unloading procedures for hazardous materials tank cars equipped with bottom outlet valves, as well as the inspection, and as necessary, the repair of these valves.

FOR FURTHER INFORMATION CONTACT: Albert R. Taber or Erich P. Rudolph, Railroad Safety Specialists, Hazardous Materials Division, FRA Office of Safety Assurance and Compliance, 1200 New Jersey Avenue, SE., Washington, DC 20590 (telephone: (202) 493–6254, e-mail: *Albert.Taber@dot.gov;* or telephone (202) 493–6248, e-mail: *Erich.Rudolph@dot.gov).*

SUPPLEMENTARY INFORMATION:

Background

By way of the one-time movement approval process (Title 49 Code of Federal Regulations (CFR) 174.50), FRA has documented approximately 390 service equipment failures of bottom outlet valves since 2004. One hundred and eight of these failures occurred in calendar year 2008 alone, and to date in 2009, approximately 110 failures have already occurred. FRA believes that these documented failures do not reflect the entire population of bottom outlet failures that occur each year, as many may go unreported.

As exemplified by documented incidents of bottom outlet failures, a defective or inoperable bottom outlet valve may lead to the unintended release of a tank car's contents during the unloading process. As an example, on October 28, 2004, at Techsol Chemical Company, in Huntington, WV, more than 22,000 gallons of a Class 3 hazardous material was released during the unloading of a tank car equipped with a bottom outlet valve. The release was determined to be the result of a bottom outlet valve clogged with sludge, and an unloading procedure that failed to detect the inoperative valve. On May 31, 2008, approximately 170,000 lbs of a Class 9 elevated temperature material was released during the unloading of a tank car equipped with a bottom outlet valve. The elevated temperature material had been heated to approximately 280 °F for unloading and although the individual unloading the car reportedly observed the bottom outlet valve handle secured and in the closed position, as that individual removed the bottom outlet cap, hot steamed resin was released from the bottom outlet, splashing the unloader. The resin released at a rate of approximately 160 gallons per minute and the unloader suffered first- and second-degree burns from contact with the material. The release was determined to be the result of a bent bottom outlet valve handle, which allowed the internal valve to be in the open position, and unloading procedures that failed to detect the inoperative valve. More recently, on May 13, 2009, approximately 23,500 gallons of hot asphalt, a Class 9 hazardous material, was released during the unloading of a tank car equipped with a bottom outlet valve. In this case, because the valve operating handle was improperly applied to the valve assembly, the handle appeared to be in the closed position, but the internal valve was actually in the open position. Accordingly, this release was determined to be the result of the improperly applied valve handle, and loading and unloading procedures that failed to detect the improperly assembled valve.

FRA believes that the occurrence of bottom outlet valve failures could be significantly reduced by (1) ensuring that certain procedures are followed during the tank car loading and unloading process, and (2) ensuring that a proper preliminary examination of the valve assembly is performed after a tank car is cleaned and purged, and before the car is loaded and offered for transportation.

FRA's recommendations in this safety advisory take into consideration the typical operational steps involved in loading/unloading tank cars equipped with bottom outlet valves, regardless of whether the valve is ''top-operated'' or controlled by a valve-mounted handle (''bottom-operated''). Generally, the bottom outlet cap or plug should not be removed from a tank car's bottom outlet discharge nozzle until it is ascertained that the bottom outlet valve is actually closed and functioning properly. In accordance with Appendix E of the Association of American Railroads' (AAR) Tank Car Committee Tank Car Manual,[1] tank car bottom outlet caps and plugs are designed to provide tell-tale warnings upon loosening if a bottom outlet valve is not functioning properly. Accordingly, the design of bottom outlet discharge nozzles and closures allows any product that has accumulated between the bottom outlet operating valves and the bottom outlet closure cap or plug (*i.e.,* in the outlet chamber) to drain in a safe and controlled manner. Once it is determined, by using the relationship of the handle to the valve as an indicator, that the bottom outlet valve is in the closed position, a person unloading a tank car should loosen the bottom outlet cap a few turns, leaving sufficient threads engaged, and allowing the passage of sufficient time to permit the controlled seepage of any liquid accumulated in the outlet chamber. If a tank car is equipped with an auxiliary

[1] AAR, Operations and Maintenance Department, Mechanical Division, ''Manual of Standards and Recommended Practices Section C Part III–Specifications for Tank Cars M–1002'' (revised annually).

valve below the primary bottom outlet valve, that auxiliary valve should be in the open position, with its cap/plug removed, allowing an unloader to determine whether the primary valve is functioning properly. Once this accumulated product has drained out around the closure, the leakage should stop. This is an indication that the bottom outlet valve is functioning properly and that it is safe for the unloader to proceed with removing the bottom outlet cap or plug (a properly functioning bottom outlet valve in the closed position will contain the contents of the car on its own).

If, however, leakage continues upon the loosening of a bottom outlet cap or plug, or there is an excessive amount of product drainage, this is an indication that the primary bottom outlet valve is not functioning properly (e.g., the valve may be defective, debris may be clogging the valve seat area and/or assembly components, or the valve is otherwise failing to function properly). Accordingly, the bottom outlet valve cap or plug should not be completely removed. Instead, the cap or plug should be secured and the tank should be unloaded from the fittings on top of the car. Unless FRA has granted a movement approval pursuant to 49 CFR 174.50, tank cars identified with bottom outlet valves not functioning properly cannot be offered into transportation in compliance with the Hazardous Materials Regulations (HMR) (49 CFR Parts 171–180).

The proper functioning of the bottom outlet valve is critical during the unloading of hazardous materials tank cars. Prior to June 1, 2005, the tank car unloading requirements of Part 174 of the HMR applied to all hazardous material tank car unloading operations. These requirements were set forth in Section 174.67 of the HMR and included certain procedural requirements. Specifically, Section 174.67(g) required that during tank car unloading operations, if leakage was apparent upon starting the removal of a tank's bottom outlet cap, the cap may not be entirely unscrewed. Instead, Section 174.67(g) required that ''[s]ufficient threads * * * be left engaged and sufficient time allowed to permit controlled escape of any accumulation of liquid in the outlet chamber.'' Only if the leakage stopped or the rate of leakage diminished materially, could the bottom outlet cap be entirely removed in accordance with Section 174.67(g). That section further provided that ''[i]f the initial rate of leakage continues, further efforts must be made to seat the outlet valve * * *. If this fails, the [bottom outlet cap] must be screwed up tight and the tank must be unloaded through the dome.''

On April 15, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule, which modified the HMR's applicability to certain tank car unloading processes. See 72 FR 20018. The end result of this final rule was that the requirements of Section 174.67 related to the protection of train and engine crews operating within a shipper or consignee facility were consolidated in Part 173 of the HMR, and the remaining procedural requirements of Section 174.67, including paragraph (g), became applicable only to transloading operations (i.e., the transfer of a hazardous material from one packaging to another for the purpose of continuing transportation in commerce). Although the HMR currently only explicitly requires that the procedures of Section 174.67(g) be followed during transloading operations, FRA recommends that persons responsible for unloading hazardous materials tank cars equipped with bottom outlet valves follow these procedures in all tank car unloading operations in order to detect an inoperable or defective bottom outlet valve, which could lead to an unintended release of a car's contents during the unloading process.

The proper functioning of the bottom outlet valve is also critical during the loading of railroad hazardous materials tank cars. Prior to July 1, 1996, the HMR specifically required that ''[t]anks with bottom discharge outlets must have their outlet caps off, or outlet cap plugs open, during the entire time tanks are being loaded.'' See 49 CFR 173.31(b) (1994). That same section of the HMR also prohibited tanks with bottom outlet valves which, after loading, permitted more than a dropping of the liquid contents of the tank with the outlet caps off, or the outlet cap plugs open, from being offered for transportation until proper repairs had been made. On September 21, 1995, the Research and Special Program Administration (RSPA), now known as PHMSA, published a final rule, developed jointly with FRA, that ''revised and reorganized for clarity'' 49 CFR 173.31, which addressed the qualification, maintenance, and use of tank cars. See 68 FR 49048, 49067 (effective July 1, 1996). RSPA's stated intent in revising and reorganizing 49 CFR 173.31 was to ''align[ ] the inspection requirements in * * * 173.31(b) with the design and operations requirements'' generally applicable for packagings and packages in 49 CFR 173.24. *Id.* at 49064. RSPA intended the revision to ''clarify [the inspection requirements'] full intent, foster compliance with safety standards, and improve hazardous materials transportation safety.'' *Id.* The rule was not intended to substantively modify the previous requirements of 49 CFR 173.31(b).

Although explicit language no longer appears in the HMR requiring bottom outlet caps to be off or outlet cap plugs to be open during the loading process, or prohibiting loaded tank cars, with more than a dropping of liquid with their outlet caps off or outlet cap plugs open, from being offered for transportation until repairs have been made, the requirements of 49 CFR 173.24 remain the same. Specifically, 49 CFR 173.24 requires that packages used for the transportation of hazardous materials be ''designed, constructed, maintained, filled, * * * contents so limited, and closed, so that under conditions normally incident to transportation * * * there will be no identifiable release of hazardous materials to the environment.'' Accordingly, FRA recommends that persons responsible for loading tank cars equipped with bottom outlet valves follow the inspection and operational procedures recommended below in order to detect an inoperable or defective bottom outlet valve, which could lead to an unintended release of the car's contents during transportation or during the process of loading or unloading the car.

FRA reminds those responsible for loading and unloading railroad tank cars that the United States Department of Labor Occupational Safety and Health Administration's rule regarding process safety management of highly hazardous chemicals (29 CFR 1910.119), the U.S. Environmental Protection Agency's risk management plan regulations (40 CFR Part 68), and other standards and rules of these agencies may also apply to tank car loading and unloading operations in certain circumstances.

Recommended Action: Based on the necessity to reduce the number and severity of incidences due to bottom outlet valve failures and to enhance the public's confidence in the safety of hazardous materials transportation by rail, FRA makes the following recommendations:

1. Loading a Railroad Tank Car Equipped With a Bottom Outlet Valve or Valves

Persons responsible for loading a tank car equipped with a bottom outlet valve or valves should:

2. operate the bottom-outlet valve handle(s) to verify proper operation. Once proper operation has been

verified, the valve(s) should be closed and secured, as appropriate.

3. ensure that the tank has its bottom outlet cap off, or outlet plug open, during the entire time the tank is being loaded.

4. ensure that bottom outlet auxiliary valve(s) (if a tank car is so equipped) is open during the entire time the tank is being loaded.

5. ensure that after loading, a tank with a bottom outlet valve that permits more than a dropping of the liquid contents of the car with the outlet cap off, or the outlet cap plug open, is not offered for transportation until proper repairs have been made.

2. Unloading a Railroad Tank Car Equipped With a Bottom Outlet Valve or Valves

Persons responsible for unloading a tank car equipped with a bottom outlet valve or valves should:

6. confirm that the bottom outlet valve is closed before loosening the bottom outlet cap or plug. If it cannot be confirmed that the bottom outlet valve is closed, the valve cap or plug should not be removed. Instead, the tank car should be unloaded through the fittings on top of the car, and corrective action taken to repair the bottom outlet valve.

7. ensure that during the unloading process, if leakage shows upon starting the removal of the bottom outlet cap or plug, the cap or plug should not be entirely unscrewed. Sufficient threads should be left engaged and sufficient time allowed to permit controlled escape of any accumulation of liquid in the outlet chamber. If the leakage stops, the cap or plug may be entirely removed. If leakage continues, further efforts must be made to seat the outlet valve. If this fails, the cap must be screwed up tight (or the plug secured), the tank must be unloaded through the fittings on top of the car, and corrective action must be taken to repair the bottom outlet valve.

3. Cleaning and Purging of a Railroad Tank Car Equipped With Bottom Outlet Valves

Persons responsible for the cleaning and purging of tank cars equipped with bottom outlet valves, should ensure that after the cleaning and purging process is complete, the bottom outlet valves and valve assemblies are examined for debris or obstructions prior to releasing the cars for further transportation.

Sources for Additional Information

Questions concerning the operation and maintenance of bottom outlet valves should be referred to the car owner for special instructions to ensure continued reliability of the bottom outlet valve. For specific literature on loading/unloading tank cars, refer to the AAR's Pamphlet No. 34 titled, ''Recommended Methods for the Safe Loading and Unloading of Non-Pressure Tank Cars.''

For purposes of this safety advisory, FRA seeks cooperation from the entities who are responsible for determining that tank cars are in proper condition and safe for transportation. FRA will continue to monitor the status of tank cars equipped with bottom outlet valves in hazardous materials transportation and will take any necessary regulatory or enforcement action to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC, on October 9, 2009.

Jo Strang,

Associate Administrator for Railroad Safety/ Chief Safety Officer.

[FR Doc. E9–24927 Filed 10–15–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Open Meeting of the President's Economic Recovery Advisory Board (the PERAB)

AGENCY: Departmental Offices.

ACTION: Notice of open meeting.

SUMMARY: The President's Economic Recovery Advisory Board will meet on November 2, 2009, in the White House Roosevelt Room, 1600 Pennsylvania Avenue, NW., Washington, DC, beginning at 10 a.m. Eastern Time. The meeting will be open to the public via live Webcast at *http://www.whitehouse.gov/live.*

DATES: The meeting will be held on November 2, 2009 at 10 a.m. Eastern Time.

ADDRESSES: The PERAB will convene its next meeting in the White House Roosevelt Room, 1600 Pennsylvania Avenue, NW., Washington, DC. The public is invited to submit written statements to the Advisory Committee by any of the following methods:

Electronic Statements

• Send written statements to the PERAB's electronic mailbox at *PERAB@do.treas.gov;* or

Paper Statements

• Send paper statements in triplicate to Emanuel Pleitez, Designated Federal Officer, President's Economic Recovery Advisory Board, Office of the Under Secretary for Domestic Finance, Room 1325A, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

In general, all statements will be posted on the White House Web site (*http://www.whitehouse.gov*) without change, including any business or personal information provided such as names, addresses, e-mail addresses, or telephone numbers. The Department will also make such statements available for public inspection and copying in the Department's Library, Room 1428, Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–0990. All statements, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Emanuel Pleitez, Designated Federal Officer, President's Economic Recovery Advisory Board, Office of the Under Secretary for Domestic Finance, Department of the Treasury, Main Department Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, at (202) 622–2610.

SUPPLEMENTARY INFORMATION: In accordance with Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. II, § 10(a), and the regulations thereunder, Emanuel Pleitez, Designated Federal Officer of the Advisory Board, has ordered publication of this notice that the PERAB will convene its next meeting on November 2, 2009, in the White House Roosevelt Room, 1600 Pennsylvania Avenue, NW., Washington, DC, beginning at 10 a.m. Eastern Time. The meeting will be broadcast on the Internet via live webcast at *http://www.whitehouse.gov/live.* The purpose of this meeting is to continue discussion of the issues impacting the strength and competitiveness of the Nation's economy. The discussion will include an update on the research and preparatory work conducted in the PERAB subcommittees. The PERAB will provide information and ideas obtained from across the country to promote the growth of the American economy, establish a stable and sound financial and banking system, create jobs, and improve the long-term prosperity of the American people.

Dated: October 14, 2009.

Andrew Mayock,

Executive Secretary.

[FR Doc. E9–25038 Filed 10–15–09; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting applications for the FY 2009 funding round of the Financial Education and Counseling (FEC) Pilot Program.

Announcement Type: Announcement of funding opportunity.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.010.

DATES: Applications for financial assistance through the FY 2009 funding round of FEC Pilot Program must be received by 5 p.m. Eastern Time (ET), November 19, 2009.

Executive Summary: This NOFA is issued in connection with the FY 2009 funding round of the FEC Pilot Program. Through the FEC Pilot Program, the Community Development Financial Institutions Fund (the CDFI Fund) shall provide grants to Eligible Organizations to provide a range of Financial Education and Counseling Services to Prospective Homebuyers. The goals of grants that are awarded through the FEC Pilot Program are to identify successful methods of Financial Education and Counseling Services that result in Positive Behavioral Change for financial empowerment, and to establish program models for organizations to implement measurably effective Financial Education and Counseling Services to Prospective Homebuyers.

I. Funding Opportunity Description

A. Through the FEC Pilot Program, authorized pursuant to Section 1132 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289), the CDFI Fund provides financial assistance awards to Eligible Organizations to provide a range of Financial Education and Counseling Services to Prospective Homebuyers.

B. *Definitions:* For the purposes of this NOFA, the following terms shall have the following definitions:

1. *Act* means section 1132(c) of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289).

2. *Affiliate* means any company or entity that Controls, is Controlled by, or is under common Control with another company.

3. *Applicant* means any Eligible Organization.

4. *Application* means the CDFI Fund's funding application form, including any written or verbal information in connection therewith and any attachments, appendices and/or written or verbal supplements thereto, submitted by the Awardee to the CDFI Fund in response to this NOFA.

5. *Assistance Agreement* means the formal agreement between the CDFI Fund and an Awardee that includes the terms and conditions of the FEC Pilot Program award.

6. *Awardee* means an Applicant selected by the CDFI Fund to receive an FEC Pilot Program grant.

7. *Collaborative Effort* means a joint effort by two or more Eligible Organizations to carry out Financial Education and Counseling Services to Prospective Homebuyers, as described in the Application and as evidenced by a written agreement among the entities for the Performance Period. The Collaborative Effort must designate the entity that will serve as the primary FEC Pilot Program point of contact for the CDFI Fund, and that will serve as signatory to the Assistance Agreement, receive and allocate award disbursements, and report on behalf of the collaborative.

8. *Community Development Financial Institution* (or CDFI) means an entity certified as a CDFI by the CDFI Fund pursuant to the CDFI Program regulations set forth at 12 CFR 1805.201.

9. *Control* means: (i) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting securities of any company, directly or indirectly or acting through one or more other persons; (ii) control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of any company; or (iii) the power to exercise, directly or indirectly, a controlling influence over the management, credit or investment decisions, or policies of any company.

10. *Credit Union* means any credit union that is: (i) Regulated by, and/or the member accounts of which are insured by, a State agency or instrumentality; or (ii) a cooperative association organized in accordance with provisions of the Federal Credit Union Act, chapter 14 of title 12 of the United States Code (12 U.S.C. 1751).

11. *Eligible Organization* means an entity that: (i) Is certified by the Department of Housing and Urban Development (HUD) as Housing Counseling Agencies, in accordance with section 106(e)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) or is certified by the Office of Financial Education (OFE) of the Department of the Treasury, in accordance with section 1132(c)(2) of the Act; and (ii) meets the minimum threshold requirements, as specified in Section III(b)(2) of this NOFA, necessary to demonstrate that it has the experience and ability to provide Financial Education and Counseling Services to Prospective Homebuyers that result in documented Positive Behavioral Changes.

12. *Financial Education and Counseling Pilot Program* (or FEC Pilot Program) means the program created pursuant to the Act, as implemented through this NOFA.

13. *Financial Education and Counseling Services* means activities that increase the financial knowledge and decision-making capabilities of Prospective Homebuyers. Such education and counseling services shall prepare or assist Prospective Homebuyers to develop monthly budgets, build personal savings, finance or plan for major purchases, reduce personal debt, improve financial stability, and set and reach financial goals. Such services may include: Helping Prospective Homebuyers to improve their credit scores by understanding the relationship between credit histories and credit scores; and educating Prospective Homebuyers about the options available to build savings for short- and long-term goals.

14. *HUD Housing Counseling Agency* means an entity that is currently certified and maintains its certified status in accordance with section 106(e)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)) through the Performance Period.

15. *Intermediary Organization* means an Eligible Organization whose strategy for delivering Financial Education and Counseling services to Prospective Homebuyers is to provide support, through financial or technical assistance, to other organizations that will, in turn, provide Financial Education and Counseling services directly to Prospective Homebuyers.

16. *Local government* means a city, town, township, county, parish, village, or other general purpose political subdivision of a State or Federal Territory, or a general purpose political subdivision thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction.

17. *Low-income* means a family or individual income that does not exceed 50 percent of the median income of the area in which they reside, as determined by the Secretary of Housing and Urban

Development, with adjustments for smaller and larger families pursuant to section 102(a)(20) of the Housing and Community Development Act, the pertinent provisions of which are codified at 42 U.S.C. 5302(a)(20).

18. *Low-wealth* means a Net Worth below the national median as defined by the Federal Reserve Board's most recently published Survey of Consumer Finances. For more information concerning the Survey of Consumer Finances, please refer to *http://www.federalreserve.gov/pubs/oss/oss2/scfindex.html.*

19. *Moderate-income* means a family or individual income that exceeds 50 percent, but does not exceed 80 percent, of the median income of the area in which they reside, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families pursuant to section 102(a)(20) of the Housing and Community Development Act, the pertinent provisions of which are codified at 42 U.S.C. 5302(a)(20).

20. *Net Worth* means assets less liabilities.

21. *Performance Period* means the period beginning with the effective date of the Assistance Agreement and includes an Awardee's three full consecutive fiscal years after such effective date, during which the Awardee must meet performance goals set forth in the Assistance Agreement, or such other period as may be established by the CDFI Fund.

22. *Positive Behavioral Changes* means changes in activities, especially measurable changes, reflecting increased financial knowledge (what consumers know) and management skills (what consumers do). Such changes include, but are not limited to, increasing savings, engaging in short- or long-term financial planning, tracking expenses and income, and better managing credit.

23. *Prospective Homebuyer* means an individual of at least 18 years of age who, at the time of initial receipt of Financial Education and Counseling Services funded in whole or in part through an award under the FEC Pilot Program: (i) Is Low-Income, Moderate-Income, and/or Low-Wealth; and (ii) does not currently own, hold title to, or pay a mortgage on a residence.

24. *State government* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any Federal territory, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction.

25. *Subsidiary* means any company which is owned or Controlled directly or indirectly by another company.

26. *Tribal government* means a unit of local government that is established to act on behalf of Native American, Alaskan Native, and Native Hawaiian people, or is a political subdivision that is designated by the chief executive of the jurisdiction to act on behalf of the rights associated with residents of a federally recognized Indian Reservation or of Hawaiian Home Lands as defined by the Hawaiian Homes Commission Act (42 Stat. 108) or members of corporations designated under the Alaska Native Claims Settlement Act (43 U.S.C. 1601).

II. Award Information

A. *Funding Availability:* Through this NOFA, the CDFI Fund expects that it will award not more than five grants in the aggregate amount of $2 million in FY 2009 appropriated funds. The CDFI Fund expects that each FEC Pilot Program grant will be made in the amount of $400,000; and accordingly, each Applicant is required to apply for a grant in the amount of $400,000. However, the CDFI Fund reserves the right to provide any grant in an amount other than $400,000 or in an amount other than that which the Applicant requests. The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

B. Detailed Application content requirements are found in the FEC Pilot Program Application and related guidance materials.

C. The primary purposes of the FEC Pilot Program are: (i) To identify successful methods of Financial Education and Counseling Services that result in Positive Behavioral Changes for financial empowerment of Prospective Homebuyers; and (ii) to establish program models for organizations to implement measurably effective Financial Education and Counseling Services to Prospective Homebuyers.

D. To achieve such purposes, the CDFI Fund will award FEC Pilot Program grants to Eligible Organizations that provide Financial Education and Counseling Services to Prospective Homebuyers with the goals of: (i) Increasing the financial knowledge and decision-making capabilities of Prospective Homebuyers; (ii) assisting Prospective Homebuyers to develop monthly budgets, build personal savings, finance or plan for major purchases, reduce personal debt, improve financial stability, and set and reach financial goals; (iii) helping Prospective Homebuyers to improve their credit scores by understanding the relationship between credit histories and credit scores; and (iv) educating Prospective Homebuyers about the options available to build savings for short- and long-term goals.

E. Awardees will be selected based upon factors which include, but are not limited to, their experience and ability to provide Financial Education and Counseling Services to Prospective Homebuyers which result in documented Positive Behavioral Changes (*see* Section V. B.—C., below, for Criteria and Review and Selection Process).

F. *Uses of Funds:* In general, eligible uses of FEC Pilot Program awards include all allowable expenses as defined by Office of Management and Budget (OMB) Circular A–122, ''Cost Principles For Non-Profit Organizations,'' and OMB Circular A–87, ''Cost Principles for State, Local, and Indian Tribal Governments,'' related to the administration, operation, and implementation of a Financial Education and Counseling Services program. For example, eligible uses may include, but are not limited to, the following:

1. *Personnel (Salary):* An Awardee may use FEC Pilot Program grant funds to cover the salary paid currently or accrued for services rendered by permanent or temporary staff in carrying out a distinct project or for a set period during the Performance Period. The CDFI Fund will only cover salary for duties that are related to the purpose of the award. Compensation paid for employees engaged in activities funded with a FEC Pilot Program grant must be consistent with that paid for similar work for other Awardee employees.

2. *Personnel (Fringe Benefits):* An Awardee may use FEC Pilot Program grant funds to cover the fringe benefits paid currently or accrued for services rendered by permanent or temporary staff in carrying out a distinct project or for a set period during the Performance Period. Fringe benefits are for personnel listed in Personnel (Salary) and only for the percentage of time devoted to the FEC Pilot Program-related activities during the Performance Period. Fringe benefits on overtime hours are limited to FICA, Workman's Compensation, and Unemployment Compensation. Fringe benefits provided to employees engaged in activities funded with a FEC Pilot Program grant must be consistent with that paid for similar work for other Awardee employees.

3. *Professional Service Costs (Consulting and Contracts):* An Awardee may use FEC Pilot Program grant funds to acquire external expertise that will

directly further the purposes and activities of its Financial Education and Counseling Services.

4. *Materials and Supplies:* An Awardee may use FEC Grant Program grant funds to purchase supplies and/or to produce materials that will directly further the purposes and activities of its Financial Education and Counseling Services. Generally, supplies include any materials that are expended or consumed over time.

5. *Equipment and Other Capital Expenditures:* An Awardee may use FEC Pilot Program grant funds to acquire new equipment or to enhance existing equipment that will directly further the purposes and activities of its Financial Education and Counseling Services.

6. *Other Program Expenses:* An Awardee may use FEC Pilot Program grant funds to cover other direct expenses allowable under OMB Circular A–122 and OMB Circular A–87, including direct payments made to the recipients of the Awardee's Financial Education and Counseling Services (*e.g.,* contributions to a matched savings account; compensation for participating in follow-on surveys; reimbursement for expenses associated with attending training sessions; etc.). For all other costs outlined in OMB Circular A–122 and OMB Circular A–87, the Awardee must demonstrate to the satisfaction of the CDFI Fund that the activity will be directly linked to its Financial Education and Counseling Services. Awardees are expected to use a portion of FEC Pilot Program grant funds to finance costs related to evaluating the impact of the Financial Education and Counseling Services on the financial knowledge, and change of skills and behavior, of Prospective Homebuyers. Such uses may include development and implementation of assessment tools, including both short-term and longitudinal assessments, and other research on effectiveness of particular program activities.

7. *Indirect Costs:* An Awardee may use no more than fifteen percent (15%) of FEC Pilot Program grant funds to cover indirect expenses allowable under OMB Circular A–122 and OMB Circular A–87.

G. FEC Pilot Program grant funds must be used to support the Awardee's activities: grant funds cannot be used to support the activities of, or otherwise be ''passed through'' to third-party entities, including Affiliates or Subsidiaries, without the prior written permission of the CDFI Fund. Notwithstanding this general prohibition against passing through funds to other entities, Intermediary Organizations shall be permitted to apply for FEC Pilot Program grant funds in furtherance of their strategy to support other providers of Financial Education and Counseling Services to Prospective Homebuyers, provided that such funds are not used to provide financial or technical assistance to any other organization (or its Affiliates) that receives a FEC Pilot Program grant through the FY 2009 funding round.

H. *Assistance Agreement:* Each Awardee under this NOFA must sign an Assistance Agreement in order to receive a disbursement of award proceeds from the CDFI Fund. The Assistance Agreement contains the terms and conditions of the award. For further information, see Section VI.A. of this NOFA.

III. Eligibility Information

A. *Eligible Applicants:* An Applicant must be an Eligible Organization in order to be eligible to receive an FEC Pilot Program award. In addition, as described further below, in order to be deemed eligible for an FEC Pilot Program award, an Eligible Organization must demonstrate that it meets certain minimum threshold requirements with respect to its experience and ability to provide Financial Education and Counseling Services to Prospective Homebuyers that result in documented Positive Behavioral Changes.

1. *Eligibility Specifications:*

(a) *HUD Housing Counseling Agencies:* To be eligible for an award through this NOFA, a HUD Housing Counseling Agency must be certified as such in accordance with section 106(e)(1) of the Housing and Urban Development Act of 1968 (912 U.S.C. 1701x(e)), as of November 19, 2009 and must maintain its status as a HUD Housing Counseling Agency through the Performance Period.

(b) *State, Local, and Tribal governments:* State, Local, and Tribal governments must provide applicable documentation in the form specified in the Application.

(c) *CDFIs:* To be eligible for an award through this NOFA, a CDFI must be certified as a CDFI by the CDFI Fund as of November 19, 2009 and must maintain its CDFI certification throughout the Performance Period.

(d) *Credit Unions:* To be eligible for an award through this NOFA, a Credit Union must have received its Credit Union charter by or before November 19, 2009 and must maintain its status as a Credit Union throughout the Performance Period.

2. *Experience and Ability:* In order to be deemed an Eligible Organization by the Office of Financial Education (OFE), an organization must demonstrate that, at the time of Application submission, it has the requisite experience and ability to provide Financial Education and Counseling Services to Prospective Homebuyers that result in documented Positive Behavioral Changes. As specified further in the Application, an entity must demonstrate that: (i) It has been providing Financial Education and Counseling Services for a period of at least three years immediately prior to the Application deadline; (ii) it has at least two full-time equivalent positions dedicated to the development and/or delivery of Financial Education and Counseling Services (this may include the time of more than two staff persons, board members, or outside contractors totaling 75.0 hours or more per week); (iii) it has provided Financial Education and Counseling Services (either directly or, in the case of an Intermediary Organization, indirectly) to at least 100 Potential Homebuyers in calendar year 2008 or to an average of at least 150 Potential Homebuyers per year over the three calendar years prior to the Application deadline, and tracked Positive Behavioral Change outcomes with respect to such services; and (iv) at the time of Application, it has budget resources of at least $50,000 dedicated to the provision of Financial Education and Counseling Services. Entities that cannot satisfy each of these four requirements do not meet the minimum requisite experience and ability to administer an FEC Pilot Program award, and will not be eligible for FEC Pilot Program awards.

3. *Eligibility Reviews:* Eligibility reviews will be completed at the time of Application submission, based on the Application.

4. *Applications Submitted as Part of a Collaborative Effort:* In such circumstances, the Collaborative Effort must identify in the Application the lead organization that will serve as the primary administrator of the FEC Pilot Program award. This lead organization must be able to assert that it can satisfy each of the four threshold criteria identified in Section III.A.2., above.

5. *Entities That Submit Applications Together with Affiliates or Subsidiaries; Applications From Common Enterprises:* If an Applicant and its Affiliates or Subsidiaries wish to submit Applications, they must do so collectively, in one Application; an Applicant and its Affiliates or Subsidiaries may not submit separate Applications. If Affiliated or Subsidiary entities submit multiple Applications, the CDFI Fund reserves the right either to reject all such Applications received or to select a single Application as the only Application considered for a grant.

For purposes of this NOFA, in addition to assessing whether Applicants are Affiliates or Subsidiaries, the CDFI Fund will consider whether Applicants constitute a common enterprise. For the purposes of this NOFA, a common enterprise may exist: (i) Where the activities described in Applications submitted by separate entities are, or will be, operated and/or managed such that, in fact or effect, they may be viewed as a single entity; (ii) where the Applications submitted by separate entities contain significant narrative, textual or other similarities; or (iii) where the strategies and/or activities described in Applications submitted by separate entities are so closely related, in fact or effect, they may be viewed as substantially identical Applications. In such cases, the CDFI Fund reserves the right: to reject all Applications received from all such entities; to select a single Application as the only one that will be considered for an award; and/or, in the event that an Application is selected to receive an award, to deem certain activities ineligible.

B. *Limitations on Awards:* Awardees are required to account for the use of all FEC Pilot Program award dollars. FEC Pilot Program award funds cannot be used to cover expenses of any same activities for which the Awardee has received, or will receive, awards from other sources of federal financial assistance; notwithstanding this limitation, FEC Pilot Program award funds can be used to increase the population served by the Awardee, and/or to increase the scope of the Awardee's Financial Education and Counseling Services. Intermediary Organizations that receive FEC Pilot Program awards may not use those dollars to provide assistance to other FEC Pilot Program awardees (or their Affiliates) that receive awards through this funding round.

C. *Matching Funds:* There are no matching fund requirements for the FEC Pilot Program.

IV. Application and Submission Information

A. *MyCDFIFund Accounts:* All Applicants must register User and Organization accounts in myCDFIFund, the CDFI Fund's Internet-based interface. An Applicant must be registered as both a User and an Organization in myCDFIFund as of the Application deadline in order to be considered to have submitted a complete Application. As myCDFIFund is the CDFI Fund's primary means of communication with Applicants and Awardees, organizations must make sure that they update the contact information in their myCDFIFund accounts before the Application deadline. For more information on myCDFIFund, please see the ''Frequently Asked Questions'' link posted at *https://www.cdfifund.gov/myCDFI/Help/Help.asp.*

B. *Applications Submitted via myCDFIFund:* Applicants must submit Applications under this NOFA electronically, through myCDFIFund, the CDFI Fund's Internet-based interface. No paper submittals or attachments will be accepted. Applications sent by mail, facsimile or other form will generally not be accepted, except in circumstances approved in advance by the CDFI Fund, in its sole discretion. The CDFI Fund will post to its Web site at *http://www.cdfifund.gov* instructions for accessing and submitting Applications as soon as they become available.

C. *Application Content Requirements:* Detailed Application content requirements are found in the Application and guidance materials. Each Applicant must provide, as part of its Application, a Dun and Bradstreet Data Universal Numbering System (DUNS) number pursuant to OMB guidance (68 FR 38402). In addition, each Application must include a valid and current Employer Identification Number (EIN). Applicants should allow sufficient time for the IRS and/or Dun and Bradstreet to respond to inquiries and/or requests for identification numbers. An Application that does not include an EIN is incomplete and cannot be transmitted to the CDFI Fund. The preceding sentences do not limit the CDFI Fund's ability to contact an Applicant for the purpose of obtaining clarifying or confirming application information such as a DUNS number or EIN information. Once an Application is submitted, the Applicant will not be allowed to change any element of the Application.

D. *Application Deadlines:* The FEC Pilot Program Application must be submitted to the CDFI Fund, in accordance with the instructions provided in the Application guidance materials, by no later than 5 p.m. ET on November 19, 2009. Applicants and potential Applicants with technical or programmatic questions must contact the CDFI Fund by 5 p.m. ET on November 17, 2009 in order to receive a response to their inquiries. The CDFI Fund will not respond to Applicants and potential Applicants that submit questions after this date until after the Application deadline.

E. *Paperwork Reduction Act:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the Application has been assigned the following control number: [1559–0034].

F. *Late Delivery:* The CDFI Fund will neither accept a late Application nor any portion of an Application that is late; an Application that is late, or for which any portion is late, will be rejected. The CDFI Fund will not grant exceptions or waivers. Any Application that is deemed ineligible will not be returned to the Applicant.

G. *Intergovernmental Review:* Not applicable.

H. *Funding Restrictions:* For allowable uses of FEC Pilot Program award proceeds, please see Section II.F. above.

V. Application Review Information

A. *Format:* Applications must be single-spaced and use a 12-point font with 1-inch margins. Each section in the Application that is reviewed has recommended page limitations. Applicants are encouraged to read each section carefully and to remain within the page limitations for each section. There is also an absolute page limitation of 25 pages for the entire Application. The CDFI Fund will not consider responses beyond the 25 page limitation. Also, the CDFI Fund will read only information requested in the Application and will not read attachments that have not been specifically requested in this NOFA or the Application.

B. *Criteria:* Applicants will be evaluated across several key areas:

1. *Implementation Plan:* The Applicant must provide a detailed, successful strategy for developing and delivering innovative Financial Education and Counseling Services to Prospective Homebuyers. The Applicant is required to identify and describe, among other things: (i) Its particular target market; (ii) the types of Financial Education and Counseling Services that the Applicant will provide to its target market, including any proposed innovations that will enhance the likelihood of success within the Performance Period; (iii) the need and demand for such services among the target market; and (iv) the delivery strategy for providing such services to the target market, including how it collaborates with other entities, and any proposed innovations that will enhance the likelihood of success within the Performance Period.

2. *Proposed Impacts:* The Applicant must be able to demonstrate that the effective delivery of its proposed Financial and Education Counseling Services will result in documented Positive Behavioral Changes among Prospective Homebuyers. To this end, the Applicant must identify and describe, among other things: (i) Its benchmarks for measuring Positive Behavioral Changes; (ii) its strategy for tracking and documenting Positive Behavioral Changes over time; and (iii) the extent to which it believes its model, if successful, can be readily replicated by other providers of Financial Education and Counseling Services.

3. *Organizational Capacity:* The Applicant must demonstrate the ability and capacity to undertake its proposed delivery of the Financial Education and Counseling Services to Prospective Homebuyers, to measure and report on outcomes, and to manage its FEC Pilot Program award dollars. To this end, the Applicant will be required to identify and describe, among other things: (i) Its key personnel and staffing resources (current and proposed); (ii) its track record of providing Financial Education and Counseling Services and tracking program outcomes; (iii) its current financial condition, including results of recent audits; and (iv) its experience administering other federal government grant awards, if applicable.

4. *Budget/Sources and Use of Funds:* The Applicant must demonstrate that it has a strategy to effectively and efficiently make use of the FEC Pilot Program award dollars. To this end, the Applicant will be required to complete a table outlining its proposed sources and uses of funds, and to provide a narrative explanation of how its award dollars will be used to: (i) Further the development and delivery of its Financial Education and Counseling Services; (ii) track customer performance; (iii) evaluate program effectiveness; and/or (iv) facilitate program replication.

C. *Review and Selection Process:*

1. *Eligibility and Completeness Review:* The CDFI Fund will review each Application for completeness. The OFE will review each Application to determine whether the Applicant meets the eligibility requirements set forth in this NOFA. An incomplete Application does not meet eligibility requirements and will be rejected. Any Application that does not meet eligibility requirements will not be returned to the Applicant.

2. *Substantive Review:* If an Application is determined to be complete and the Applicant is determined to be an Eligible Organization, the CDFI Fund will conduct the substantive review of the Application in accordance with the criteria and procedures described in this NOFA, the Application, and any Application guidance. As part of the review process, the CDFI Fund may contact the Applicant by telephone, email, mail, or through an on-site visit for the sole purpose of obtaining clarifying or confirming Application information. The CDFI Fund reserves the right to collect such additional information from Applicants as it deems appropriate including, for example, copies of financial education curricula and organizational information. After submitting its Application, the Applicant will not be permitted to revise or modify its Application in any way nor attempt to negotiate the terms of an award. If contacted for clarifying or confirming information, the Applicant must respond within the time parameters set by the CDFI Fund.

3. *Application Review; Selection:* Awards will be made based on Applicants' experience and ability to provide Financial Education and Counseling Services to Prospective Homebuyers that result in documented Positive Behavioral Changes, in accordance with the criteria set forth above in Section V.B.

(a) *Application Review:* Applications will be sorted into peer groupings based on factors such as the delivery strategy used to provide Financial Education and Counseling Services and the target market (geographic or otherwise) that is identified. To the extent possible, based primarily on the number of Applications received, Applications will be reviewed by multiple reviewers. Reviewers will be assigned a set number of Applications within each peer grouping. With respect to each Application reviewed, the reviewer will give equal weight to all elements of the Application proposal (*i.e.,* each plan will be reviewed holistically—no one element will be scored higher or lower than any other element). Once the reviewer has completed all of his/her review assignments, he/she will provide a ranking of each Application relative to the other Applications that were reviewed.

(b) *Application Selection:* Once all Applications have been reviewed, those Applications that were ranked the highest by the reviewers will be reviewed by a selection committee. Each member of the selection committee will review and rate each of these Applications, and based upon their ratings, will select up to five organizations that will be provided with awards. As part of this process, the selection committee will take into consideration the diversity of the Awardee pool, to ensure to the extent practicable that a broad cross-section of geographic areas served, target markets and delivery strategies are represented.

(c) *Evaluating Prior Award Performance:* In the case of an Applicant that has received awards from any federal programs, the CDFI Fund reserves the right to contact officials from the appropriate federal agency or agencies to determine whether the Awardee is in compliance with current or prior award agreements, and to take such information into consideration before making an award under the FEC Pilot Program.

4. *Award Notification:* Each Applicant will be informed of the CDFI Fund's award decision either through a notification from the CDFI Fund if selected for an award or written declination if not selected for an award. The CDFI Fund will notify Awardees by e-mail using the addresses maintained in the Awardee's myCDFIFund account.

5. The CDFI Fund reserves the right to reject an application if information (including administrative errors) comes to the attention of the CDFI Fund that either adversely affects an Applicant's eligibility for an award, or adversely affects the CDFI Fund's evaluation or scoring of an Application, or indicates fraud or mismanagement on the part of an Applicant. If the CDFI Fund determines that any portion of the Application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate; if said changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's Web site. There is no right to appeal the CDFI Fund's award decisions. The CDFI Fund's award decisions are final.

VI. Award Administration Information

A. *Assistance Agreement:* Each Applicant that is selected to receive an award under this NOFA must enter into an Assistance Agreement with the CDFI Fund in order to receive disbursement of award proceeds. The Assistance Agreement will set forth certain required terms and conditions of the award, which will include but not be limited to: (i) The amount of the award; (ii) the type of award; (iii) the approved uses of the award; (iv) the approved target market to which the funded activity must be directed; (v) performance goals and measures; and

(vi) reporting requirements for all Awardees. Assistance Agreements under this NOFA generally will have three-year performance periods.

B. The CDFI Fund reserves the right, in its sole discretion, to terminate the Assistance Agreement and rescind an award if the Awardee fails to return the Assistance Agreement, signed by the authorized representative of the Awardee, and/or provide the CDFI Fund with any other requested documentation, within the deadlines set by the CDFI Fund. Each Awardee must provide the CDFI Fund with a certificate of good standing (or equivalent documentation) from its State (or jurisdiction) of incorporation.

C. *Reporting:*

1. *Reporting requirements:* The CDFI Fund will collect information, on at least an annual basis, from each Awardee which may include, but shall not be limited to: (i) Use of FEC Pilot Program award dollars; (ii) aggregated characteristics of individuals that received Financial Education and Counseling Services funded by FEC Pilot Program award dollars; and (iii) the extent to which the Awardee satisfied its performance goals and measures, to include measures of the effectiveness of the Awardee's strategy and ability to create Positive Behavioral Change among Prospective Homebuyers. Each Awardee is responsible for the timely and complete submission of such reports, even if all or a portion of the documents actually is completed by another entity or signatory to the Assistance Agreement. If such other entities or signatories are required to provide reports or other documentation that the CDFI Fund may require, the Awardee is responsible for ensuring that the information is submitted timely and complete. The CDFI Fund reserves the right to contact such additional entities or signatories to the Assistance Agreement and require that additional information and documentation be provided. The CDFI Fund will use such information to monitor each Awardee's compliance with the requirements set forth in the Assistance Agreement and to assess the impact of the FEC Pilot Program. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Awardees.

2. *Accounting:* The CDFI Fund will require each Awardee that receives an award through this NOFA to account for and track the use of the grant award. This means that for every dollar of an award received from the CDFI Fund, the Awardee will be required to inform the CDFI Fund of its uses. This will require Awardees to separately account for the proceeds and use of the award, subject to the applicable OMB Circulars. The CDFI Fund will provide guidance to Awardees outlining the format and content of the information to be provided on an annual basis, outlining and describing how the funds were used. Each Awardee that receives an award must provide the CDFI Fund with the required complete and accurate Automated Clearinghouse (ACH) form for its bank account prior to award closing and disbursement.

VII. Agency Contacts

A. The CDFI Fund will respond to questions and provide support concerning this NOFA and the Application between the hours of 9 a.m. and 5 p.m. ET, starting the date of the publication of this NOFA through two days prior to the Application deadline. The CDFI Fund will not respond to questions or provide support concerning the Applications that are received after 5 p.m. ET on said dates, until after the Application deadline. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's Web site at *http://www.cdfifund.gov.* The CDFI Fund will post responses on its Web site to questions of general applicability regarding the FEC Pilot Program.

B. The CDFI Fund's contact information is as follows:

TABLE 4—CONTACT INFORMATION

Fax number for all offices: 202–622–7754

Type of question	Telephone number (not toll free)	E-mail addresses
FEC Pilot Program	202–622–6355	*cdfihelp@cdfi.treas.gov*
Compliance, Monitoring and Evaluation	202–622–6330	*cme@cdfi.treas.gov*
Information Technology Support	202–622–2455	*IThelp@cdfi.treas.gov*

C. *Communication with the CDFI Fund:* The CDFI Fund will use the myCDFIFund Internet interface to communicate with Applicants and Awardees, using the contact information maintained in their respective myCDFIFund accounts. Therefore, the Applicant and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact person and authorized representative, e-mail addresses, fax numbers, phone numbers, and office addresses) in its myCDFIFund account(s). For more information about myCDFIFund (which includes information about the CDFI Fund's Community Investment Impact System), please see the Help documents posted at *http://www.cdfifund.gov/ciis/accessingciis.pdf.*

VIII. Information Sessions and Outreach

The CDFI Fund may conduct webinars or host information sessions for organizations interested in applying to, or learning about, the CDFI Fund's programs. For further information, please visit the CDFI Fund's Web site at *http://www.cdfifund.gov.*

Authority: Pub. L. 110–289.

Dated: October 9, 2009.

Jose Villar,

Chief Operating Officer, Community Development Financial Institutions Fund.

[FR Doc. E9–24861 Filed 10–15–09; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF VETERANS AFFAIRS

Performance Review Board Members

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice updates the VA Performance Review Board of the Department of Veterans Affairs that was published in the **Federal Register** on October 9, 2008 (Vol. 73, No. 197).

DATES: *Effective Date:* October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Dadrian Brown, Human Resources Specialist, Executive Resources, Office of Human Resources Management (052), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7078.

VA Performance Review Board (PRB)

John U. Sepúlveda, Assistant Secretary for Human Resources and Administration (Chairperson).

Michael Cardarelli, Deputy Chief of Staff.

Michael Walcoff, Deputy Under Secretary for Benefits, Veterans Benefits Administration.

Geraldine Breakfield, Associate Deputy Under Secretary for Management (Alternate).

Ann C. Patterson, VHA Deputy Chief of Staff.

Gerald M. Cross, M.D., FAAFP, Acting Under Secretary for Health, Veterans Health Administration (Alternate).

Robert Petzel, M.D., Acting Principal Deputy Under Secretary for Health (Alternate).

Steve L. Muro, Deputy Under Secretary for Memorial Affairs.

Lindee Lenox, Associate Director Office of Field Programs (Alternate).

Glenn D. Haggstrom, Executive Director, Office of Acquisitions, Logistics, and Construction.

Maurice C. Stewart, Associate Deputy Assistant Secretary for Acquisition and Logistics Programs and Policy (Alternate).

William A. Gunn, General Counsel.

John H. Thompson, Deputy General Counsel (Alternate).

Rita Reed, Principal Deputy Assistant Secretary for Management.

Edward J. Murray, Deputy Assistant Secretary for Finance (Alternate).

Roger W. Baker, Assistant Secretary for Office of Information and Technology.

Stephen W. Warren, Principal Deputy Assistant Secretary, Office of Information and Technology (Alternate).

Irene Trowell-Harris, Director, Center for Women Veterans.

Patricia C. Adams, Deputy Assistant Secretary of the Navy, Civilian Human Resources.

Veterans Benefits Administration PRB

Michael Walcoff, Deputy Under Secretary for Benefits.

Geraldine V. Breakfield, Associate Deputy Under Secretary for Management.

Jason McClellan, Director Central Area Office.

Diana M. Rubens, Associate Deputy Under Secretary for Field Operations.

Willie Clark, Director Western Area Office.

Michael A. Dusenbery, Director, Southern Area Office.

Kenneth M. Greenberg, Executive Secretary to the Department.

A. Jacy Thurmond, Jr., Senior Advisor to the Deputy Commissioner of the Social Security Administration, U.S. Social Security Administration.

Veterans Health Administration PRB

Robert Petzel, M.D., Acting Principal Deputy Under Secretary for Health, Co-Chair.

William C. Schoenhard, Deputy Under Secretary for Health for Operations and Management, Co-Chair.

Joseph Williams, Assistant Deputy Under Secretary for Health for Operations and Management.

Madhulika Agarwal, M.D., Chief Patient Care Services Officer.

Michael E. Moreland, Network Director, VISN 4.

Sanford Garfunkel, Network Director, VISN 5.

Susan Bowers, Network Director, VISN 18.

Nevin M. Weaver, Network Director, VISN 8.

Michael S. Finegan, Network Director, VISN 11.

Glen W. Grippen, Network Director, VISN 19.

Joleen M. Clark, Chief, Workforce Management and Consulting Officer.

Joseph Francis, M.D., Acting Chief, Quality and Performance Officer.

W. Paul Kearns III, Chief Financial Officer.

James Floyd, Network Director, VISN 15.

Caitlin O'Brien, Chief Compliance and Business Integrity Officer.

Patricia Vandenberg, Assistant Deputy Under Secretary for Health for Policy and Planning.

Ann Patterson, Acting VHA Chief of Staff.

Mary Affeldt, Associate Director for Management, National Institute on Drug Abuse.

Ken Greenberg, Executive Secretary to the Department.

Michael Cardarelli, Deputy Chief of Staff.

Dated: October 9, 2009.

W. Scott Gould,

Deputy Secretary of Veterans Affairs.

[FR Doc. E9–24956 Filed 10–15–09; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
October 16, 2009

Part II

State Justice Institute

Grant Guideline; Notice

STATE JUSTICE INSTITUTE

Grant Guideline, Notice

AGENCY: State Justice Institute.

ACTION: Proposed Grant Guideline for 2010.

SUMMARY: This Guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 2010 State Justice Institute grants, cooperative agreements, and contracts.

DATES: October 16, 2009.

FOR FURTHER INFORMATION CONTACT: Janice Munsterman, Executive Director, State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314, (703) 684–6100 X202, *janice.munsterman@sji.gov*

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984, 42 U.S.C. 10701, *et seq.,* as amended, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the quality of justice in the State courts of the United States.

Final appropriations legislation for fiscal year (FY) 2010 is still pending. The House, Commerce, Justice and Science (CJS) Appropriations Bill (H.R. 2847) provides $5,131,000 for the Institute in FY 2010; the Senate Appropriations Committee CJS Mark provides $5,000,000.

Regardless of the final amount provided to the Institute for FY 2010, the Institute's Board of Directors intends to solicit grant applications across the range of grant programs available.

The following Grant Guideline is adopted by the State Justice Institute for FY 2010.

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I. The Mission of the State Justice Institute

The Institute was established by State Justice Institute Authorization Act of 1984 (42 U.S.C. 10701 *et seq.*) to improve the administration of justice in the state courts of the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

- Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;
- Foster coordination and cooperation with the federal judiciary;
- Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and
- Encourage education for judges and support personnel of state court systems through national and state organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to state courts, national organizations which support and are supported by state courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the state courts. The Institute is supervised by a Board of Directors appointed by the President, with the advice and consent of the Senate. The Board is statutorily composed of six judges; a state court administrator; and four members of the public, no more than two can be of the same political party.

Through the award of grants, contracts, and cooperative agreements, the Institute is authorized to perform the following activities:

A. Support technical assistance, demonstrations, special projects, research and training to improve the administration of justice in the state courts;

B. Provide for the preparation, publication, and dissemination of information regarding state judicial systems;

C. Participate in joint projects with federal agencies and other private grantors;

D. Evaluate or provide for the evaluation of programs and projects to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the state courts;

E. Encourage and assist in furthering judicial education; and,

F. Encourage, assist, and serve in a consulting capacity to state and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services.

II. Eligibility for Award

The Institute is authorized by Congress to award grants, cooperative agreements, and contracts to the following entities and types of organizations:

A. *State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A)).*

B. *National nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of state governments (42 U.S.C. 10705(b)(1)(B)).*

C. *National nonprofit organizations for the education and training of judges and support personnel of the judicial branch of state governments (42 U.S.C. 10705(b)(1)(C)).* An applicant is considered a national education and training applicant under section 10705(b)(1)(C) if:

1. The principal purpose or activity of the applicant is to provide education and training to state and local judges and court personnel; and

2. The applicant demonstrates a record of substantial experience in the field of judicial education and training.

D. *Other eligible grant recipients (42 U.S.C. 10705 (b)(2)(A)–(D)).*

1. Provided that the objectives of the project can be served better, the Institute is also authorized to make awards to:

a. Nonprofit organizations with expertise in judicial administration;

b. Institutions of higher education;

c. Individuals, partnerships, firms, corporations (for-profit organizations must waive their fees); and

d. Private agencies with expertise in judicial administration.

2. The Institute may also make awards to state or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements (42 U.S.C. 10705(b)(3)).

E. *Inter-agency Agreements.* The Institute may enter into inter-agency agreements with Federal agencies (42 U.S.C. 10705(b)(4)) and private funders to support projects consistent with the purposes of the State Justice Institute Act.

III. Scope of the Program

SJI is offering six types of grants in FY 2010: Project Grants, Technical Assistance (TA) Grants, Curriculum Adaptation and Training (CAT) Grants, Partner Grants, Strategic Initiative Grants and Scholarships. SJI does not

award Continuation Grants except for Strategic Initiative Projects.

A. Project Grants

Project Grants are intended to support innovative education and training, research and evaluation, demonstration, and technical assistance projects that can improve the administration of justice in state courts locally or nationwide. Project Grants may ordinarily not exceed $300,000. Grant periods for Project Grants ordinarily may not exceed 36 months.

Applicants for Project Grants will be required to contribute a cash match of not less than 50 percent of the total cost of the proposed project. In other words, grant awards by SJI must be matched at least dollar for dollar by grant applicants. Applicants may contribute the required cash match directly or in cooperation with third parties. Prospective applicants should carefully review Section VI.8. (matching requirements) and Section VI.16.a. (non-supplantation) of the Guideline prior to beginning the application process. If questions arise, applicants are strongly encouraged to consult the Institute.

Beginning in FY 2010, a temporary reduced cash match process is available for state courts submitting Project Grant applications. The use of this cash match reduction authority is intended to help the state courts in this climate of severe budget reductions. The process requires the state court to formally request a reduced cash match, and that the request be certified by the chief justice of that state. The state court must explain in detail how it is facing budgetary cutbacks that will result in significant reductions in other services, and why it will be unable to undertake the project without a cash match reduction. This must be described in detail in the application and verified by the chief justice of that state. Only state courts may apply for a cash match reduction.

Applicants should examine their projected project costs closely, and if they are unable to cover half the costs of the project, they may apply for a reduction in cash match. Applicants are strongly encouraged to provide as much cash match as possible in their application, as some cash match contribution is still required.

Applicants are also encouraged to provide the percentage of budget reductions in their court(s), and the measures that have been taken by the jurisdiction/state to handle the budget shortfalls in FY 2009 and FY 2010. This may include staff reductions, as well as reductions in services and programs. Some cash contribution is still required for Project Grants, and should be reflected in the budget proposal for the project. For example, if the total cost of the proposed project is $100,000, the normal cash match would be $50,000. However, if the applicant is unable to provide $50,000 for the activities, but is able to contribute $25,000, the budget should show the request to SJI totaling $75,000, with the cash match of $25,000. This is a temporary program only available to the state courts, and it will be re-evaluated at the end of FY 2010.

As set forth in Section I., the Institute is authorized to fund projects addressing a broad range of program areas. However, the Board is likely to favor Project Grant applications focused on the Special Interest program categories described below. Potential applicants are also encouraged to bring to the attention of the Institute innovative projects outside those categories. Funding will not be made available for the ordinary, routine operations of court systems.

1. Special Interest Program Criteria and Categories

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. The Institute is especially interested in funding projects that:

- Formulate new procedures and techniques, or creatively enhance existing procedures and techniques;
- Address aspects of the State judicial systems that are in special need of serious attention;
- Have national significance by developing products, services, and techniques that may be used in other states; and
- Create and disseminate products that effectively transfer the information and ideas developed to relevant audiences in state and local judicial systems, or provide technical assistance to facilitate the adaptation of effective programs and procedures in other states and local jurisdictions.

Projects do not have to be in the Special Interest Categories given below, however, these topics are of special interest and such applications get extra points in the review process. It should be noted, however, that all projects impacting the court system will be considered. A project will be identified as a Special Interest project if it meets the four criteria set forth above and it falls within the scope of the Board-designated Special Interest program categories listed below. The order of listing does not imply any ranking of priorities among the categories.

a. Immigration Issues

Recent immigration growth is having a significant impact on state and local courts. Courts along the Southwest Border, and other areas of the United States with large immigrant populations, are contending with issues such as how to provide culturally appropriate services; increases in gang-crime cases involving immigrants; and the impact of federal and state immigration policies on court operations. The Institute is interested in projects that highlight the issues state and local courts face in addressing the demands of increased immigration, and potential solutions to those issues. The Institute is also interested in judicial education or other programs that prepare judges and court officials to address immigration issues in their courts, and the development of plans of action to improve service delivery, build community coalitions, and accommodate federal and state immigration policies.

b. Courts and the Media

Recent repeated public attacks on courts have gone largely unanswered, because judges were unwilling and/or courts were unable to respond effectively. No one is better prepared than a judge to describe decision-making on the bench within the law and the Constitution. The Institute is interested in projects that explore the role of judge as public commentator within ethical and professional bounds. The Institute is also interested in judicial education or other programs that prepare judges and court officials to serve as spokesmen in short notice, high profile circumstances, especially in situations where courts lack dedicated press secretaries. Finally, the Institute is interested in promoting initiatives that improve relations between the judiciary and the media, since much of the recent rancor between the two seems based on unfamiliarity with one another's duties, responsibilities, and limitations. In particular, the Institute is interested in proposals that focus on cultivating trust and open communication between the Third Branch and the Fourth Estate on a day-to-day basis, because dialogue between strangers is rarely started and never sustained in a crisis.

c. Elder Issues

This category includes research, demonstration, evaluation, and education projects designed to improve management of guardianship, probate, fraud, Americans with Disability Act, and other types of elder-related cases. The Institute is particularly interested in

projects that would develop and evaluate judicial branch education programs addressing elder law and related issues.

d. Performance Standards and Outcome Measures

This category includes projects that will develop and measure performance standards and outcomes for all aspects of court operations. The Institute is particularly interested in projects that take the National Center for State Courts' ''CourTools'' to the next level. Other initiatives designed to further professionalize court staff and operations, or to objectively evaluate the costs and benefits and cost-effectiveness of problem solving courts, are also welcome.

e. Court Budgeting

Recent economic downturns have caused major budgetary issues for many states and the state courts. These shortfalls have proven very disruptive to court staffing, services, technology investment, and professional education and development. The Institute is interested in pursuing ''how to'' projects that focus on ''best practices'' regarding budget structure and formulation, sources of revenue, inter-branch relations and other methods that contribute to stabilizing court budgets and improving their long-term financial prospects.

f. Relationship Between State and Federal Courts

This category includes research, demonstration, evaluation, and education projects designed to facilitate appropriate and effective communication, cooperation, and coordination between state and federal courts. The Institute is also interested in projects that improve relationships between the courts, the legislative and executive branches, and the public. However, all SJI grants must be awarded to the state court system.

B. Technical Assistance (TA) Grants

TA Grants are intended to provide state or local courts, or regional court associations, with sufficient support to obtain expert assistance to diagnose a problem, develop a response to that problem, and implement any needed changes. TA Grants may not exceed $50,000, and shall only cover the cost of obtaining the services of expert consultants. Examples of expenses not covered by TA Grants include the salaries, benefits, or travel of full-or part-time court employees. Grant periods for TA Grants ordinarily may not exceed 24 months. In calculating project duration, applicants are cautioned to fully consider the time required to issue a request for proposals, negotiate a contract with the selected provider, and execute the project.

Applicants for TA Grants will be required to contribute a total match of not less than 50 percent of the grant amount requested, of which 20 percent must be cash. In other words, an applicant seeking a $50,000 TA grant must provide a $25,000 match, of which up to $20,000 can be in-kind and not less than $5,000 must be cash. TA Grant application procedures can be found in section IV.B.

C. Curriculum Adaptation and Training (CAT) Grants

CAT Grants are intended to: (1) Enable courts and regional or national court associations to modify and adapt model curricula, course modules, or conference programs to meet states' or local jurisdictions' educational needs; train instructors to present portions or all of the curricula; and pilot-test them to determine their appropriateness, quality, and effectiveness, or (2) conduct judicial branch education and training programs, led by either expert or in-house personnel, designed to prepare judges and court personnel for innovations, reforms, and/or new technologies recently adopted by grantee courts. CAT Grants may not exceed $30,000. Grant periods for CAT Grants ordinarily may not exceed 12 months.

Applicants for CAT Grants will be required to contribute a match of not less than 50 percent of the grant amount requested, of which 20 percent must be cash. In other words, an applicant seeking a $30,000 CAT grant must provide a $15,000 match, of which up to $12,000 can be in-kind and not less than $3,000 must be cash. CAT Grant application procedures can be found in section IV.C.

D. Partner Grants

Partner Grants are intended to allow the Institute and federal, state, or local agencies or foundations, trusts, or other private entities to combine financial resources in pursuit of common interests. Though many, if not most, Partner Grants will fall under the Special Interest program categories cited in section III.A., proposals addressing other emerging or high priority court-related problems will be considered on a case-by-case basis. The Institute and its financial partners may set any level for Partner Grants, subject to the entire amount of the grant being available at the time of the award; applicants for Partner Grants may request any amount of funding. Grant periods for Partner Grants ordinarily may not exceed 36 months.

Partner Grants are subject to the same cash match requirement as Project Grants. In other words, grant awards by the Institute must be matched at least dollar-for-dollar. Applicants may contribute the required cash match directly or in cooperation with third parties. Partner Grants are coordinated by the funding organizations. Applicants considering Partner Grants are encouraged to contact Institute staff to discuss the potential of this mechanism for project funding. Partner Grant application procedures can be found in section IV.E.

E. Strategic Initiatives Grants

The Strategic Initiatives Grants (SIG) program provides the Institute with the flexibility to address national court issues as they occur, and develop solutions to those problems. This is an innovative approach where the Institute uses its expertise and the expertise and knowledge of its grantees to address key issues facing State courts across the United States.

The funding is used for grants or contractual services, and any remaining balance not used for the SIG program will become available for the Institute's other grant programs. The program is handled at the discretion of the Institute's Board of Directors and staff outside the normal grant application process (*i.e.,* the Institute will initiate the project) and there is no cash match requirement.

F. Scholarships for Judges and Court Managers

Scholarships are intended to enhance the skills, knowledge, and abilities of state court judges and court managers by enabling them to attend out-of-state, or to enroll in online, educational and training programs sponsored by national and state providers that they could not otherwise attend or take online because of limited state, local, and personal budgets. Scholarships may not exceed $1,500. The Institute's Board of Directors intends to reserve up to $175,000 for scholarships in FY 2010. Scholarship application procedures can be found in section IV.D.

IV. Applications

A. Project Grants

An application for a Project Grant must include an application form; budget forms (with appropriate documentation); a project abstract and program narrative; a disclosure of lobbying form, when applicable; and

certain certifications and assurances (see below). See Appendix B for the Project Grant application forms.

1. Forms

a. Application Form (Form A)

The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding requested from the Institute. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete; that submission of the application has been authorized by the applicant; and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

b. Certificate of State Approval (Form B)

An application from a State or local court must include a copy of Form B signed by the State's Chief Justice or Chief Judge, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further that, if applicable, a cash match reduction has been requested, and that if the Institute approves funding for the project, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

c. Budget Form (Form C)

Applicants must submit a Form C. In addition, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category (*see* subsection A.4. below).

If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

d. Assurances (Form D)

This form lists the statutory, regulatory, and policy requirements with which recipients of Institute funds must comply.

e. Disclosure of Lobbying Activities

Applicants other than units of state or local government are required to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts (*see* section VI.A.7.).

2. Project Abstract

The abstract should highlight the purposes, goals, methods, and anticipated benefits of the proposed project. It should not exceed 1 single-spaced page on 8½ by 11 inch paper.

3. Program Narrative

The program narrative for an application may not exceed 25 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch, and type size must be at least 12-point and 12 cpi. The pages should be numbered. This page limit does not include the forms, the abstract, the budget narrative, and any appendices containing resumes and letters of cooperation or endorsement. Additional background material should be attached only if it is essential to impart a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics:

a. Project Objectives

The applicant should include a clear, concise statement of what the proposed project is intended to accomplish. In stating the objectives of the project, applicants should focus on the overall programmatic objective (*e.g.,* to enhance understanding and skills regarding a specific subject, or to determine how a certain procedure affects the court and litigants) rather than on operational objectives (*e.g.,* provide training for 32 judges and court managers, or review data from 300 cases).

b. Program Areas To Be Covered

The applicant should note the Special Interest criteria and category addressed by the proposed project when appropriate (*see* section III.A.), although it is not necessary for a project to be in a specific Special Interest Category.

c. Need for the Project

If the project is to be conducted in any specific location(s), the applicant should discuss the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing programs, procedures, services, or other resources.

If the project is not site-specific, the applicant should discuss the problems that the proposed project would address, and why existing programs, procedures, services, or other resources cannot adequately resolve those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

d. Tasks, Methods and Evaluations

(1) *Tasks and Methods.* The applicant should delineate the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task. For example:

(a) *For research and evaluation projects,* the applicant should include the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and protecting others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to human subjects, a discussion should be included that explains the value of the proposed research and the methods to be used to minimize or eliminate such risk.

(b) *For education and training projects,* the applicant should include the adult education techniques to be used in designing and presenting the program, including the teaching/learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants; how faculty would be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars, or workshops to be conducted and the estimated number of persons who would attend them; the materials to be provided and how they would be developed; and the cost to participants.

(c) *For demonstration projects,* the applicant should include the demonstration sites and the reasons they were selected, or if the sites have not been chosen, how they would be identified and their cooperation obtained; and how the program or procedures would be implemented and monitored.

(d) *For technical assistance projects,* the applicant should explain the types of assistance that would be provided; the particular issues and problems for which assistance would be provided; the type of assistance determined; how suitable providers would be selected and briefed; and how reports would be reviewed.

(2) *Evaluation.* Projects should include an evaluation plan to determine whether the project met its objectives. The evaluation should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology, or services tested; or the validity and applicability of the research conducted. The evaluation plan should be appropriate to the type of project proposed.

e. Project Management

The applicant should present a detailed management plan, including the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that would ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project time line, Gantt Chart, or schedule, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination, would occur within the proposed project period. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter (*i.e.,* no later than January 30, April 30, July 30, and October 30), per section VI.A.13.

Applicants should be aware that the Institute is unlikely to approve a limited extension of the grant period without very good cause. Therefore, the management plan should be as realistic as possible and fully reflect the time commitments of the proposed project staff and consultants.

f. Products

The program narrative in the application should contain a description of the product(s) to be developed (*e.g.,* training curricula and materials, Web sites or other electronic multimedia, articles, guidelines, manuals, reports, handbooks, benchbooks, or books), including when they would be submitted to the Institute. The budget should include the cost of producing and disseminating the product to each in-state SJI library (see Appendix A), state chief justice, state court administrator, and other appropriate judges or court personnel. If final products involve electronic formats, the applicant should indicate how the product would be made available to other courts. Dissemination to the in-state libraries may not be required for such products. Discussion of this dissemination process should occur between the grantee and staff at SJI prior to the final selection of the dissemination process to be used.

(1) *Dissemination Plan.* The application must explain how and to whom the products would be disseminated; describe how they would benefit the state courts, including how they could be used by judges and court personnel; identify development, production, and dissemination costs covered by the project budget; and present the basis on which products and services developed or provided under the grant would be offered to the court community and the public at large (*i.e.,* whether products would be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product) (*see* section VI.A.11.b.). Ordinarily, applicants should schedule all product preparation and distribution activities within the project period.

A copy of each written product must be sent to the library established in each state to collect the materials developed with Institute support (see Appendix A). Applicants proposing to develop Web-based products should provide for sending a notice and description of the document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the Web site or electronic product (*i.e.,* a written report with a reference to the Web site).

Five (5) copies of all project products should be submitted to the Institute, along with an electronic version in .html or .pdf format. Discussions of final product dissemination should be conducted with SJI staff prior to the end of the grant period.

(2) *Types of Products and Press Releases.* The type of product to be prepared depends on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include an article summarizing the project findings that is publishable in a journal serving the courts community nationally, an executive summary that would be disseminated to the project's primary audience, or both. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they would make their data available for secondary analysis after the grant period (*see* section VI.A.14.a.).

The curricula and other products developed through education and training projects should be designed for use by others and again by the original participants in the course of their duties.

(3) *Institute Review.* Applicants must submit a final draft of all written grant products to the Institute for review and approval at least 30 days before the products are submitted for publication or reproduction. For products in website or multimedia format, applicants must provide for Institute review of the product at the treatment, script, rough-cut, and final stages of development, or their equivalents. No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of the Institute (*see* section VI.A.11.f.).

(4) *Acknowledgment, Disclaimer, and Logo.* Applicants must also include in all project products a prominent acknowledgment that support was received from the Institute and a disclaimer paragraph based on the example provided in section VI.A.11.a.2. in the Guideline. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a website or other multimedia product, unless the Institute approves another placement.

g. Applicant Status

An applicant that is not a state or local court and has not received a grant from the Institute within the past three years should indicate whether it is either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments, or a national non-profit organization for the education and training of State court judges and support personnel (*see* section II). If the applicant is a non-judicial unit of Federal, State, or local government, it must explain whether the proposed services could be adequately provided by non-governmental entities.

h. Staff Capability

The applicant should include a summary of the training and experience of the key staff members and consultants that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that would be used to select persons for these positions should be included. The applicant also should identify the person who would be responsible for managing and reporting on the financial aspects of the proposed project.

i. Organizational Capacity

Applicants that have not received a grant from the Institute within the past

three years should include a statement describing their capacity to administer grant funds, including the financial systems used to monitor project expenditures (and income, if any), and a summary of their past experience in administering grants, as well as any resources or capabilities that they have that would particularly assist in the successful completion of the project.

Unless requested otherwise, an applicant that has received a grant from the Institute within the past three years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant.

If the applicant is a non-profit organization (other than a university), it must also provide documentation of its 501(c) tax-exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report. For purposes of this requirement, ''current'' means no earlier than two years prior to the present calendar year.

If a current audit report is not available, the Institute will require the organization to complete a financial capability questionnaire, which must be signed by a Certified Public Accountant. Other applicants may be required to provide a current audit report, a financial capability questionnaire, or both, if specifically requested to do so by the Institute.

j. Statement of Lobbying Activities

Non-governmental applicants must submit the Institute's Disclosure of Lobbying Activities Form, which documents whether they, or another entity that is a part of the same organization as the applicant, have advocated a position before Congress on any issue, and identifies the specific subjects of their lobbying efforts (*see* Appendix B).

k. Letters of Cooperation or Support

If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, the applicant should attach written assurances of cooperation and availability to the application, or send them under separate cover.

4. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. When the proposed project would be partially supported by grants from other funding sources, applicants should make clear what costs would be covered by those other grants. Additional background information or schedules may be attached if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged.

The budget narrative should cover the costs of all components of the project and clearly identify costs attributable to the project evaluation. Under OMB grant guidelines incorporated by reference in this Guideline, grant funds may not be used to purchase alcoholic beverages.

a. Justification of Personnel Compensation

The applicant should set forth the percentages of time to be devoted by the individuals who would staff the proposed project, the annual salary of each of those persons, and the number of work days per year used for calculating the percentages of time or daily rates of those individuals. The applicant should explain any deviations from current rates or established written organizational policies. No grant funds or cash match may be used to pay the salary and related costs for a current or new employee of a court or other unit of government because such funds would constitute a supplantation of state or local funds in violation of 42 U.S.C. 10706(d)(1); this includes new employees hired specifically for the project. The salary and any related costs for a current or new employee of a court or other unit of government may only be accepted as in-kind match.

b. Fringe Benefit Computation

For non-governmental entities, the applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented, as well as a description of the elements included in the determination of the percentage rate.

c. Consultant/Contractual Services and Honoraria

The applicant should describe the tasks each consultant would perform, the estimated total amount to be paid to each consultant, the basis for compensation rates (*e.g.,* the number of days multiplied by the daily consultant rates), and the method for selection. Rates for consultant services must be set in accordance with section VII.I.2.c. Prior written Institute approval is required for any consultant rate in excess of $800 per day; Institute funds may not be used to pay a consultant more than $1,100 per day. Honorarium payments must be justified in the same manner as consultant payments.

d. Travel

Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates must be consistent with those established by the federal government. The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose of the travel should also be included in the narrative.

e. Equipment

Grant funds may be used to purchase only the equipment necessary to demonstrate a new technological application in a court or that is otherwise essential to accomplishing the objectives of the project. In other words, grant funds cannot be used strictly for the purpose of purchasing equipment. Equipment purchases to support basic court operations ordinarily will not be approved. The applicant should describe the equipment to be purchased or leased and explain why the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described. Purchases of automated data processing equipment must comply with section VII.I.2.b.

f. Supplies

The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicant should provide the basis for the amount requested for this expenditure category.

g. Construction

Construction expenses are prohibited except for the limited purposes set forth in section VI.A.16.b. Any allowable construction or renovation expense should be described in detail in the budget narrative.

h. Telephone

Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative. Also, applicants should provide the basis used to calculate the monthly and long distance estimates.

i. Postage

Anticipated postage costs for project-related mailings, including distribution

of the final product(s), should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine operational mailing costs. The bases for all postage estimates should be included in the budget narrative.

j. Printing/Photocopying

Anticipated costs for printing or photocopying project documents, reports, and publications should be included in the budget narrative, along with the bases used to calculate these estimates.

k. Indirect Costs

Indirect costs are only applicable to organizations that are not state courts or government agencies. Recoverable indirect costs are limited to no more than 75 percent of a grantee's direct personnel costs, *i.e.* salaries plus fringe benefits (*see* section VII.I.4.).

Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost rate are charged directly (*e.g.,* a percentage of the time of senior managers to supervise project activities), the applicant should specify that these costs are not included within its approved indirect cost rate. These rates must be established in accordance with section VII.I.4. If the applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement must be attached to the application.

l. Match

Applicants who do not contemplate making matching contributions continuously throughout the course of the project or on a task-by-task basis must provide a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions would be made (*see* sections VI.A.8, and VII.E.1.).

5. Submission Requirements

a. Every applicant must submit an original and three copies of the application package consisting of Form A; Form B, if the application is from a state or local court, or a Disclosure of Lobbying Form (Form E), if the applicant is not a unit of state or local government; Form C; the Application Abstract; the Program Narrative; the Budget Narrative; and any necessary appendices.

Letters of application may be submitted at any time. Applications received by the first day of the second month in a calendar quarter will be considered at the next Board meeting for that quarter. Please mark PROJECT APPLICATION on the application package envelope and send it to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

Receipt of each application will be acknowledged by letter or e-mail.

b. Applicants submitting more than one application may include material that would be identical in each application in a cover letter. This material will be incorporated by reference into each application and counted against the 25-page limit for the program narrative. A copy of the cover letter should be attached to each copy of the application.

B. Technical Assistance (TA) Grants

1. Application Procedures

Applicants for TA Grants may submit an original and three copies of a detailed letter describing the proposed project, as well as a Form A, ''State Justice Institute Application'' (*see* Appendix B) and Form B, Certificate of State Approval from the State Supreme Court, or its designated agency and Form C, ''Project Budget in Tabular Format.'' Letters from regional court associations must be signed by the president of the association. The applications received by the first day of the second month in a calendar quarter will be reviewed in the Board meeting for that quarter.

2. Application Format

Although there is no prescribed form for the letter, or a minimum or maximum page limit, letters of application should include the following information:

a. *Need for Funding.* What is the critical need facing the applicant? How would the proposed technical assistance help the applicant meet this critical need? Why are state or local resources not sufficient to fully support the costs of the required consultant services?

b. *Project Description.* What tasks would the consultant be expected to perform, and how would they be accomplished? Which organization or individual would be hired to provide the assistance, and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant (applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services)? What specific tasks would the consultant(s) and court staff undertake? What is the schedule for completion of each required task and the entire project? How would the applicant oversee the project and provide guidance to the consultant, and who at the court or regional court association would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

c. *Likelihood of Implementation.* What steps have been or would be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the changes recommended by the consultant and approved by the court, how would they be involved in the review of the recommendations and development of the implementation plan?

3. Budget and Matching State Contribution

A completed Form C ''Project Budget, Tabular Format'' and budget narrative must be included with the letter requesting technical assistance. It should be noted that the maximum grant for Technical Assistance projects is raised to $50,000 in Fiscal Year 2010.

The budget narrative should provide the basis for all project-related costs, including the basis for determining the estimated consultant costs, if compensation of the consultant is required (*e.g.,* the number of days per task times the requested daily consultant rate). Applicants should be aware that consultant rates above $800 per day must be approved in advance by the Institute, and that no consultant will be paid more than $1,100 per day from Institute funds. In addition, the budget should provide for submission of two copies of the consultant's final report to the Institute.

Recipients of TA Grants do not have to submit an audit report but must maintain appropriate documentation to support expenditures (*see* section VI.A.3.).

4. Submission Requirements

Letters of application should be received by the first day of the second month of a calendar quarter in order to be reviewed at the Board meeting for that quarter.

If the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant would be needed in order for the consultant to perform the required tasks, written assurances of such support or cooperation should accompany the application letter. Support letters also may be submitted under separate cover; however, to ensure that there is sufficient time to bring them to the attention of the Institute's Board of Directors, letters sent under separate cover should be received by the same date as the technical assistance request being supported.

C. Curriculum Adaptation and Training (CAT) Grants

1. Application Procedures

In lieu of formal applications, applicants should submit an original and three photocopies of a detailed letter as well as a Form A, ''State Justice Institute Application;'' Form B, ''Certificate of State Approval;'' and Form C, ''Project Budget, Tabular Format'' (see Appendices). It should be noted that in FY 2010 the maximum amount for a CAT grant is raised to $30,000.

2. Application Format

Although there is no prescribed format for the letter, or a minimum or maximum page limit, letters of application should include the following information.

a. For adaptation of a curriculum:

(1) *Project Description.* What is the title of the model curriculum to be adapted and who originally developed it? Why is this education program needed at the present time? What are the project's goals? What are the learning objectives of the adapted curriculum? What program components would be implemented, and what types of modifications, if any, are anticipated in length, format, learning objectives, teaching methods, or content? Who would be responsible for adapting the model curriculum? Who would the participants be, how many would there be, how would they be recruited, and from where would they come (*e.g.,* from a single local jurisdiction, from across the state, from a multi-state region, from across the nation)?

(2) *Need for Funding.* Why are sufficient state or local resources unavailable to fully support the modification and presentation of the model curriculum? What is the potential for replicating or integrating the adapted curriculum in the future using state or local funds, once it has been successfully adapted and tested?

(3) *Likelihood of Implementation.* What is the proposed timeline, including the project start and end dates? On what date(s) would the judicial branch education program be presented? What process would be used to modify and present the program? Who would serve as faculty, and how were they selected? What measures would be taken to facilitate subsequent presentations of the program? Ordinarily, an independent evaluation of a curriculum adaptation project is not required; however, the results of any evaluation should be included in the final report.

(4) *Expressions of Interest by Judges and/or Court Personnel.* Does the proposed program have the support of the court system or association leadership, and of judges, court managers, and judicial branch education personnel who are expected to attend? Applicants may demonstrate this by attaching letters of support.

b. For training assistance:

(1) *Need for Funding.* What is the court reform or initiative prompting the need for training? How would the proposed training help the applicant implement planned changes at the court? Why are state or local resources not sufficient to fully support the costs of the required training?

(2) *Project Description.* What tasks would the trainer(s) be expected to perform? Which organization or individual would be hired, if in-house personnel are not the trainers, to provide the training, and how was the trainer selected? If a trainer has not yet been identified, what procedures and criteria would be used to select the trainer? [*Note:* Applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services.] What specific tasks would the trainer and court staff or regional court association members undertake? What presentation methods will be used? What is the schedule for completion of each required task and the entire project? How would the applicant oversee the project and provide guidance to the trainer, and who at the court or affiliated with the regional court association would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the trainer has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the trainer's ability to complete the assignment within the proposed time frame and for the proposed cost.

(3) *Likelihood of Implementation.* What steps have been or would be taken to coordinate the implementation of the new reform, initiative, etc. and the training to support the same? For example, if the support or cooperation of specific court or regional court association officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the reform and initiate the training proposed, how would they be involved in the review of the recommendations and development of the implementation plan?

3. Budget and Matching State Contribution

Applicants should attach a copy of budget Form C and a budget narrative (*see* subsection A.4. above) that describes the basis for the computation of all project-related costs and the source of the match offered.

4. Submission Requirements

Letters of application will be considered on a quarterly rolling basis. Applications should be received by the first day of the second month of a calendar quarter in order to be reviewed at the Board meeting for that quarter.

For curriculum adaptation requests, applicants should allow at least 90 days between the Board meeting and the date of the proposed program to allow sufficient time for needed planning. Applicants are encouraged to call SJI staff to discuss concerns about timing of submissions.

D. Partner Grants

The Institute and its funding partners may meld, pick and choose, or waive their application procedures, grant cycles, or grant requirements to expedite the award of jointly-funded grants targeted at emerging or high priority problems confronting state and local courts. The Institute may solicit brief proposals from potential grantees to fellow financial partners as a first step. Should the Institute be chosen as the lead grant manager, Project Grant application procedures will apply to the proposed Partner Grant. As with Project Grants, Partner Grants will be targeted at initiatives likely to have a significant national impact.

E. Scholarships

1. Limitations

Applicants may not receive more than one scholarship in a two-year period unless the course specifically assumes multi-year participation, or the course is part of a graduate degree program in judicial studies in which the applicant is currently enrolled (neither exception should be taken as a commitment on the part of the Institute's Board of Directors to approve serial scholarships). Attendance at annual or mid-year meetings or conferences of a state or national organization does not qualify as an out-of-state educational program for scholarship purposes, even though it may include workshops or other training sessions.

Scholarship funds may be used only to cover the costs of tuition, transportation, and reasonable lodging expenses (not to exceed the GSA approved lodging rate for the location of the program, excluding taxes). Transportation expenses may include round-trip coach airfare or train fare. Scholarship recipients are strongly encouraged to take advantage of excursion or other special airfares (*e.g.,* reductions offered when a ticket is purchased 21 days in advance of the travel date) when making their travel arrangements. Recipients who drive to a program site may receive the accepted GSA rate for mileage up to the amount of the advanced-purchase round-trip airfare between their homes and the program sites. Funds to pay tuition, transportation, and lodging expenses in excess of $1,500 and other costs of attending the program—such as meals, materials, transportation to and from airports, and local transportation (including rental cars)—at the program site must be obtained from other sources or borne by the scholarship recipient. Furthermore, lodging costs for non-training days must be borne by the scholarship recipient, with the exception of the day prior to the beginning of the training and the last day of training. Scholarship applicants are encouraged to check other sources of financial assistance and to combine aid from various sources whenever possible. A scholarship is not transferable to another individual. It may be used only for the course specified in the application unless the applicant's request to attend a different course that meets the eligibility requirements is approved in writing by the Institute. Decisions on such requests will be made within 30 days after the receipt of the request letter.

2. Eligibility Requirements

a. *Recipients.* Scholarships can be awarded only to full-time judges of state or local trial and appellate courts; full-time professional, State, or local court personnel with management responsibilities; and supervisory and management probation personnel in judicial branch probation offices. Senior judges, part-time judges, quasi-judicial hearing officers including referees and commissioners, administrative law judges, staff attorneys, law clerks, line staff, law enforcement officers, and other executive branch personnel are not eligible to receive a scholarship.

b. *Courses.* A scholarship can be awarded only for: (1) A course presented in a state other than the one in which the applicant resides or works, or (2) an online course. The course must be designed to enhance the skills of new or experienced judges and court managers; or be offered by a recognized graduate program for judges or court managers.

Applicants are encouraged not to wait for the decision on a scholarship to register for an educational program they wish to attend. The Institute does not submit the names of scholarship recipients to educational organizations, nor provide the funds to the educational organization. Scholarship funds are provided as reimbursements to the scholarship recipient.

3. Forms

a. *Scholarship Application—Form S1 (Appendix D).* The Scholarship Application requests basic information about the applicant and the educational program the applicant would like to attend. It also addresses the applicant's commitment to share the skills and knowledge gained with local court colleagues. The Scholarship Application must bear the original signature of the applicant. Faxed or photocopied signatures will not be accepted. Please be sure to indicate whether the state will be providing funds for the project and, if so, how much. The Institute will not supplant state funds for these scholarships: It can only provide funding above the amount to be covered by the State.

b. *Scholarship Application Concurrence—Form S2 (Appendix D).* Judges and court managers applying for scholarships must submit the original written concurrence of the Chief Justice of the State's Supreme Court (or the Chief Justice's designee) on the Institute's Judicial Education Scholarship Concurrence form (see Appendix D). The signature of the presiding judge of the applicant's court may not be substituted for that of the State's Chief Justice or the Chief Justice's designee. Court managers, other than elected clerks of court, also must submit a letter of support from their immediate supervisors.

4. Submission Requirements

Scholarship applications may be submitted at any time but will be reviewed on a quarterly basis. This means scholarships will be awarded on a ''first come, first considered'' basis. The dates for applications to be received by the Institute for consideration in FY 10 are November 1, February 1, May 1, and August 1. (These are not mailing deadlines. The applications must be received by the Institute by each of these dates.) No exceptions or extensions will be granted. All the required items must be received for an application to be considered. If the Concurrence form or letter of support is sent separately from the application, the postmark date of the last item sent will be used in determining the review date.

All applications should be sent by mail or courier (not fax or e-mail) to: Scholarship Program Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

V. Application Review Procedures

A. Preliminary Inquiries

The Institute staff will answer inquiries concerning application procedures.

B. Selection Criteria

1. Project Grant Applications

a. Project Grant applications will be rated on the basis of the criteria set forth below. The Institute will accord the greatest weight to the following criteria:

(1) The soundness of the methodology;

(2) The demonstration of need for the project;

(3) The appropriateness of the proposed evaluation design;

(4) If applicable, the key findings and recommendations of the most recent evaluation and the proposed responses to those findings and recommendations;

(5) The applicant's management plan and organizational capabilities;

(6) The qualifications of the project's staff;

(7) The products and benefits resulting from the project, including the extent to which the project will have long-term benefits for state courts across the nation;

(8) The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions;

(9) The reasonableness of the proposed budget; and

(10) The demonstration of cooperation and support of other agencies that may be affected by the project.

(11) The proposed project's relationship to one of the Special Interest Criteria and Categories set forth in section III.A.

b. In determining which projects to support, the Institute will also consider whether the applicant is a state court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under the Institute's enabling legislation (*see* section II.); the availability of financial assistance from other sources for the project; the amount of the applicant's match; the extent to which the proposed project would also benefit the federal courts or help state courts enforce federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

2. Technical Assistance (TA) Grant Applications

TA Grant applications will be rated on the basis of the following criteria:

a. Whether the assistance would address a critical need of the applicant;

b. The soundness of the technical assistance approach to the problem;

c. The qualifications of the consultant(s) to be hired or the specific criteria that will be used to select the consultant(s);

d. The commitment of the court or association to act on the consultant's recommendations; and

e. The reasonableness of the proposed budget.

The Institute also will consider factors such as the level and nature of the match that would be provided, diversity of subject matter, geographic diversity, the level of appropriations available to the Institute in the current year, and the amount expected to be available in succeeding fiscal years.

3. Curriculum Adaptation and Training (CAT) Grant Applications

CAT Grant applications will be rated on the basis of the following criteria:

a. For curriculum adaptation projects:

(1) The goals and objectives of the proposed project;

(2) The need for outside funding to support the program;

(3) The appropriateness of the approach in achieving the project's educational objectives;

(4) The likelihood of effective implementation and integration of the modified curriculum into ongoing educational programming; and

(5) Expressions of interest by the judges and/or court personnel who would be directly involved in or affected by the project.

b. For training assistance:

(1) Whether the training would address a critical need of the court or association;

(2) The soundness of the training approach to the problem;

(3) The qualifications of the trainer(s) to be hired or the specific criteria that will be used to select the trainer(s);

(4) The commitment of the court or association to the training program; and

(5) The reasonableness of the proposed budget.

The Institute will also consider factors such as the reasonableness of the amount requested, compliance with match requirements, diversity of subject matter, geographic diversity, the level of appropriations available in the current year, and the amount expected to be available in succeeding fiscal years.

4. Partner Grants

The selection criteria for Partner Grants will be driven by the collective priorities of the Institute and other organizations and their collective assessments regarding the needs and capabilities of court and court-related organizations. Having settled on priorities, the Institute and its financial partners will likely contact the courts or court-related organizations most acceptable as pilots, laboratories, consultants, or the like.

5. Scholarships

Scholarships will be approved only for programs that either: (1) Enhance the skills of judges and court managers; or (2) are part of a graduate degree program for judges or court personnel. Scholarships will be awarded on the basis of:

a. The date on which the application and concurrence (and support letter, if required) were sent (''first come, first considered'');

b. The unavailability of state or local funds or scholarship funds from another source to cover the costs of attending the program, or participating online;

c. The absence of educational programs in the applicant's state addressing the topic(s) covered by the educational program for which the scholarship is being sought;

d. Geographic balance among the recipients;

e. The balance of scholarships among educational providers and programs;

f. The balance of scholarships among the types of courts and court personnel (trial judge, appellate judge, trial court administrator) represented; and

g. The level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

The postmark or courier receipt will be used to determine the date on which the application form and other required items were sent.

C. Review and Approval Process

1. Project Grant Applications

The Institute's Board of Directors will review the applications competitively. The Institute staff will prepare a narrative summary and a rating sheet assigning points for each relevant selection criterion. The staff will present the narrative summaries and rating sheets to the Board for its review. The Board will review all application summaries and decide which projects it will fund. The decision to fund a project is solely that of the Board of Directors.

The Chairman of the Board will sign approved awards on behalf of the Institute.

2. Technical Assistance (TA) and Curriculum Adaptation and Training (CAT) Grant Applications

The Institute staff will prepare a narrative summary of each application and a rating sheet assigning points for each relevant selection criterion. The Board of Directors may delegate its authority to approve TA and CAT Grants to the committee established for each program. The Board or the committee will review the applications competitively.

The Chairman of the Board will sign approved awards on behalf of the Institute.

3. Scholarships

A committee of the Institute's Board of Directors will review scholarship applications quarterly. The Board of Directors has delegated its authority to approve scholarships to the committee established for the program. The committee will review the applications competitively. In the event of a tie vote, the Chairman will serve as the tie-breaker. The Chairman of the Board will sign approved awards on behalf of the Institute.

4. Partner Grants

The Institute's internal process for the review and approval of Partner Grants will depend upon negotiations with fellow financiers. The Institute may use its procedures, a partner's procedures, a mix of both, or entirely unique procedures. All Partner Grants will be approved by the Board of Directors on

whatever schedule makes sense at the time.

D. Return Policy

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

E. Notification of Board Decision

The Institute will send written notice to applicants concerning all Board decisions to approve, defer, or deny their respective applications. For all applications (except scholarships), if requested the Institute will convey the key issues and questions that arose during the review process. A decision by the Board to deny an application may not be appealed, but it does not prohibit resubmission of a proposal based on that application in a subsequent funding cycle. The Institute will also notify the State Court Administrator when grants are approved by the Board to support projects that will be conducted by or involve courts in that State.

F. Response to Notification of Approval

With the exception of those approved for scholarships, applicants have 30 days from the date of the letter notifying them that the Board has approved their application to respond to any revisions requested by the Board. If the requested revisions (or a reasonable schedule for submitting such revisions) have not been submitted to the Institute within 30 days after notification, the approval may be rescinded and the application presented to the Board for reconsideration. In the event an issue will only be resolved after award, such as the selection of a consultant, the final award document will include a Special Condition that will require additional grantee reporting and Institute review and approval. Special Conditions, in the form of incentives or sanctions, may also be used in situations where past poor performance by a grantee necessitates increased grant oversight.

VI. Compliance Requirements

The State Justice Institute Act contains limitations and conditions on grants, contracts, and cooperative agreements awarded by the Institute. The Board of Directors has approved additional policies governing the use of Institute grant funds. These statutory and policy requirements are set forth below.

A. Recipients of Project Grants

1. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular non-judicial public policies or encouraging non-judicial political activities (42 U.S.C. 10706(b)).

2. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not described in the application or if there is a change of a person assigned to such a position, the recipient must submit a description of the qualifications of the newly assigned person to the Institute. Prior written approval of the qualifications of the new person assigned to a key staff position must be received from the Institute before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds (*see* section VIII.A.7.).

3. Audit

Recipients of project grants must provide for an annual fiscal audit which includes an opinion on whether the financial statements of the grantee present fairly its financial position and its financial operations are in accordance with generally accepted accounting principles (*see* section VII.K. for the requirements of such audits). Scholarship recipients, Curriculum Adaptation and Training Grants, and Technical Assistance Grants are not required to submit an audit, but they must maintain appropriate documentation to support all expenditures (*see* section VIII.K.).

4. Budget Revisions

Budget revisions among direct cost categories that: (a) Transfer grant funds to an unbudgeted cost category, or (b) individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget require prior Institute approval (*see* section VIII.A.1.).

5. Conflict of Interest

Personnel and other officials connected with Institute-funded programs must adhere to the following requirements:

a. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where, to his or her knowledge, he or she or his or her immediate family, partners, organization other than a public agency in which he or she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

b. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

(1) Using an official position for private gain; or

(2) Affecting adversely the confidence of the public in the integrity of the Institute program.

c. Requests for proposals or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

6. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with ''Government Patent Policy'' (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983, and statement of Government Patent Policy).

7. Lobbying

a. Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive Orders or similar promulgations by federal, state or local agencies, or to influence the passage or defeat of any legislation by federal, state or local legislative bodies (42 U.S.C. 10706(a)).

b. It is the policy of the Board of Directors to award funds only to support

applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application.

8. Matching Requirements

All grantees other than scholarship recipients are required to provide a match. A match is the portion of project costs not borne by the Institute. Match includes both cash and in-kind contributions. Cash match is the direct outlay of funds by the grantee or a third party to support the project. In-kind match consists of contributions of time and/or services of current staff members, new employees, space, supplies, etc., made to the project by the grantee or others (*e.g.,* advisory board members) working directly on the project or that portion of the grantee's Federally approved indirect cost rate that exceeds the Guideline's limit of permitted charges (75 percent of salaries and benefits).

Under normal circumstances, allowable match may be incurred only during the project period. When appropriate, and with the prior written permission of the Institute, match may be incurred from the date of the Board of Directors' approval of an award. The amount and nature of required match depends on the type of grant (*see* section III.).

The grantee is responsible for ensuring that the total amount of match proposed is actually contributed. If a proposed contribution is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement (*see* section VII.E.1.).

The Board of Directors looks favorably upon any unrequired match contributed by applicants when making grant decisions. The match requirement may be waived in exceptionally rare circumstances upon the request of the Chief Justice of the highest court in the State or the highest ranking official in the requesting organization and approval by the Board of Directors (42 U.S.C. 10705(d)). The Board of Directors encourages all applicants to provide the maximum amount of cash and in-kind match possible, even if a waiver is approved. The amount and nature of match are criteria in the grant selection process (*see* section V.B.1.b.).

9. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds. Recipients of Institute funds must immediately take any measures necessary to effectuate this provision.

10. Political Activities

No recipient may contribute or make available Institute funds, program personnel, or equipment to any political party or association, or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office (42 U.S.C. 10706(a)).

11. Products

a. Acknowledgment, Logo, and Disclaimer.

(1) Recipients of Institute funds must acknowledge prominently on all products developed with grant funds that support was received from the Institute. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a multimedia product, unless another placement is approved in writing by the Institute. This includes final products printed or otherwise reproduced during the grant period, as well as re-printings or reproductions of those materials following the end of the grant period. A camera-ready logo sheet is available on the Institute's Web site: *http://www.sji.gov/forms.*

(2) Recipients also must display the following disclaimer on all grant products: ''This [document, film, videotape, *etc.*] was developed under [grant/cooperative agreement] number SJI-[insert number] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.''

b. Charges for Grant-Related Products/Recovery of Costs

(1) When Institute funds fully cover the cost of developing, producing, and disseminating a product (*e.g.,* a report, curriculum, videotape, or software), the product should be distributed to the field without charge. When Institute funds only partially cover the development, production, or dissemination costs, the grantee may, with the Institute's prior written approval, recover its costs for developing, producing, and disseminating the material to those requesting it, to the extent that those costs were not covered by Institute funds or grantee matching contributions.

(2) Applicants should disclose their intent to sell grant-related products in the application. Grantees must obtain the written prior approval of the Institute of their plans to recover project costs through the sale of grant products. Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. If the product is to be sold for more than $25, the written request also should include a detailed itemization of costs that will be recovered and a certification that the costs were not supported by either Institute grant funds or grantee matching contributions.

(3) In the event that the sale of grant products results in revenues that exceed the costs to develop, produce, and disseminate the product, the revenue must continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act that have been approved by the Institute (*see* section VII.G.).

c. Copyrights

Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

d. Due Date

All products and, for TA and CAT grants, consultant and/or trainer reports (*see* section VI.B.1 & 2) are to be completed and distributed (*see* below)

not later than the end of the award period, not the 90-day close out period. The latter is only intended for grantee final reporting and to liquidate obligations (*see* section VII.L.).

e. Distribution

In addition to the distribution specified in the grant application, grantees shall send:

(1) Five (5) copies of each final product developed with grant funds to the Institute, unless the product was developed under either a Technical Assistance or a Curriculum Adaptation and Training Grant, in which case submission of 2 copies is required;

(2) An electronic version of the product in .html or .pdf format to the Institute; and

(3) One copy of each final product developed with grant funds to the library established in each State to collect materials prepared with Institute support. A list of the libraries is contained in Appendix A. Labels for these libraries are available on the Institute's Web site, *http://www.SJI.org.*

(4) Bound copies of products, where possible and cost-effective, rather than hard copies in ring binders, to SJI depository libraries. Grantees that develop Web-based electronic products must send an announcement/ description of the document and indicate where it may be obtained to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the Web site or electronic product. Recipients of Technical Assistance and Curriculum Adaptation and Training Grants are not required to submit final products to State libraries.

f. Institute Approval

No grant funds may be obligated for publication or reproduction of a final product developed with grant funds without the written approval of the Institute. Grantees shall submit a final draft of each written product to the Institute for review and approval. The draft must be submitted at least 30 days before the product is scheduled to be sent for publication or reproduction to permit Institute review and incorporation of any appropriate changes required by the Institute. Grantees must provide for timely reviews by the Institute of Web site or other multimedia products at the treatment, script, rough cut, and final stages of development or their equivalents.

g. Original Material

All products prepared as the result of Institute-supported projects must be originally developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

12. Prohibition Against Litigation Support

No funds made available by the Institute may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

13. Reporting Requirements

a. Recipients of Institute funds other than scholarships must submit Quarterly Progress and Financial Status Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). The Quarterly Progress Reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period. Failure to comply with the requirements of this provision could result in the termination of a grantee's award.

b. The quarterly Financial Status Report must be submitted in accordance with section VII.H.2. of this Guideline. A final project Progress Report and Financial Status Report shall be submitted within 90 days after the end of the grant period in accordance with section VII.L.1. of this Guideline.

14. Research

a. Availability of Research Data for Secondary Analysis:

Upon request, grantees must make available for secondary analysis a diskette(s) or data tape(s) containing research and evaluation data collected under an Institute grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing or otherwise transmitting the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

b. Confidentiality of Information

Except as provided by federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

c. Human Subject Protection

Human subjects are defined as individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions, and/or experiences through an interview, questionnaire, or other data collection technique. All research involving human subjects shall be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

15. State and Local Court Applications

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The Supreme Court or its designee shall receive, administer, and be accountable for all funds awarded on the basis of such an application (42 U.S.C. 10705(b)(4)). *See* section VII.C.2.

16. Supplantation and Construction

To ensure that Institute funds are used to supplement and improve the operation of state courts, rather than to support basic court services, Institute funds shall not be used for the following purposes:

a. To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project, or paying rent for space which is part of the court's normal operations);

b. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new

architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or

c. Solely to purchase equipment.

17. Suspension or Termination of Funding

After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, the Institute may terminate or suspend funding of a project that fails to comply substantially with the Act, the Guideline, or the terms and conditions of the award (42 U.S.C. 10708(a)).

18. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to and approved by the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

B. Recipients of Technical Assistance (TA) and Curriculum Adaptation and Training (CAT) Grants

Recipients of TA and CAT Grants must comply with the requirements listed in section VI.A. (except the requirements pertaining to audits in subsection A.3. above and product dissemination and approval in subsection A.11.e. and f. above) and the reporting requirements below:

1. Technical Assistance (TA) Grant Reporting Requirements

Recipients of TA Grants must submit to the Institute one copy of a final report that explains how it intends to act on the consultant's recommendations, as well as two copies of the consultant's written report.

2. Curriculum Adaptation and Training (CAT) Grant Reporting Requirements

Recipients of CAT Grants must submit one copy of the agenda or schedule, outline of presentations and/or relevant instructor's notes, copies of overhead transparencies, power point presentations, or other visual aids, exercises, case studies and other background materials, hypotheticals, quizzes, and other materials involving the participants, manuals, handbooks, conference packets, evaluation forms, and suggestions for replicating the program, including possible faculty or the preferred qualifications or experience of those selected as faculty, developed under the grant at the conclusion of the grant period, along with a final report that includes any evaluation results and explains how the grantee intends to present the educational program in the future, as well as two copies of the consultant's or trainer's report.

C. Scholarship Recipients

1. Scholarship recipients are responsible for disseminating the information received from the course to their court colleagues locally and, if possible, throughout the State.

Recipients also must submit to the Institute a certificate of attendance at the program and a copy of the notice of any scholarship funds received from other sources. A State or local jurisdiction may impose additional requirements on scholarship recipients.

2. To receive the funds authorized by a scholarship award, recipients must submit a Scholarship Payment Voucher (Form S3) together with a tuition statement from the program sponsor, a transportation fare receipt (or statement of the driving mileage to and from the recipient's home to the site of the educational program), and a lodging receipt.

Scholarship Payment Vouchers must be submitted within 90 days after the end of the course, which the recipient attended.

3. Scholarship recipients are encouraged to check with their tax advisors to determine whether the scholarship constitutes taxable income under Federal and State law.

D. Partner Grants

The compliance requirements for Partner Grant recipients will depend upon the agreements struck between the grant financiers and between lead financiers and grantees. Should SJI be the lead, the compliance requirements for Project Grants will apply, unless specific arrangements are determined by the Partners.

VII. Financial Requirements

A. Purpose

The purpose of this section is to establish accounting system requirements and offer guidance on procedures to assist all grantees, subgrantees, contractors, and other organizations in:

1. Complying with the statutory requirements for the award, disbursement, and accounting of funds;

2. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

3. Generating financial data to be used in planning, managing, and controlling projects; and

4. Facilitating an effective audit of funded programs and projects.

B. References

Except where inconsistent with specific provisions of this Guideline, the following circulars are applicable to Institute grants and cooperative agreements under the same terms and conditions that apply to Federal grantees. The circulars supplement the requirements of this section for accounting systems and financial record-keeping and provide additional guidance on how these requirements may be satisfied (circulars may be obtained on the OMB Web site at *http://www.whitehouse.gov/omb*).

1. *Office of Management and Budget (OMB) Circular A–21,* Cost Principles for Educational Institutions.

2. *Office of Management and Budget (OMB) Circular A–87,* Cost Principles for State and Local Governments.

3. *Office of Management and Budget (OMB) Circular A–102,* Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

4. *Office of Management and Budget (OMB) Circular A–110,* Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

5. *Office of Management and Budget (OMB) Circular A–122,* Cost Principles for Non-profit Organizations.

6. *Office of Management and Budget (OMB) Circular A–133,* Audits of States, Local Governments and Non-profit Organizations.

C. Supervision and Monitoring Responsibilities

1. Grantee Responsibilities

All grantees receiving awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by audits.

2. Responsibilities of the State Supreme Court

a. Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council.

b. The State Supreme Court or its designee shall receive all Institute funds awarded to such courts; be responsible for assuring proper administration of Institute funds; and be responsible for all aspects of the project, including proper accounting and financial record-keeping by the subgrantee. These responsibilities include:

(1) *Reviewing Financial Operations.* The State Supreme Court or its designee should be familiar with, and periodically monitor, its subgrantees' financial operations, records system, and procedures. Particular attention should be directed to the maintenance of current financial data.

(2) *Recording Financial Activities.* The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court or its designee in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court or evidenced by report forms duly filed by the subgrantee. Matching contributions provided by subgrantees should likewise be recorded, as should any project income resulting from program operations.

(3) *Budgeting and Budget Review.* The State Supreme Court or its designee should ensure that each subgrantee prepares an adequate budget as the basis for its award commitment. The State Supreme Court should maintain the details of each project budget on file.

(4) *Accounting for Match.* The State Supreme Court or its designee will ensure that subgrantees comply with the match requirements specified in this Guideline (*see* section VI.A.8.).

(5) *Audit Requirement.* The State Supreme Court or its designee is required to ensure that subgrantees meet the necessary audit requirements set forth by the Institute (*see* sections K. below and VI.A.3.).

(6) *Reporting Irregularities.* The State Supreme Court, its designees, and its subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

D. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);

2. Assures that expended funds are applied to the appropriate budget category included within the approved grant;

3. Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;

4. Provides cost and property controls to assure optimal use of grant funds;

5. Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;

6. Meets the prescribed requirements for periodic financial reporting of operations; and

7. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

E. Total Cost Budgeting and Accounting

Accounting for all funds awarded by the Institute must be structured and executed on a ''Total Project Cost'' basis. That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget serve as the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the obligation of Institute funds. Ordinarily, the full matching share must be obligated during the award period; however, with the written permission of the Institute, contributions made following approval of the grant by the Institute's Board of Directors, but before the beginning of the grant, may be counted as match. Grantees that do not anticipate making matching contributions continuously throughout the course of a project, or on a task-by-task basis, are required to submit a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. If a proposed cash or in-kind match is not fully met, the Institute may reduce the award amount accordingly to maintain the ratio of grant funds to matching funds stated in the award agreement.

2. Records for Match

All grantees must maintain records that clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section (*see* subsection C.2. above).

F. Maintenance and Retention of Records

All financial records, including supporting documents, statistical records, and all other information pertinent to grants, subgrants, cooperative agreements, or contracts under grants, must be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this section.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports are required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and

maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

4. Access

Grantees and subgrantees must give any authorized representative of the Institute access to and the right to examine all records, books, papers, and documents related to an Institute grant.

G. Project-Related Income

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income and must be reported to the Institute (*see* subsection H.2. below). The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A state and any agency or instrumentality of a State, including institutions of higher education and hospitals, shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are grantees must refund any interest earned. Grantees shall ensure minimum balances in their respective grant cash accounts.

2. Royalties

The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the grant provide otherwise.

3. Registration and Tuition Fees

Registration and tuition fees may be considered as cash match with the prior written approval of the Institute. Estimates of registration and tuition fees, and any expenses to be offset by the fees, should be included in the application budget forms and narrative.

4. Income from the Sale of Grant Products

If the sale of products occurs during the project period, the income may be treated as cash match with the prior written approval of the Institute. The costs and income generated by the sales must be reported on the Quarterly Financial Status Reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in the application or reported to the Institute in writing once a decision to sell products has been made. The grantee must request approval to recover its product development, reproduction, and dissemination costs as specified in section VI.A.11.b.

5. Other

Other project income shall be treated in accordance with disposition instructions set forth in the grant's terms and conditions.

H. Payments and Financial Reporting Requirements

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

a. *Request for Advance or Reimbursement of Funds.* Grantees will receive funds on a U.S. Treasury ''check-issued'' or electronic funds transfer (EFT) basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, payment will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement Form R), along with the instructions for its preparation, and the SF 3881 Automated Clearing House (ACH/Miscellaneous Payment Enrollment Form for EFT) are available on the Institute's Web site: *http://www.sji.gov/forms.php.*

b. *Termination of Advance and Reimbursement Funding.* When a grantee organization receiving cash advances from the Institute:

(1) Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or is unable to adhere to guideline requirements or special conditions;

(2) Engages in the improper award and administration of subgrants or contracts; or

(3) Is unable to submit reliable and/or timely reports; the Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by U.S. Treasury check or EFT to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute may suspend reimbursement payments until the deficiencies are corrected. In extreme cases, grants may be terminated.

c. *Principle of Minimum Cash on Hand.* Grantees should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days.

2. Financial Reporting

a. *General Requirements.* To obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees submit timely reports for review.

b. *Due Dates and Contents.* A Financial Status Report is required from all grantees, other than scholarship recipients, for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to Institute funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays. A copy of the Financial Status Report, along with instructions for its preparation, are provided on the SJI Web site. If a grantee requests substantial payments for a project prior to the completion of a given quarter, the Institute may request a brief summary of the amount requested, by object class, to support the Request for Advance or Reimbursement.

3. Consequences of Non-Compliance with Submission Requirement

Failure of the grantee to submit required financial and progress reports may result in suspension or termination of grant payments.

I. Allowability of Costs

1. General

Except as may be otherwise provided in the conditions of a particular grant, cost allowability is determined in accordance with the principles set forth in *OMB Circulars A–21*, Cost Principles Applicable to Grants and Contracts with Educational Institutions; *A–87*, Cost Principles for State and Local Governments; and *A–122*, Cost Principles for Non-profit Organizations.

No costs may be recovered to liquidate obligations incurred after the approved grant period. Circulars may be obtained on the OMB Web site at *http://www.whitehouse.gov/omb.*

2. Costs Requiring Prior Approval

a. *Pre-agreement Costs.* The written prior approval of the Institute is required for costs considered necessary but which occur prior to the start date of the project period.

b. *Equipment.* Grant funds may be used to purchase or lease only that equipment essential to accomplishing the goals and objectives of the project. The written prior approval of the Institute is required when the amount of automated data processing (ADP) equipment to be purchased or leased exceeds $10,000 or software to be purchased exceeds $3,000.

c. *Consultants.* The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $800 a day. Institute funds may not be used to pay a consultant more than $1,100 per day.

d. *Budget Revisions.* Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent (5%) of the approved original budget or the most recently approved revised budget require prior Institute approval (*see* section VIII.A.1.).

3. Travel Costs

Transportation and per diem rates must comply with the policies of the grantee. If the grantee does not have an established written travel policy, then travel rates must be consistent with those established by the Federal Government. Institute funds may not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting, or conference of that organization.

4. Indirect Costs

Indirect costs are only applicable to organizations that are not state courts or government agencies. These are costs of an organization that are not readily assignable to a particular project but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. Although the Institute's policy requires all costs to be budgeted directly, it will accept indirect costs if a grantee has an indirect cost rate approved by a federal agency as set forth below. However, recoverable indirect costs are limited to no more than 75 percent of a grantee's direct personnel costs (salaries plus fringe benefits).

a. *Approved Plan Available.*

(1) A copy of an indirect cost rate agreement or allocation plan approved for a grantee during the preceding two years by any federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars must be submitted to the Institute.

(2) Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, *e.g.,* accounting services, legal services, building occupancy and maintenance, *etc.*, as direct costs.

b. *Establishment of Indirect Cost Rates.* To be reimbursed for indirect costs, a grantee must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute within three months after the start of the grant period to assure recovery of the full amount of allowable indirect costs. The rate must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved as specified in the applicable OMB Circular.

c. *No Approved Plan.* If an indirect cost proposal for recovery of indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the indirect cost proposal is received.

J. Procurement and Property Management Standards

1. Procurement Standards

For state and local governments, the Institute has adopted the standards set forth in Attachment O of *OMB Circular A–102*. Institutions of higher education, hospitals, and other non-profit organizations will be governed by the standards set forth in Attachment O of *OMB Circular A–110*.

2. Property Management Standards

The property management standards as prescribed in Attachment N of *OMB Circulars A–102* and *A–110* apply to all Institute grantees and subgrantees except as provided in section VI.A.18. All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

K. Audit Requirements

1. Implementation

Each recipient of a Project Grant must provide for an annual fiscal audit. This requirement also applies to a state or local court receiving a subgrant from the State Supreme Court. The audit may be of the entire grantee or subgrantee organization or of the specific project funded by the Institute. Audits conducted in accordance with the Single Audit Act of 1984 and *OMB Circular A–133*, will satisfy the requirement for an annual fiscal audit. The audit must be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies. Grantees must send two copies of the audit report to the Institute. Grantees that receive funds from a Federal agency and satisfy audit requirements of the cognizant Federal agency must submit two copies of the audit report prepared for that Federal agency to the Institute in order to satisfy the provisions of this section.

2. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grantee must have policies and procedures for acting on audit recommendations by designating officials responsible for: (1) Follow-up, (2) maintaining a record of the actions taken on recommendations and time schedules, (3) responding to and acting on audit recommendations, and (4) submitting periodic reports to the Institute on recommendations and actions taken.

3. Consequences of Non-Resolution of Audit Issues

Ordinarily, the Institute will not make a subsequent grant award to an applicant that has an unresolved audit report involving Institute awards. Failure of the grantee to resolve audit questions may also result in the suspension or termination of payments for active Institute grants to that organization.

L. Close-Out of Grants

1. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (*see* subsection L.2. below), the following documents must be submitted to the Institute by grantees (other than scholarship recipients):

a. *Financial Status Report.* The final report of expenditures must have no unliquidated obligations and must

indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award by the Institute. Final payment requests for obligations incurred during the award period must be submitted to the Institute prior to the end of the 90-day close-out period. Grantees who have drawn down funds in excess of their obligations/expenditures must return any unused funds as soon as it is determined that the funds are not required. In no instance should any unused funds remain with the grantee beyond the submission date of the final Financial Status Report.

b. *Final Progress Report.* This report should describe the project activities during the final calendar quarter of the project and the close-out period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment have been met and, if any of the objectives have not been met, explain why not; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation.

These reporting requirements apply at the conclusion of every grant other than a scholarship.

2. Extension of Close-out Period

Upon the written request of the grantee, the Institute may extend the close-out period to assure completion of the grantee's close-out requirements. Requests for an extension must be submitted at least 14 days before the end of the close-out period and must explain why the extension is necessary and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period

VIII. Grant Adjustments

All requests for programmatic or budgetary adjustments requiring Institute approval must be submitted by the project director in a timely manner (ordinarily 30 days prior to the implementation of the adjustment being requested). All requests for changes from the approved application will be carefully reviewed for both consistency with this Guideline and the enhancement of grant goals and objectives. Failure to submit adjustments in a timely manner may result in the termination of a grantee's award.

A. Grant Adjustments Requiring Prior Written Approval

The following grant adjustments require the prior written approval of the Institute:

1. Budget revisions among direct cost categories that (a) transfer grant funds to an unbudgeted cost category or (b) individually or cumulatively exceed five percent (5%) of the approved original budget or the most recently approved revised budget (*see* section VII.I.2.d.).

2. A change in the scope of work to be performed or the objectives of the project (*see* subsection D. below).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the final financial or progress report deadline (*see* subsection E. below).

5. Satisfaction of special conditions, if required.

6. A change in or temporary absence of the project director (*see* subsections F. and G. below).

7. The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position (*see* section VI.A.2.).

8. A change in or temporary absence of the person responsible for managing and reporting on the grant's finances.

9. A change in the name of the grantee organization.

10. A transfer or contracting out of grant-supported activities (*see* subsection H. below).

11. A transfer of the grant to another recipient.

12. Pre-agreement costs (*see* section VII.I.2.a.).

13. The purchase of automated data processing equipment and software (*see* section VII.I.2.b.).

14. Consultant rates (*see* section VII.I.2.c.).

15. A change in the nature or number of the products to be prepared or the manner in which a product would be distributed.

B. Requests for Grant Adjustments

All grantees must promptly notify SJI, in writing, of events or proposed changes that may require adjustments to the approved project design. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the program manager determines would help the Institute's review.

C. Notification of Approval/Disapproval

If the request is approved, the grantee will be sent a Grant Adjustment signed by the Executive Director, or his or her designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by the Institute. A grantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI program manager.

E. Date Changes

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany a request for an extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline (*see* section VII.L.2.).

F. Temporary Absence of the Project Director

Whenever an absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

G. Withdrawal of/Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the

qualifications of the proposed individual are not approved in advance by the Institute.

H. Transferring or Contracting Out of Grant-Supported Activities

No principal activity of a grant-supported project may be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements must be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval of the Institute at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, will be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Institute.

State Justice Institute Board of Directors

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Janice T. Munsterman, Executive Director (*ex officio*).

Janice Munsterman,

Executive Director.

Appendix A—SJI Libraries: Designated Sites and Contacts

Alabama

Supreme Court Library

Mr. Timothy A. Lewis, State Law Librarian, Alabama Supreme Court, Judicial Building, 300 Dexter Avenue, Montgomery, AL 36104, (334) 242–4347, *director@alalinc.net.*

Alaska

Anchorage Law Library

Ms. Cynthia S. Fellows, State Law Librarian, Alaska State Court Law Library, 303 K Street, Anchorage, AK 99501, (907) 264–0583, *cfellows@courts.state.ak.us.*

Arizona

Supreme Court Library

Ms. Lani Orosco, Staff Assistant, Arizona Supreme Court, Staff Attorney's Office Library, 1501 W. Washington, Suite 445, Phoenix, AZ 85007, (602) 542–5028, *lorosco@supreme.sp.state.az.us.*

Arkansas

Administrative Office of the Courts

Mr. James D. Gingerich, Director, Administrative Office of the Courts, Supreme Court of Arkansas, Justice Building, 625 Marshall Street, Little Rock, AR 72201, (501) 682–9400, *jd.gingerich@arkansas.gov.*

California

Administrative Office of the Courts

Mr. William C. Vickrey, Administrative Director of the Courts, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, CA 94102, (415) 865–4235, *william.vickrey@jud.ca.gov.*

Colorado

Supreme Court Library

Ms. Linda Gruenthal, Deputy Supreme Court Law Librarian, 2 East 14th Avenue, Denver, CO 80203, (303) 837–3720, *cscltech@state.co.us.*

Connecticut

State Library

Ms. Denise D. Jernigan, Law Librarian, Connecticut State Library, 231 Capitol Avenue, Hartford, CT 06106, (860) 757–6598, *djernigan@cslib.org.*

Delaware

Administrative Office of the Courts

Mr. Michael E. McLaughlin, Deputy Director, Administrative Office of the Courts, Carvel State Office Building, 820 North French Street, 11th Floor, P.O. Box 8911, Wilmington, DE 19801, (302) 577–8481, *michael.mclaughlin@state.de.us.*

District of Columbia

Executive Office, District of Columbia Courts

Ms. Anne B. Wicks, Executive Officer, District of Columbia Courts, 500 Indiana Avenue, NW., Suite 1500, Washington, DC 20001, (202) 879–1700, *Wicksab@dcsc.gov.*

Florida

Administrative Office of the Courts

Ms. Elisabeth H. Goodner, State Courts Administrator, Office of the State Courts Administrator, Florida Supreme Court, Supreme Court Building, 500 South Duval Street, Tallahassee, FL 32399, (850) 922–5081, *goodnerl@flcourts.org.*

Georgia

Administrative Office of the Courts

Mr. David Ratley, Director, Administrative Office of the Courts, 244 Washington Street SW., Suite 300, Atlanta, GA 30334, (404) 656–5171, *ratleydl@gaaoc.us.*

Hawaii

Supreme Court Library

Ms. Ann Koto, State Law Librarian, The Supreme Court Law Library, 417 South King St., Room 119, Honolulu, HI 96813, (808) 539–4964, *Ann.S.Koto@courts.state.hi.us.*

Idaho

AOC Judicial Education Library/State Law Library

Mr. Richard Visser, State Law Librarian, Idaho State Law Library, Supreme Court Building, 451 West State St., Boise, ID 83720, (208) 334–3316, *lawlibrary@isc.state.id.us.*

Illinois

Supreme Court Library

Ms. Brenda Larison, Supreme Court of Illinois Library, 200 East Capitol Avenue, Springfield, IL 62701–1791, (217) 782–2425, *blarison@court.state.il.us.*

Indiana

Supreme Court Library

Ms. Terri L. Ross, Supreme Court Librarian, Supreme Court Library, State House, Room 316, Indianapolis, IN 46204, (317) 232–2557, *tross@courts.state.in.us.*

Iowa

Administrative Office of the Court

Dr. Jerry K. Beatty, Director of Judicial Branch Education, Iowa Judicial Branch, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, IA 50319, (515) 242–0190, *jerry.beatty@jb.state.ia.us.*

Kansas

Supreme Court Library

Mr. Fred Knecht, Law Librarian, Kansas Supreme Court Library, Kansas Judicial Center, 301 S.W. 10th Avenue, Topeka, KS 66612, (785) 296–3257, *knechtf@kscourts.org.*

Kentucky

State Law Library

Ms. Vida Vitagliano, Cataloging and Research Librarian, Kentucky Supreme Court Library, 700 Capitol Avenue, Suite 200, Frankfort, KY 40601, (502) 564–4185, *vidavitagliano@mail.aoc.state.ky.us.*

Louisiana

State Law Library

Ms. Carol Billings, Director, Louisiana Law Library, Louisiana Supreme Court Building, 400 Royal Street, New Orleans, LA 70130, (504) 310–2401, *cbillings@lasc.org.*

Maine

State Law and Legislative Reference Library

Ms. Lynn E. Randall, State Law Librarian, 43 State House Station, Augusta, ME 04333, (207) 287–1600, *lynn.randall@legislature.maine.gov.*

Maryland

State Law Library

Mr. Steve Anderson, Director, Maryland State Law Library, Court of Appeal Building, 361 Rowe Boulevard, Annapolis, MD 21401, (410) 260–1430, *steve.anderson@courts.state.md.us.*

Massachusetts

Middlesex Law Library

Ms. Linda Hom, Librarian, Middlesex Law Library, Superior Court House, 40 Thorndike Street, Cambridge, MA 02141, (617) 494–4148, *midlawlib@yahoo.com.*

Michigan

Michigan Judicial Institute

Dawn F. McCarty, Director, Michigan Judicial Institute, P.O. Box 30205, Lansing, MI 48909, (517) 373–7509, *mccartyd@courts.mi.gov.*

Minnesota

State Law Library (Minnesota Judicial Center)

Ms. Barbara L. Golden, State Law Librarian, G25 Minnesota Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Boulevard, St. Paul, MN 55155, (612) 297–2089, *barb.golden@courts.state.mn.us.*

Mississippi

Mississippi Judicial College

Hon. Leslie G. Johnson, Executive Director, Mississippi Judicial College, P.O. Box 8850, University, MS 38677, (662) 915–5955, *lwleslie@olemiss.edu.*

Montana

State Law Library

Ms. Judith Meadows, State Law Librarian, State Law Library of Montana, P.O. Box 203004, Helena, MT 59620, (406) 444–3660, *jmeadows@mt.gov.*

Nebraska

Administrative Office of the Courts

Mr. Philip D. Gould, Director, Judicial Branch Education, Administrative Office of the Courts/Probation, 521 South 14th St., Suite 200, Lincoln, NE 68508–2707, (402) 471–3072 (office)/(402) 471–3071 (fax), *pgould@nsc.state.ne.us.*

Nevada

Ms. Kathleen Harrington, Law Librarian, Nevada Supreme Court Law Library, 201 S. Carson Street, Suite 100, Carson City, Nevada 89701–4702, (775) 684–1715.

New Hampshire

New Hampshire Law Library

Ms. Mary Searles, Technical Services Law Librarian, New Hampshire Law Library, Supreme Court Building, One Noble Drive, Concord, NH 03301–6160, (603) 271–3777, *msearles@courts.state.nh.us.*

New Jersey

New Jersey State Library

Mr. Thomas O'Malley, Supervising Law Librarian, New Jersey State Law Library, 185 West State Street, P.O. Box 520, Trenton, NJ 08625–0250, (609) 292–6230, *tomalley@njstatelib.org.*

New Mexico

Supreme Court Library

Mr. Thaddeus Bejnar, Librarian, Supreme Court Library, Post Office Drawer L, Santa Fe, NM 87504, (505) 827–4850.

New York

Supreme Court Library

Ms. Barbara Briggs, Law Librarian, Syracuse Supreme Court Law Library, 401 Montgomery Street, Syracuse, NY 13202, (315) 671–1150, *bbriggs@courts.state.ny.us.*

North Carolina

Supreme Court Library

Mr. Thomas P. Davis, Librarian, North Carolina Supreme Court Library, 500 Justice Building, 2 East Morgan Street, Raleigh, NC 27601, (919) 733–3425, *tpd@sc.state.nc.us.*

North Dakota

Supreme Court Library

Ms. Marcella Kramer, Assistant Law Librarian, Supreme Court Law Library, 600 East Boulevard Avenue, Dept. 182, 2nd Floor Judicial Wing, Bismarck, ND 58505–0540, (701) 328–2229, *mkramer@ndcourts.com.*

Northern Mariana Islands

Supreme Court of the Northern Mariana Islands

Ms. Margarita M. Palacios, Director of Courts, Supreme Court of the Commonwealth of the Northern Mariana Islands, P.O. Box 502165, Saipan, MP 96950, (670) 235–9700, *supremecourt@saipan.com.*

Ohio

Supreme Court Library

Mr. Ken Kozlowski, Director, Law Library, Supreme Court of Ohio, 65 South Front Street, 11th Floor, Columbus, OH 43215–3431, (614) 387–9666, *kozlowsk@sconet.state.oh.us.*

Oklahoma

Administrative Office of the Courts

Mr. Michael D. Evans, State Court Administrator, Administrative Office of the Courts, 1915 North Stiles Avenue, Suite 305, Oklahoma City, OK 73105, (405) 521–2450, *mike.evans@oscn.net.*

Oregon

Administrative Office of the Courts

Ms. Kingsley W. Click, State Court Administrator, Oregon Judicial Department, Supreme Court Building, 1163 State Street, Salem, OR 97301, (503) 986–5500, *kingsley.w.click@ojd.state.or.us.*

Pennsylvania

State Library of Pennsylvania

Ms. Kathleen Kline, Collection Management Librarian, State Library of Pennsylvania, Bureau of State Library, 333 Market Street, Harrisburg, PA 17126–1745, (717) 787–5718, *kakline@state.pa.us.*

Puerto Rico

Office of Court Administration

Alfredo Rivera-Mendoza, Esq., Director, Area of Planning and Management, Office of Court Administration, P.O. Box 917, Hato Rey, PR 00919.

Rhode Island

Roger Williams University

Ms. Gail Winson, Director of Law Library/Associate Professor of Law, Roger Williams University, School of Law Library, 10 Metacom Avenue, Bristol, RI 02809, 401/254–4531, *gwinson@law.rwu.edu.*

South Carolina

Coleman Karesh Law Library (University of South Carolina School of Law)

Mr. Steve Hinckley, Director, Coleman Karesh Law Library, University of South Carolina, Main and Green Streets, Columbia, SC 29208, (803) 777–5944, *hinckley@law.sc.edu.*

South Dakota

State Law Library

Librarian, South Dakota State Law Library, 500 East Capitol, Pierre, South Dakota 57501, (605) 773–4898, *donnis.deyo@ujs.state.sd.ud.*

Tennessee

Tennessee State Law Library

Hon. Cornelia A. Clark, Executive Director, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219, (615) 741–2687, *cclark@tscmail.state.tn.us.*

Texas

State Law Library

Mr. Marcelino A. Estrada, Director, State Law Library, P.O. Box 12367, Austin, TX 78711, (512) 463–1722, *tony.estrada@sll.state.tx.us.*

U.S. Virgin Islands

Library of the Territorial Court of the Virgin Islands (St. Thomas)

Librarian, The Library, Territorial Court of the Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, Virgin Islands 00804.

Utah

Utah State Judicial Administration Library

Ms. Jessica Van Buren, Utah State Library, 450 South State Street, P.O. Box 140220, Salt Lake City, UT 84114–0220, (801) 238–7991, *jessicavb@email.utcourts.gov.*

Vermont

Supreme Court of Vermont

Mr. Paul J. Donovan, Law Librarian, Vermont Department of Libraries, 109 State Street, Pavilion Office Building, Montpelier, VT 05609, (802) 828–3268, *paul.donovan@dol.state.vt.us.*

Virginia

Administrative Office of the Courts

Ms. Gail Warren, State Law Librarian, Virginia State Law Library, Supreme Court of Virginia, 100 North Ninth Street, 2nd Floor, Richmond, VA 23219–2335, (804) 786–2075, *gwarren@courts.state.va.us.*

Washington

Washington State Law Library

Ms. Kay Newman, State Law Librarian, Washington State Law Library, Temple of Justice, P.O. Box 40751, Olympia, WA 98504–0751, (360) 357–2136, *kay.newman@courts.wa.gov.*

West Virginia

Supreme Court of Appeals Library

Ms. Kaye Maerz, State Law Librarian, West Virginia Supreme Court of Appeals Library, 1900 Kanawha Boulevard East, Building 1, Room E–404, Charleston, WV 25305, (304) 558–2607, *kaye.maerz@courts.wv.org.*

Wisconsin

State Law Library

Ms. Jane Colwin, State Law Librarian, State Law Library, 120 M.L.K. Jr. Boulevard, Madison, WI 53703, (608) 261–2340, *jane.colwin@wicourts.gov.*

Wyoming

Wyoming State Law Library

Ms. Kathy Carlson, Law Librarian, Wyoming State Law Library, Supreme Court Building, 2301 Capitol Avenue, Cheyenne, WY 82002, (307) 777–7509, *Kcarlson@courts.state.wy.us.*

National

American Judicature Society

Ms. Deborah Sulzbach, Acquisitions Librarian, Drake University, Law Library, Opperman Hall, 2507 University Avenue, Des Moines, IA 50311–4505, (515) 271–3784, *deborah.sulzbach@drake.edu.*

National Center for State Courts

Ms. Joan Cochet, Library Specialist, National Center for State Courts, 300 Newport Avenue, Williamsburg, VA 23185–4147, (757) 259–1826, *library@ncsc.dni.us.*

National Judicial College

Mr. Randall Snyder, Law Librarian, National Judicial College, Judicial College Building MS 358, Reno, NV 89557, (775) 327–8278, *snyder@judges.org.*

BILLING CODE P

STATE JUSTICE INSTITUTE
APPLICATION

1. APPLICANT
a. Organization Name _____
b. Street/P.O. Box _____
c. City _____
d. State _____ e. Zip Code _____
f. Phone Number _____
g. Fax Number _____
h. Web Site Address _____
i. Name & Phone Number of Contact Person
_____
j. Title _____
k. E-Mail Address _____

2. TYPE OF APPLICANT (Check appropriate box)

□ State Court
□ National organization operating in conjunction with State court
□ National State court support organization
□ College or university
□ Other non-profit organization or agency
□ Individual
□ Corporation or partnership
□ Other unit of government
□ Other _____
(Specify) _____

3. PROPOSED START DATE _____

4. PROJECT DURATION (months) _____

5. APPLICANT FINANCIAL CONTACT
a. Organization Name _____
b. Street/P.O. Box _____
c. City _____
d. State _____ e. Zip Code _____
f. Phone Number _____
g. Fax Number _____
h. Web Site Address _____
i. Name & Phone Number of Contact Person
_____
j. Title _____
k. E-Mail Address _____

6. IF THIS APPLICATION HAS BEEN SUBMITTED TO OTHER FUNDING SOURCES, PLEASE PROVIDE THE FOLLOWING INFORMATION:
Source _____
Date Submitted _____
Amount Requested _____
Disposition (if any) or Current Status _____
_____

7. a. AMOUNT REQUESTED FRON SJI $ _____
b. AMOUNT OF MATCH
Cash match $ _____
Non-cash Match $ _____
c. TOTAL MATCH $ _____
d. OTHER CASH $ _____
e. TOTAL PROJECT COST $ _____

8. TITLE OF PROPOSED PROJECT

9. CONGRESSIONAL DISTRICT OF: _____ _____
Name of Representative; District Number — Project location (if different from applicant location): Name of Representative; District Number

10. CERTIFICATION
On behalf of the applicant, I hereby certify that to the best of my knowledge the information in this application is true and complete. I have read the attached assurances (Form D) and understand that if this application is approved for funding, the award will be subject to those assurances. I certify that the applicant will comply with the assurances if the application is approved, and that I am lawfully authorized to make these representations on the behalf of the applicant.

_____ _____ _____
SIGNATURE OF RESPONSIBLE OFFICIAL — TITLE — DATE
(For applications from State and local courts, Form B - Certificate of State Approval, must be attached)

Form A 08/07

STATE JUSTICE INSTITUTE
INSTRUCTIONS FOR APPLICATION FORM A

1. Legal **name of applicant** (court, entity or individual); **name of the organizational unit**, if any, that will conduct the project; complete **address** of the applicant, including phone and fax numbers and website addresses; and name, phone number, title, and e-mail address of a **contact person** who can provide further information about this application.

2. Type of Applicant:

   a. **State court** includes all appellate, general jurisdiction, limited jurisdiction, and special jurisdiction courts, as well as all offices that are supervised by, or report for, administrative purposes to the chief or presiding justice or judge, or his or her designee.

   b. **National organizations operating in conjunction with State court** include national non-profit organization controlled by, operating in conjunction with, and serving State courts.

   c. **National state court support organization** include national non-profit organizations with primary mission of supporting, serving, or educating judges and other personnel of the judicial branch of State government.

   d. **College or university** includes all institutions of higher education.

   e. **Other non-profit organization or agency** includes those non-profit organizations and private agencies not included in sub-paragraphs (b)-(d).

   f. **Individual** means a person not applying in conjunction with or on behalf of an entity identified in one of the other categories.

   g. **Corporation or partnership** includes for-profit and not-for-profit entities not falling within one of the other categories.

   h. **Other unit of government** includes any governmental agency, office, or organization that is not a State or local court.

3. The **proposed start date** of the project should be the earliest feasible date on which applicant will be able to begin project activities following the date of award (example: 08/01/2007).

4. **Project duration** refers to the number of months the applicant estimates will be needed to complete all project tasks after the proposed start date.

5. The **applicant financial contact** is the court or organization employee that will administer and account for any funding awarded.

6. If this application, or an application requesting support for the same project or a similar project, has been previously submitted to another funding source (Federal or private), enter the name of the **source**, the **date** of submission, the **amount** of funding sought, and the **disposition** (if any) or current status.

7. Requested funding:

   a. Insert the **amount requested** from the State Justice Institute to conduct the project.

   b. The **amount of match** is the amount, if any, to be contributed to the project by the applicant, a unit of State or local government, or private sources. See 42 U.S.C. 10705 (d).

      Cash match refers to funds directly contributed by the applicant, a unit of State or local government, or private sources to support the project.

      Non-cash match refers to in-kind contributions by the applicant, a unit of State or local government or private sources to support the project.

   c. **Total match** refers to the sum of the cash and in-kind contributions to the project.

   d. **Other cash** refers to other funds that may not serve as a match but can be used for a project.

   e. **Total project cost** represents the sum of the amount requested from the Institute and all other contributions to the project.

8. The **title of the proposed project** should reflect the objectives of the activities to be conducted.

9. Enter the name of the applicant's Congressional Representative and the number of the applicant's **Congressional district**, along with the number of the Congressional district(s) in which most of the project activities will take place and the name(s) of the Representative(s) from those districts. If the project activities are not site-specific (for example, a series of training workshops that will bring together participants from around the State, the country, or from a particular region), enter *statewide*, *national*, or *regional*, as appropriate, in the space provided.

10. **Signature** and title of a duly authorized representative of the applicant and the **date** the application was signed. For applications from State and local courts, Form B, Certificate of State Approval, must be attached.

STATE JUSTICE INSTITUTE

Certificate of State Approval

The _____
Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled _____

prepared by _____
Name of Applicant

approves its submission to the State Justice Institute, and

[ ] agrees to receive and administer and be accountable for all funds awarded by SJI pursuant to the application;

[ ] herby requests consideration of a reduction in cash match as requested by the applicant (**NOTE: only applicable to Project Grant applications**);

[ ] designates _____
Name of Trial or Appellate Court or Agency

as the entity to receive, administer, and be accountable for all funds awarded by SJI pursuant to the application.

_____ Signature

_____ Date

_____ Name

_____ Title

Form B 09/09

INSTRUCTIONS

The *State Justice Institute Act* requires that:

Each application for funding by a state or local court shall be approved, consistent with state law, by the state's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts (42 U.S.C. 10705(b)(4)).

FORM B should be signed by the chief judge or chief justice of the state supreme court, or by the director of the designated agency or chair of the designated council.

The term "state supreme court" refers to the court of last resort of a state. "Designated agency or council" refers to the office or judicial body which is authorized under state law, or by delegation from the state supreme court, to approve applications for grant funding and to receive, administer, and be accountable for that funding.

Form B 09/09

STATE JUSTICE INSTITUTE

PROJECT BUDGET

(TABULAR FORMAT)

Applicant:
Project Title:
For Project Activity from/to:
Total Amount Requested for Project from SJI:

ITEM	SJI FUNDS	STATE FUNDS	FEDERAL FUNDS	APPLICANT FUNDS	OTHER FUNDS	IN-KIND FUNDS	TOTAL
Direct Costs							
Personnel							$ -
Fringe Benefits							$ -
Consultant / Contractual							$ -
Travel							$ -
Equipment							$ -
Supplies							$ -
Telephone							$ -
Postage							$ -
Printing / Photocopying							$ -
Audit							$ -
Other (specify)							$ -
Subtotal, Direct Costs	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Subtotal, Indirect Costs							$ -
Grand Total	$ -	$ -	$ -	$ -	$ -	$ -	$ -

Remarks:

Application Budget Instructions

If the proposed project period is for more than 12 months, separate totals should be submitted for each succeeding twelve-month period or portion thereof beyond 12 months. However, a grand total project budget must also be included for multi-year projects. In addition to Form C, applicants must provide a detailed budget narrative that explains the basis for the estimates in each budget category. If the applicant is requesting indirect costs and has an indirect cost rate that has been approved by a Federal agency, the basis for that rate, together with a copy of the letter or other official document stating that it has been approved, should be attached. Recoverable indirect costs are limited to no more than 75% of personnel and fringe benefit costs. If matching funds from other sources are being sought, the source, current status of the request, and anticipated decision date must be provided.

STATE JUSTICE INSTITUTE
ASSURANCES

The applicant hereby assures and certifies that it possesses legal authority to apply for the grant, and that if funds are awarded by the State Justice Institute pursuant to this application, it will comply with all applicable provisions of law and the regulations, policies, guidelines and requirements of the Institute as they relate to the acceptance and use of Institute funds pursuant to this application. The applicant further assures and certifies with respect to this application, that:

1. No person will, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds, and that the applicant will immediately take any measures necessary to effectuate this assurance.

2. In accordance with 42 U.S.C. 10706(a), funds awarded to the applicant by the Institute will not be used, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by Federal, State or local agencies, or to influence the passage or defeat of any legislation or constitutional amendment by any Federal, State or local legislative body.

3. In accordance with 42 U.S.C. 10706(a) and 10707(c):

    a. It will not contribute or make available Institute funds, project personnel, or equipment to any political party or association, to the campaign of any candidate for public or party office, or to influence the passage or defeat of any ballot measure, initiative, or referendum;

    b. No officer or employee of the applicant will intentionally identify the Institute or applicant with any partisan or nonpartisan political activity or the campaign of any candidate for public or party office; and,

    c. No officer or employee of the applicant will engage in partisan political activity while engaged in work supported in whole or in part by the Institute.

4. In accordance with 42 U.S.C. 10706(b), no funds awarded by the Institute will be used to support or conduct training programs for the purpose of advocating particular non-judicial public policies or encouraging non-judicial political activities.

5. In accordance with 42 U.S.C. 10706(d), no funds awarded by the Institute will be used to supplant State or local funds supporting a program or activity; to construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or to solely purchase equipment for a court system.

6. It will provide for an annual fiscal audit of the project.

7. It will give the Institute, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award.

Form D 10/08

8. In accordance with 42 U.S.C. 10708(b) (as amended), research or statistical information that is furnished during the course of the project and that is identifiable to any specific individual, shall not be used or revealed for any purpose other than the purpose for which it was obtained. Such information and copies thereof shall be immune from legal process, and shall not be offered as evidence or used for any purpose in any action suit, or other judicial, legislative, or administrative proceeding without the consent of the person who furnished the information.

9. All research involving human subjects will be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

10. All products prepared as the result of the project will be originally-developed material unless otherwise specifically provided for in the award documents, and that material not originally developed that is included in such projects must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

11. No funds will be obligated for publication or reproduction of a final product developed with Institute funds without the written approval of the Institute. The recipient will submit a final draft of each such product to the Institute for review and approval prior to submitting that product for publication or reproduction.

12. The following statement will be prominently displayed on all products prepared as a result of the project: "This [document, website, film, videotape, etc.] was developed under a [grant, cooperative agreement, contract] from the State Justice Institute. Points of view expressed herein are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute."

13. The "SJI" logo will appear on the front cover of a written product or in the opening frames of a video production produced with Institute funds, unless another placement is approved in writing by the Institute.

14. Except as otherwise provided in the terms and conditions of an Institute award, the recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

15. It will submit quarterly progress and financial reports within 30 days of the close of each calendar quarter during the funding period (that is, no later than January 30, April 30, July 30, and October 30); that progress reports will include a narrative description of the project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved

adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period,; and that financial reports will contain the information required.

16. At the conclusion of the project, title to all expendable and non-expendable personal property purchased with Institute funds shall vest in the court, organization, or individual that purchased the property if certification is made to the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act, as approved by the Institute. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

17. The person signing the application is authorized to do so on behalf of the applicant, and to obligate the applicant to comply with the assurances enumerated above.

Form D 10/08

DISCLOSURE OF LOBBYING ACTIVITIES

The State Justice Institute Act prohibits grantees from using funds awarded by the Institute to directly or indirectly influence the passage or defeat of any legislation by Federal, State of local legislative bodies. 42 U.S.C. 10706 (a). It also is the policy of the Institute to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner.

Consistent with this policy and the provisions of 42 U.S.C. 10706 (a), the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application. As a means of implementing that prohibition, SJI requires organizations submitting applications to the Institute to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts. This form must be submitted with your application.

Name of Applicant: _____

Title of Application: _____

☐ **Yes** ☐ **No** **Has the applicant (or an entity that is part of the same organization as the applicant) directly or indirectly advocated a position before Congress on any issue within the past five years?**

SPECIFIC SUBJECTS OF LOBBYING EFFORTS

If you answered **YES** above, please list the specific subjects on which your organization (or another entity that is part of your organization) has directly or indirectly advocated a position before Congress within the past five years. If necessary, you may continue on the back of this form or on an attached sheet.

Subject	Year

STATEMENT OF VERIFICATION

I declare under penalty of perjury that the information contained in this disclosure statement is correct and that I am authorized to make this verification on behalf of the applicant.

_____

Signature **Name**

_____

Title **Date**

Form E 10/07

Scholarship Application

This application does not serve as a registration for the course. Please contact the education provider.

APPLICANT INFORMATION:

1. Applicant Name: _____
(Last) (First) (M.I.)

2. Position: _____

3. Name of Court: _____

4. Address: _____
Street/P.O. Box
_____
City State Zip Code

5. Telephone No. _____

6. Email Address: _____

7. Congressional District: _____

PROGRAM INFORMATION:

☐ **On-site** ☐ **Online**

8. Course Name: _____

9. Course Dates: _____

10. Course Provider: _____

11. Location Offered: _____

ESTIMATED EXPENSES:

Please note: Scholarships are limited to tuition (excluding the conference fee), reasonable lodging up to $150 per night (including taxes), and transportation expenses to and from the site of the course, up to a maximum of $1,500.

Tuition: $ _____ Transportation: $ _____
(Airfare, train fare, or, if you plan to drive, an amount equal to the approximate distance and mileage rate.)

Lodging: $ _____ Total Amount Requested: $ _____

Are you seeking/have you received a scholarship for this course from another source? ☐ Yes ☐ No

If yes, please specify the source(s) and amount(s), and status (received or pending) _____
_____

Are State or local funds available to support your attendance at the proposed course? ☐ Yes ☐ No

If yes, what amount(s) will be provided? _____

Form S1 (05/09)

If a scholarship is awarded, I will share the skills and knowledge I have gained with my court colleagues locally and, if possible, statewide, and I will submit an evaluation of the educational program to the State Justice Institute and to the Chief Justice of my State.

Signature **Date**

Please return this form and Form S-2 to:
Scholarship Coordinator
State Justice Institute
1650 King Street
Suite 600
Alexandria, VA 22314

Scholarship Application

Concurrence

I, _____,

Name of Chief Justice of the State Supreme Court (or Chief Justice's Designee)

have reviewed the application for a scholarship to attend the program entitled: _____

_____,

prepared by _____,
and concur in its submission to the State Justice Institute. The applicant's participation in the program would benefit the State. The applicant's absence to attend the program would not present an undue hardship to the court.

Check box that applies:

☐ 1. Public funds **are not** available to enable the applicant to attend this course, and receipt of a scholarship would not diminish the amount of funds made available by the State for judicial branch education.

☐ 2. Public funds **are** available to support the applicant, but are insufficient to cover total costs. Therefore funding from the Institute is requested.

Signature

_____
Name

_____
Title

_____
Date

Form S2 (05/09)

[FR Doc. E9–24852 Filed 10–15–09; 8:45 am]
BILLING CODE C

Federal Register

Friday,
October 16, 2009

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 1, 21, 43, et al.

Production and Airworthiness Approvals, Part Marking, and Miscellaneous Amendments; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 21, 43, and 45

[Docket No. FAA–2006–25877; Amendment Nos. 1–64, 21–92, 43–43, and 45–26]

RIN 2120–AJ44

Production and Airworthiness Approvals, Part Marking, and Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending its certification procedures and identification requirements for aeronautical products and articles. The amendments will update and standardize those requirements for production approval holders (PAHs), revise export airworthiness approval requirements to facilitate global manufacturing, move all part marking requirements from part 21 to part 45, and amend the identification requirements for products and articles. The intent of these changes is to continue to promote safety by ensuring that aircraft, and products and articles designed specifically for use in aircraft, wherever manufactured, meet appropriate minimum standards for design and construction. As a result of this action, the FAA's regulations now better reflect the current global aircraft and aircraft products and articles manufacturing environment.

DATES: This rule is effective April 14, 2010.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this rule, contact Barbara Capron and/or Robert Cook, Production Certification Branch, AIR–220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 385–6360 or (202) 385–6358; e-mail: *barbara.capron@faa.gov* or *robert.cook@faa.gov*. For legal questions concerning this rule, contact Angela Washington, AGC–210, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7556; e-mail: *angela.washington@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for this Rulemaking

Under the laws of the United States, the Department of Transportation has the responsibility to develop transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation (49 United States Code, Subtitle 1, § 101). The Federal Aviation Administration (FAA or ''we/us/our'') is an agency of the Department. The FAA has general authority to issue rules regarding aviation safety, including minimum standards for articles and for the design, material, construction, quality of work, and performance of aircraft, aircraft engines, and propellers (49 U.S.C. 106(g) and 44701). We may also prescribe regulations in the interest of safety for registering and identifying an aircraft engine, propeller, or article (49 U.S.C. 44104).

The FAA is amending its regulations governing the certification procedures for products and articles and its requirements for identification and registration marking. These changes will improve the quality standards applicable to manufacturers, which help ensure that products and articles are produced as designed and are safe to operate. We are also relocating and standardizing our requirements for marking articles intended for use in aviation. These changes will make it easier to determine whether the correct articles are installed, which will contribute to a greater degree of safety. For these reasons, this rule will be a reasonable and necessary exercise of our rulemaking authority and obligations.

Table of Contents

I. Background
II. Discussion of the Final Rule
A. Summary of Amendments
B. Miscellaneous Requirements
C. Compliance Dates
III. Regulatory Notices and Analyses
IV. Amendments

I. Background

Over the last several decades, the aircraft manufacturing industry has evolved significantly. Years ago, most transport category aircraft were manufactured in the United States. A typical business model consisted of a production certificate (PC) holder with a relatively small number of suppliers. Today, the number of aircraft manufacturing suppliers has increased dramatically. Conversely, through the years, the aircraft industry has seen a steady decline in the number of U.S.-based transport category aircraft manufacturers. Those manufacturers, who once predominantly oversaw the production of replacement articles for their aircraft, now witness the ever increasing production of replacement and modification articles by independent parts manufacturers. Suppliers, including parts manufacturers, were located mainly in the United States decades ago; now, they are located all over the world. Suppliers are manufacturing greater percentages of aircraft products and articles. As a result, aircraft are now manufactured in an increasingly global environment.

The FAA did not envision such an expansion in aircraft manufacturing when the certification rules were first promulgated in 1964. The industry has been the subject of burgeoning internationalization in the last several decades. Evidence of this fact is that now, more than ever before, the United States has more bilateral agreements with foreign civil airworthiness authorities addressing the production, import, and export of aircraft. The old certification rules are too restrictive to accommodate today's manufacturing paradigm. Removing some of those restrictions will greatly improve our regulatory efficiency. This final rule is the FAA's response to the changing dynamics of the aircraft manufacturing industry, and this final rule contains requirements that reflect the current global environment.

The evolution of the manufacturing industry prompted the FAA to publish in the **Federal Register** a notice of proposed rulemaking (NPRM) on ''Production and Airworthiness Approvals, Parts Marking, and Miscellaneous Proposals'' (71 FR 58914, October 5, 2006). In that notice, we proposed comprehensive changes to certification procedures and identification requirements for aeronautical products and articles. In general, we proposed to: (1) Standardize quality system requirements for all Production Approval Holders (PAH); (2) require PAHs, including those producing under Type Certificate, to mark all articles, including sub-assemblies and components; (3) require PAHs to issue airworthiness approvals for aircraft engines, propellers, and other aviation articles; (4) require PAHs to create a certifying staff to issue those approvals; and (5) revise export airworthiness approval requirements to facilitate global manufacturing. The NPRM contains the background and rationale for this final rule, and except where we have made revisions to the proposal in this document, you should refer to the NPRM for that information.

Commenters to the NPRM represented aircraft and parts manufacturers; repair stations; the U.S. Small Business Administration, Office of Advocacy (SBA's Office of Advocacy); industry groups; and other civil aviation authorities and individuals. While there was much support for the general intent

of the proposed rule changes, the largest percentage of the commenters opposed the following four specific proposals:

1. Identification Requirements for Parts, Appliances, and Technical Standard Order Articles

The NPRM proposed to require manufacturers to mark each component of an aircraft engine or propeller, each part and component thereof, and each appliance and component thereof. Until now, the FAA has only required marking of the part; not the individual components of the part. Over forty commenters rejected the proposal, stating that the requirement to mark each component would be cost prohibitive. Also, the proposal would necessitate a change in all associated drawings and design data to reflect the marking requirement.

2. Mandatory Issuance of Airworthiness Approvals for Each Aircraft Engine, Propeller, and Article

The NPRM contained a proposal that would have required PAHs to issue an airworthiness approval for each aircraft engine, propeller, or article produced under the production approval that conforms to its approved design and is in a condition for safe operation. Currently, and under the old rules, an airworthiness approval is mandatory for products and articles only when those products and articles are being exported. The FAA has never required that airworthiness approvals be issued domestically. Commenters stated that because a disproportionately larger number of aircraft engines, propellers, and articles are shipped domestically than are exported, mandatory issuance of airworthiness approvals would impose a substantial cost burden on manufacturers.

3. Creation of Certifying Staff To Issue Airworthiness Approvals

We proposed in the NPRM to require PAHs to develop procedures for establishing and maintaining certifying staff that would be responsible for issuing airworthiness approvals for aircraft engines, propellers, and articles, including the issuance of export airworthiness approvals. Presently, only the FAA or its designees issue airworthiness approvals. Commenters opposed this requirement, arguing that it would necessitate additional staff training and implementation of new procedures for manufacturers, thus unnecessarily escalating the cost of manufacturing.

4. Standardized Quality System Requirements

In the NPRM, we proposed to standardize quality system requirements for PAHs so that all PAHs comply with the same set of quality system requirements, regardless of the product or article produced. We received over 65 comments (including those from the SBA's Office of Advocacy; industry groups representing manufacturers, airlines, and pilots; and aircraft, aircraft engine, and aircraft parts manufacturers). An overriding concern of the commenters was that the quality system requirements, if adopted, would be burdensome to implement, particularly for small businesses. Commenters asserted that the requirements would impose substantial additional costs on industry with no measurable increase in safety.

In addition to the commenters noted above, there were commenters on other proposals in the NPRM. We received over 100 comment letters (with over 500 comments) in response to the NPRM. After evaluating all comments received, we proceeded with this rulemaking action.

II. Discussion of Final Rule

A. Summary of Amendments

1. Identification Requirements

In response to the concerns and issues raised, the FAA has reconsidered some of its proposals and made several substantive changes to the proposed regulatory text. Our most significant change pertains to the proposal to require marking of all component parts and appliances. Fifty-two commenters (including SBA's Office of Advocacy; industry groups representing manufacturers, airlines, and pilots; and aircraft, aircraft engine, and aircraft parts manufacturers) asserted the proposed requirement to mark detail parts would be cost prohibitive and would provide no verifiable safety benefit. Commenters pointed out some products or articles consist of hundreds or sometimes thousands of detail parts, arguing that the costs associated with changing the drawings and design data could cost small businesses over one billion dollars to implement.

When we performed our initial regulatory flexibility assessment (IRFA) for the NPRM, we did not recognize the extent to which design data would have to be changed in order to accommodate the proposed marking of detail parts. Given that each product or article consists of hundreds or thousands of sub-tiered drawings, all of which would have to be changed, we agree with the commenters that we put forth a cost-prohibitive proposal. Accordingly, the final rule does not contain this requirement.

As a result of the many comments in opposition to our marking proposal, we revised the proposed rule to provide for methods of identification more flexible than marking. PAHs must mark the product or article that they have been granted a certificate or approval for in accordance with part 45. However, the sub-assemblies and component parts of that product or article do not have to be marked or identified unless they leave the PAH's facility as a separate article (*e.g.,* replacement or modification part). Sub-assemblies, component parts, or replacement articles that leave the PAH's facility as FAA-approved must include the manufacturer's part number and name, trademark, symbol, or other FAA-approved PAH identification (*e.g.,* the production approval number, cage code, or Federal supply code for manufacturers (FSCM)). A manufacturer or person producing under subparts F, G, K, or O may choose any method to meet this requirement. Methods include, but are not limited to, marking the article, attaching a tag to the article, placing the article in a container, or providing a document with the article with the information previously mentioned. This identification requirement codifies current industry practice and is less stringent than the proposed requirement.

This identification requirement is not driven by a history of aviation accidents where inadequate marking or identification was necessarily found to be a primary cause; rather, it is part of a systemic approach to safety. Accident investigations and safety management system analyses show that accidents are rarely caused by one event. Accidents are the result of a chain of events. If any of the events had not occurred, an accident may have been prevented. This requirement assists in the traceability of articles and helps reduce the installation of incorrect articles, thereby preventing accidents.

Because identification of articles is simply a byproduct of the marking proposal, the FAA has determined that it is within the scope of this rulemaking. The economic effects of this requirement have been evaluated and determined to be cost-neutral (*i.e.,* having no economic impact).

In the NPRM, we proposed to revise § 45.15 to specify particular marking requirements for parts manufacturer approval (PMA) and technical standard order (TSO) articles. In doing so, we removed the former requirements for producers of PMA articles to mark those

articles with the designation ''FAA–PMA'' and information stating the installation eligibility of the article. As proposed, the rule would have required PMA holders to mark articles with the PMA holder's name, trademark, symbol, or other FAA-approved identification.

Several commenters (including Airline Transport Association (ATA), Aerospace Industries Association (AIA), General Electric Company (GE), the Boeing Company, and Snecma) questioned the proposal. They stated the current requirement to mark PMA articles with the letters ''FAA–PMA'' increases traceability and allows installers and maintenance providers to easily identify the article being installed. The European Aviation Safety Agency (EASA) stated it had recently introduced a requirement for the marking of parts not produced under the control of a TC or supplementary type certificate (STC). The marking clearly distinguishes those parts from parts produced by a TC or STC holder. EASA suggested the FAA and EASA coordinate their efforts in developing a coherent, consistent, and comprehensive part marking policy.

The FAA does not espouse an opinion regarding the premise that marking PMA articles as ''FAA–PMA'' increases traceability. However, having a marking requirement consistent with the requirement of other aviation authorities is advantageous and enhances harmonization efforts. Furthermore, as we reviewed the proposal, we realized the removal of ''FAA–PMA'' would result in additional costs to the PMA holder. Much like the proposal to mark detail parts, the removal of ''FAA–PMA'' would require a manufacturer to revise all of its design drawings, making it a cost-prohibitive change. Accordingly, this final rule retains the current ''FAA–PMA'' marking requirements.

Unless otherwise specified in the applicable TSO, § 45.15 now requires manufacturers of TSO articles to permanently and legibly mark the article with the TSO number and letter of designation, all markings specifically required by the applicable TSO, and the serial number or the date of manufacture of the article, or both. Likewise, each person who manufactures a part or component for which a replacement time, inspection interval, or related procedure is specified in the Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness must permanently and legibly mark that part or component with a serial number (or equivalent).

An individual commenter expressed concern that requiring a manufacturer to permanently mark an article may result in masking the age of a product. The commenter argued that a manufacturer could modify an existing appliance and issue it a new serial number and date of manufacture. The commenter recommended the proposal be revised to prohibit such activity. We understand the commenter's concern; however, the original serial number and date of manufacture must be maintained throughout the TSO article's life-cycle. We think the regulation is sufficiently clear that markings must be permanent. Additional markings must not obscure, remove, or obliterate the original markings.

GE and Pratt & Whitney stated that the phrase ''or equivalent,'' when used to refer to an alternative to marking a part or component with a serial number, is confusing and should not be in the final rule. We disagree. Use of the phrase ''or equivalent'' offers flexibility in compliance with the marking requirement and provides an assessable standard for FAA enforcement of the requirement. Therefore, we retained the phrase in the final rule.

Section 45.11 now provides relief to aircraft owners and operators for data plate location requirements for gliders and certain types of aircraft. This rule allows the data plate to be secured in an accessible location near the aircraft entrance. The former rule required the data plate be secured to the aircraft fuselage exterior, such that it was legible to a person on the ground. However, the old requirements were impractical. Over the last several years, the FAA has issued numerous exemptions from § 45.11 for relief from the requirements for data plate location. This rule relieves the burden on the public and the FAA in regards to processing these types of exemptions in the future.

AIA and GE stated that the proposed requirement to mark engine modules was unclear. They questioned whether the module marking should reflect the engine's information or the module's information. Also, GE stated that an additional identification plate should be added to a module when an STC has been incorporated. We have determined that the requirement to mark engine modules is unnecessary. The rule language has been changed to remove this requirement. We do not agree that additional marking is required when an STC is incorporated. While an STC is used for the approval of a major change in the type design, it does not approve the production of parts used in the modification. The data plate placed on a TC product is based on the manufacturer of the product, rather than the TC design approval holder (DAH). Requiring additional markings for STC incorporation would confuse the STC holder with the actual manufacturer of the STC modification part. It also would not provide any safety benefit. STC incorporation is marked in aircraft logbooks and flight manuals and has been shown effective.

A repair station expressed concern about changes to articles driven by service bulletins. Articles for which service bulletins have been issued often require a new or revised marking. Since many of these articles are in service, the maintenance provider, not the producer, makes the required changes. Therefore, the commenter requested that the FAA create a regulatory provision permitting maintenance providers to act as the manufacturer's agent for the purpose of remarking the article.

Changes to articles pursuant to service bulletins are governed by the provisions of part 43. Those changes, including the marking of the articles, are considered maintenance activity and are more appropriately accomplished pursuant to the maintenance provisions of part 43.

If the FAA finds a part or component is too small or otherwise impractical to mark with any of the information required by this part, the manufacturer is required to attach that information to the part or component, or its container. Aircraft Owners and Pilots Association (AOPA) commented that an enormous workload is imposed on the FAA because it must determine whether an article is too small or is otherwise impractical to mark. AOPA recommended that the manufacturer be allowed to make that determination.

The FAA is ultimately responsible for determining compliance with regulatory requirements, and we must ensure consistency in application of the standard. Therefore, we will not abdicate our responsibility for determining whether articles are too small or otherwise impractical to mark.

Marking requirements for all PAHs are now consolidated in part 45. These requirements apply to all PAHs, as well as to persons who produce the products or articles for export to the United States under the provisions of an agreement between the United States and another country or jurisdiction. The required markings constitute a representation that the product or article conforms to its approved design. Only the person authorized to produce the product or article may make this representation. However, this rule does not preclude an approved supplier to a PAH from applying markings in accordance with requirements imposed by the PAH;

neither does it preclude applying in-process markings throughout the manufacturing process.

AIA, ATA, GE, and Pratt & Whitney stated the FAA should permit marking by owner operators, certificated repair stations, or appropriately certificated mechanics performing maintenance under part 43. However, part 43 already allows owner/operators, certificated repair stations, and certificated mechanics performing maintenance to mark articles, and addressing it in this rulemaking would be duplicative and unnecessary.

A parts manufacturer and an individual questioned whether using barcodes would be an acceptable means of complying with the rule, particularly in the case of small articles. Barcode identification may be used in conjunction with, but not in lieu of, the marking requirements. Provisions for marking small or delicate articles are specified in § 45.15(d).

2. Mandatory Issuance of Airworthiness Approvals and Certifying Staff

Forty-six commenters (including SBA's Office of Advocacy, industry groups, aircraft manufacturers, engine manufacturers, parts manufacturers, and individuals) stated that FAA's proposal to require the issuance of airworthiness approvals for each aircraft engine, propeller, or article would be cost prohibitive. Commenters stated that because a disproportionately larger number of aircraft engines, propellers, and articles are shipped domestically than are exported, mandatory issuance of airworthiness approvals would impose a substantial cost burden on manufacturers.

We have further reviewed the potential impact of the proposal and have determined that the costs would disproportionately affect small manufacturers. Many small manufacturers do not ship their products or articles outside the United States, nor do they currently issue airworthiness approvals. In addition, airworthiness approvals are often separated from the product or article when it is received by the end user, nullifying the safety aspect of increased traceability. Because we have determined that the mandatory issuance of airworthiness approvals will not increase safety, and there is a high cost associated with its implementation, that proposal is not included in this final rule.

We also have determined that mandating PAHs to establish and maintain a certifying staff to issue airworthiness approvals would necessitate costly staff training, and implementation of new procedures would be too burdensome for manufacturers. Because we have not included the proposed requirement for mandatory issuance of airworthiness approvals for each aircraft engine, propeller, and article, the requirement for a PAH to establish and maintain a certifying staff to issue the approvals is therefore not included in this rule.

3. Quality System Requirements

This final rule prescribes a PAH's requirements for controlling the quality of the product or article it manufactures. The FAA has imposed in this final rule certain additional PAH quality system requirements designed to achieve overall improvement of the PAH's quality system. The quality system consists of fourteen specific quality system requirements. As described below, it is important to note that those fourteen quality system requirements are scalable, depending on the size and complexity of the PAH and of the product or article produced. Some of these requirements were already mandatory prior to this rulemaking and have been retained. The remaining requirements also have already been incorporated by industry for years and used voluntarily as ''best practices.''

Prior to this rulemaking, holders of different production approvals complied with, and were audited to, differing sets of requirements. For instance, if a manufacturer produced a PMA part and a TSO article, the manufacturer was subject to different quality and marking standards for each part it produced. Today's requirements are now applicable to PC and PMA holders and TSO authorizations alike. This final rule relieves PAHs from having to maintain, and the FAA from having to oversee, multiple PAH systems and procedures. Hence, this final rule will increase regulatory efficiency.

We received over 65 comments (including those from the SBA's Office of Advocacy; industry groups representing manufacturers, airlines, and pilots; and aircraft, aircraft engine, and parts manufacturers). A general consensus of the commenters was that the proposed quality system requirements would be too restrictive, burdensome, and costly, especially on small businesses.

SBA's Office of Advocacy believed the FAA's approach was more appropriate for large companies, rather than for smaller companies. That commenter suggested the FAA consider exempting small businesses from the quality system requirements or adopt a tiered approach based on the size and volume of the business. In addition, SBA's Office of Advocacy suggested that if the FAA does not intend to require an International Organization for Standardization (ISO)- or SAE-equivalent regime, then it should delete the references to those standards in the preamble. In the NPRM, we likened our quality system requirements to those international quality standards and suggested that there is a global trend toward implementing them. SBA's Office of Advocacy argued the FAA should not impose ISO- or AS-based requirements of advocacy, maintaining that such a requirement would be duplicative because many PAHs have already achieved ISO or AS certification.

The FAA derived its quality system requirements from a number of sources, including previous requirements in subparts G and K, as well as industry best practices, ISO standards, and other aviation authorities' requirements (*e.g.*, Joint Aviation Authorities (JAA), European Aviation Safety Agency (EASA), and Transport Canada). These requirements do not introduce significantly different standards for PAHs, small businesses included. Because many PAHs currently employ these standards as best practices, the FAA has determined that compliance will not be costly. We have determined that the quality system requirements, as proposed, are appropriate for all manufacturers.

In response to the SBA's Office of Advocacy's comment suggesting the FAA adopt a tiered approach for small businesses, the FAA maintains that even small businesses have many of these practices in place, just on a smaller scale than larger aircraft manufacturers. We are simply codifying those practices. Our requirements are consistent for all manufacturers, but they will be scalable and commensurate to the size of the company and the complexity of the product or article produced. For example, we would expect a large aircraft manufacturer to have a well-developed, complex quality system. In contrast, a small parts manufacturer producing a non-complex article could have a less complex quality system.

However, that system could still comply with FAA quality system regulations and reflect the needs of the PAH without imposing an undue burden. The FAA will provide additional information on the Internet site *http://www.faa.gov* on how a PAH may construct a scalable quality system, to include examples.

In addition to industry best practices, these amended quality system requirements are now consistent with

requirements of other aviation authorities. As a result, these quality system requirements will encourage greater international acceptance of products and articles and facilitate the import and export of those products and articles.

This rule also requires that a manufacturer's quality system include procedures for controlling the use of design data and subsequent changes to ensure that only current, correct, and approved data are used. Earlier, we had proposed that the system include procedures for controlling design data, rather than the use of the data. However, GE correctly commented that the TC holder, not the PAH, controls the design data. Accordingly, we revised the rule language to accommodate that fact. We now require PAHs to have access to design data necessary to determine conformity and airworthiness for each product and article produced under the PC. In the case of a PAH who obtained approval by test and computation, the PAH controls the data. However, a PAH who obtained approval by licensing agreement might only have access to the data through the type design holder.

This rule now requires manufacturers to establish procedures to control conformity of each supplier-furnished product or article to its approved design before release for installation. The PAH must establish a quality system that ensures the products or articles produced are conforming and in a condition for safe operation. In that regard, we have identified Supplier Control as one of the processes for which the PAH must establish procedures. The PAH is responsible for determining the type and scope of controls and the frequency of oversight necessary to ensure the conformity of the products or services provided by its supply chain, along with its compliance to contract requirements.

We further require that the quality system include procedures for inspections and tests to ensure that a product or article conforms to its approved design. This revision clarifies that the purpose of inspections and tests is to verify that each product and article conforms to its approved design and is in a condition for safe operation. In addition, the inspection and test procedures must include a flight test of each aircraft produced, unless that aircraft will be exported as an unassembled aircraft, and a functional test of each aircraft engine and each propeller must be performed. Embraer questioned the benefit of performing a functional test on a fixed pitch propeller because it has no control system. For that reason, Embraer proposed we create an exception to exclude fixed pitch propellers from functional testing; however, we disagree. Inspections and tests, including functional tests, must be performed on fixed pitch propellers. These tests are used to validate whether performance characteristics and the structural integrity meet the design requirements.

The quality system must include procedures to ensure that all inspection, measuring, and test equipment used to determine conformity of products and articles is calibrated and controlled. Each calibration standard must be traceable to a standard acceptable to the FAA. Boeing suggested we require calibration of inspection, measuring, and test equipment only when calibration is specified by the type design. However, calibration of inspection, measuring, and test equipment is a function of the quality system; it is not addressed in the type design. Proper calibration of all equipment helps ensure the integrity of the manufacturing process.

This rule now requires that a quality system include procedures to ensure that discarded articles are rendered unusable. This revision helps ensure that discarded articles are not erroneously placed into service on aircraft. AIA, GE, and Boeing proposed that the FAA allow PAHs to identify articles as ''scrap,'' rather than the PAH rendering discarded articles as ''unusable''. The commenters further recommended that we define the term ''scrap'' in the rule.

The term ''scrap'' is an acceptable industry term that may be used at the PAH's discretion, but many times, PAH's may use ''scrapped'' items in a new capacity. The term ''scrap'' does not clearly convey that the item may not be reused in a type-certificated product. For the purposes of this rule, we have decided that the term ''unusable'' clearly reflects our intent to ensure that an article that has been discarded cannot be used.

In addition, this rule requires that the quality system include procedures to prevent damage or deterioration of products and articles during handling, storage, preservation, packaging, and delivery. AIA, GE, and Pratt & Whitney argued that the PAH cannot ensure the condition of articles after they have left the PAH's facility, and they recommended that we remove the term ''delivery'' from the proposed rule language. We agree and have revised the regulatory text accordingly.

Pratt & Whitney also recommended revising the rule language to reflect that the quality system include procedures ''intended'' to prevent damage and deterioration of products and articles, as opposed to procedures that will prevent damage and deterioration. However, the FAA is responsible for imposing a standard that is measurable. We have determined that the standard imposed will better prevent damage or deterioration. Thus, we have retained the rule language as proposed.

The FAA now requires the quality system to include procedures for identifying, storing, protecting, retrieving, and retaining quality records. Quality system records include inspection and test records, material review board records, and work orders. Both production approval applicants and PAHs must retain these records for at least five years for the products and articles manufactured under the approval and at least ten years for those articles that are identified as critical components under § 45.15(c) of this chapter.

GE recommended we increase the record retention time to 40 years. An individual commenter stated that the former record retention requirements were adequate. However, the new record retention requirements are the result of a recommendation from the Aviation Rulemaking Advisory Committee (ARAC). The ARAC stated that it is possible for a product or article to remain in production in excess of two years before it is released from production. Furthermore, that product or article would spend some length of time in service before any airworthiness directives (ADs) were possibly issued against it. Therefore, by the time a nonconformance or unairworthy condition is identified, the 2-year record retention period could have passed, making it difficult to identify a root cause for the condition. We have determined that a 5-year record retention for products and articles and a 10-year record retention for critical parts are necessary to facilitate the tracking of nonconformances. However, a PAH may maintain records longer if it chooses.

Boeing suggested that we require record retention periods for products and articles only. We disagree. Records are objective evidence that a PAH has complied with all applicable regulatory requirements. Records are part of the quality system and are used to validate conformity to type design. Therefore, we have determined that these records are necessary, and the retention period is appropriate.

We now require that the quality system include procedures for planning, conducting, and documenting internal audits to ensure compliance with the approved quality. A parts manufacturer

suggested the meaning of the term ''internal'' is relative to a PAH's quality system; therefore, audits of suppliers would fall within the scope of internal audits because a supplier is under the PAH's quality system. The commenter requested a clarification of the definition of ''internal audits'' as it pertains to suppliers.

The concept of what constitutes ''internal'' for the purposes of an audit is relative to the PAH's quality system. We think the regulation is sufficiently clear. Suppliers are controlled through the PAH's quality system, and procedures for suppliers' audits are dictated in § 21.137(c), Supplier control. Conversely, § 21.137(l) denotes procedures for the conduct of internal audits of the effectiveness of the PAH's Supplier Control System.

4. Replacement and Modification Articles

Former §§ 21.303(a) and (b) addressed production requirements for replacement and modification parts to ensure that only articles that conform to their approved design and are in condition for safe operation are installed in type-certificated aircraft. With certain exceptions, the former rule prohibited the production of such parts for sale for installation on a type-certificated product, unless those parts were produced pursuant to a PMA. Exempted from this requirement were parts produced under a TC or PC, parts produced by an owner or operator for maintaining or altering his own product, parts produced under an FAA TSO, and standard parts. This final rule consolidates those former requirements in newly established § 21.9(a), with some revisions. Under today's rule, the FAA will now prohibit the production of a replacement or modification article if the producer knows, or should know, that the part is reasonably likely to be installed on a type-certificated product unless the article part is:

- Produced under a TC;
- Produced under an FAA production approval;
- A standard part;
- A commercial part, as defined in § 21.1;
- Produced by an owner or operator for maintaining or altering that owner or operator's product; or
- Fabricated by an appropriately rated certificate holder with a quality system and consumed in the repair or alteration of a product in accordance with part 43.

The provisions of § 21.9 apply to the producer of any part that may be used as a replacement or modification article, not just parts that were produced specifically as replacement or modification articles. In determining whether a violation has occurred, one factor the FAA will consider is whether the article was represented as suitable for installation on a type-certificated product. Producers of replacement or modification articles who represent those articles as suitable for installation on a type-certificated product may be in violation of § 21.9 unless the articles were produced under one of the above exceptions.

Representation may include, but is not limited to, a producer advertising its parts in aviation magazines; representing the part with statements such as ''aviation quality'' or ''as previously installed on''; issuing aviation parts catalogs; or marketing at aviation trade shows and conferences. Owners, operators, producers, and maintenance providers rely on these representations to determine the airworthiness of an aircraft, or the acceptability of products and articles for a given application. Therefore, these representations must be truthful. Assessing representation of a part is just one means of determining whether a violation of § 21.9(a) has occurred. Absent any such representation, the FAA may still find a violation has occurred if evidence can be established that the producer knows or should know that the part is reasonably likely to be installed on a type-certificated product.

Finally, newly established § 21.9(c) would allow a person to represent an article as suitable for installation on a type-certificated aircraft if the article was declared surplus by the U.S. Armed Forces and was intended for use on that model of U.S. Armed Forces aircraft.

We received thirty-seven comments on this section. SBA's Office of Advocacy requested additional clarification on how the provisions of this section of the rule would apply. In addition, two individuals stated the rule language ''if a person knows, or should know, that the part is reasonably likely to be installed on a type-certificated product'' is very subjective, and it will be difficult to properly and consistently enforce. It believed distributors, owner/operators, and manufacturers could be subject to legal action due to misunderstandings of the rule. The expected misunderstandings would arise from the likelihood of this final rule affecting parts manufacturers not subject to FAA regulation before its issuance. However, we believe the new rule is clearly stated, objective, and enforceable. As we apply the standard, we will examine all relevant facts and circumstances to determine whether a person knew or should have known that a part he produced was reasonably likely to be installed on a type-certificated product.

Numerous commenters (including Aircraft Electronics Association (AEA), Aviation Suppliers Association (ASA), and repair stations) stated our proposed rule no longer contained language prohibiting the production of parts ''for sale for installation on a type-certificated product.'' In addition, the SBA's Office of Advocacy asked the FAA to clarify and confirm that the existing ability of a repair shop to produce a part during maintenance activities remains in place. Since the NPRM proposed to remove that language, several repair stations asked us to clarify whether they will still be able to produce articles that will be consumed in the course of a repair without violating § 21.9(a).

It is not our intent to preclude that activity. To address that concern and clarify our intent, we established an exception in § 21.9(a)(6). This exception, which was not proposed in the NPRM, allows for the production of articles without benefit of a production approval when articles are fabricated by an appropriately rated certificate holder with a quality system and consumed in the repair or alteration of a product or article in accordance with part 43. Maintenance providers who do not have a quality system may continue to fabricate owner-produced articles for installation on type-certificated aircraft using the guidelines set forth in Policy Memorandum, Definition of ''Owner Produced Part,'' Section 21.303(b)(2), August 5, 1993.

SBA's Office of Advocacy asked the FAA to clarify how the rule would impact the distribution of parts and existing inventories based on small business concerns that the proposed rules will forbid anyone from selling civil aircraft parts unless they are the manufacturer of the part, essentially forcing current parts distributors out of business. This phrase was used in former § 21.303(a). We disagree. Section 21.9 governs the production, not the sale, of articles and does not prohibit distributors from selling articles.

SBA's Office of Advocacy was also concerned that the regulation does not contain express provisions concerning inventories of existing articles. That commenter recommended we clarify that any new production requirements on articles or products apply only to articles manufactured after a certain date and that the requirements do not render current articles or products in inventory unusable. Like the Office of Advocacy, ASA believed the rule would

prohibit the sale of existing inventories, and thus, they would lose value. The commenters' concerns are unfounded. The requirements of this rule apply to products or articles as they are manufactured. The provisions of this rule do not apply to existing inventories.

Lastly, an individual commenter stated modification articles should be exempted from a PMA if those articles could be installed: (1) As a minor alteration with a simple logbook entry without approved data, or (2) under a field approval with data approved by a Flight Standards District Office (FSDO) airworthiness inspector or Designated Engineering Representative (DER). We disagree. Both exceptions would serve to weaken our regulatory intent to ensure that only articles for which a suitability determination has been made are installed in type-certificated aircraft. An article is not approved unless the article is: Produced under a TC; produced under an FAA production approval; a standard part; a commercial part, administered in a manner acceptable to the FAA; or produced by an owner or operator for maintaining or altering that owner or operator's product.

5. Definition of ''Commercial Parts''

In the NPRM, we proposed to establish a definition of commercial parts and create a replacement parts classification that would facilitate the use of parts during maintenance. This rulemaking established that classification and allows for the production of commercial parts, as defined by this rulemaking, as replacement or modification articles without benefit of a production approval. Over ten commenters (including SBA's Office of Advocacy, the Regional Airline Association (RAA), ASA, and Snecma) stated the proposed definition of ''commercial parts'' was confusing. SBA's Office of Advocacy asked the FAA to further explain how the new provisions would impact current practices and the industry's ability to use parts that commonly have been referred to as commercial prior to this rulemaking. The commenters were concerned that only those parts designated by the DAH and approved by the FAA as commercial would be considered as such. They concluded the proposal would unduly restrict the use of commercial parts on in-service aircraft, which is common industry practice today.

In response to these comments, we modified the definition of ''commercial parts,'' as it was proposed in the NPRM, to better clarify the meaning of the term. A commercial part means an article that is listed on an FAA-approved Commercial Parts List included in the DAH's Instructions for Continued Airworthiness (ICAs). By creating a ''commercial parts'' classification, the FAA has constructed a new mechanism by which commercial parts may be approved for use on type-certificated products as replacement or modification articles. The FAA has not removed any of the processes used prior to this rule change for approving articles for installation on type-certificated products as replacement or modification articles. Those processes include purchasing the article from the PAH or manufacturer producing under a TC approved to produce the article; produced and installed under the provisions of an STC; or produced and installed in accordance with the provisions of part 43.

For the purposes of this rulemaking, in order for a part to be considered commercial, the DAH must submit to the FAA a list of parts it has designated as commercial pursuant to the provisions of § 21.50(c). A part is designated as commercial when the DAH: (1) Provides data to the FAA showing that the failure of the commercial part, as installed in the product, would not degrade the level of safety of the product; (2) shows the part is produced only under the commercial part manufacturer's specification and marked with only the commercial part manufacturer's markings, and (3) provides any other data the FAA requires to approve the Commercial Parts List.

As discussed in the NPRM preamble, the data requirement concerning the failure of the part is necessary to ensure that commercial parts, which are not subject to the rigorous quality control requirements for PAHs, cannot jeopardize flight safety if they fail. The part marking requirement is necessary to ensure that other similar parts, whose safety has not been demonstrated, cannot be substituted for the part identified as commercial. Because this is a new regulatory classification of parts, we cannot anticipate all the issues that may arise as applicants submit proposals. We therefore need the third ''catch-all'' provision to obtain information necessary to verify our intent in creating this new classification is fulfilled and to ensure there is no adverse effect on safety. The DAH must include the Commercial Parts List in the Instructions for Continued Airworthiness. The FAA approves the commercial parts list, and the parts on it are then eligible for use on a type certificated product as replacement or modification articles.

SBA's Office of Advocacy was equally concerned that as a result of this new commercial parts classification, non-PAH commercial parts manufacturers would be held liable for a violation of § 21.9 regarding production of parts if a part they manufacture is used on a type-certificated aircraft without being declared a commercial part. It stated the FAA should be aware that a strict reading of the proposed rule seems to suggest that once a manufacturer knows or has reason to know that a repair or maintenance facility is installing its product on an aircraft, that manufacturer would have a legal obligation to obtain the approval of either the design holder or the FAA (through a PMA or TSO) for that part. This would extend the reach of the FAA's rule to a vast universe of manufacturers, none of whom are included in the FAA's economic analysis.

SBA's Office of Advocacy is correct in its understanding of the proposed rule, in that if non-PAH producers know or should know that their articles are reasonably likely to be installed on a type-certificated product, they cannot produce those articles unless they meet one of the four exemptions noted in § 21.9. Non-PAH parts producers that know their parts are being installed on type-certificated products may apply for a production approval for the production of those parts, or the DAH of the product or article on which those commercial parts will be installed may designate them as commercial. Our intent is to create an enforceable standard that helps ensure that parts that are used on type-certificated products are produced under an approved quality system or otherwise approved for use on that product.

Several repair stations were unclear on whether repair or maintenance facilities would still be able to utilize the maintenance provisions in § 43.13 to install commercial parts on aircraft. Commercial parts as defined in this rulemaking do not require a production approval, and repair stations may continue to utilize the provisions of § 43.13 to install parts. Those parts that are generally recognized by industry as commercial, but have not been designated on a Commercial Parts List, must be approved for installation in accordance with part 43.

Two individuals stated that the use of commercial parts should be approved only in applications where their function or failure would not degrade safety. The FAA agrees with that statement, and as we do with other parts

approved as part of the type design, we will also evaluate commercial parts during the type design approval process to determine their affect on the safety of the product. In order for a DAH to designate a part as commercial, the DAH must show that failure of the commercial part would not degrade the safety of the product.

Snecma and an individual commenter recommended that advisory material would be helpful in determining when or how commercial parts can be used as part of a type design, including guidance on what a DAH must do to obtain approval of its commercial parts. A repair station also commented that we should provide advisory material on when and how commercial parts may be used by operators and maintenance personnel. The FAA will issue advisory material providing guidance on the above concerns and on substitution of commercial parts during maintenance.

Lastly, an individual commenter noted that the marking requirements for commercial parts are not consistent with the marking requirements in part 45. We agree. However, the marking requirements in part 45 pertain only to those articles manufactured under an approved type design or in accordance with the provisions of a bilateral agreement between the United States and another country or jurisdiction for the acceptance of products and articles. Accordingly, the part 45 marking requirements are not applicable.

6. Location of or Change to Manufacturing Facilities

The FAA is requiring all PAHs to obtain FAA approval before making any changes in location or physical changes to its manufacturing facilities. Additionally, PAHs must immediately notify us of any changes that may affect the inspection, conformity, or airworthiness of its products or articles. This requirement applies to all PAHs and persons producing under a TC only.

One commenter noted that § 21.122(a) appears to allow for production under a TC outside the United States. The commenter is correct. We considered amending subpart F to prohibit manufacturing under a TC in a foreign country. However, we decided to allow manufacturing under a TC in a foreign country, as long as it causes ''no undue burden'' for the FAA.

7. Issuance of Export Airworthiness Approvals for Aircraft Engines, Propellers, and Articles

Section 21.331 permits a person to obtain, from the FAA, an export airworthiness approval for a new or used aircraft engine, propeller, or article manufactured under this part if it conforms to its approved design and is in a condition for safe operation. Also, used aircraft, engines, and propellers are no longer required to be newly overhauled. Finally, prior to issuance of an export airworthiness approval for an aircraft engine, propeller, or article, the special requirements of importing countries or jurisdictions must be met.

AIA, GE, and Pratt & Whitney suggested the FAA amend the rule to reflect that some products require disassembly for shipping purposes after the product has been certificated that it is ''in a condition for safe operation.'' Airworthiness is determined at the time the product is submitted to the FAA in an assembled state. We allow for disassembly of a product for the purpose of shipping to the end-user, but the importing authority will require an airworthiness determination after reassembly and prior to installation on the aircraft.

AIA, Boeing, and GE also suggested we revise the rule language to allow a PAH to obtain letters of acceptance directly from the importing country when required for nonconforming products ready for export. A fundamental principle of our bilateral agreements is that letters of acceptance are transmitted between authorities, and we are not planning to institute a change to that policy. Because bilateral agreements supersede our regulatory requirements, the FAA will continue to receive and process letters of acceptance from importing authorities.

AIA, Boeing, and GE further stated it would be beneficial for us to define the term ''used'' as it appears in § 21.331. They also suggested that we revise § 21.331 to allow the issuance of export airworthiness approvals for used products that do not meet an approved type design, as service time and wear prevent conformity to new article dimensions. We agree that there should be a consistent application of the term ''used'' as it relates to aircraft products; however, a regulatory definition would not be appropriate at this time because the term has different meanings in its application in a certification context versus a maintenance context. As to the comment regarding nonconforming products, § 21.331 already allows for the issuance of an export airworthiness approval for used products that do not meet an approved type design.

An individual commenter thought it unnecessary to obtain letters of acceptance from an importing country when shipping nonconforming products or articles. We disagree. An importing authority has complete discretion on whether it will accept nonconforming products or articles, and this issue is addressed between authorities in bilateral agreements and is not dictated via domestic regulations. Another individual commenter suggested that an importing country, rather than the FAA, should authorize deviations from the regulatory requirements of subpart L for products exported. Importing countries have no regulatory jurisdiction in the United States, and therefore, they have no authority to grant a deviation from our requirements. We maintain sole authority to grant deviations from our regulations.

An individual commenter suggested that the rule accommodate the movement of articles whose airworthiness status is unknown. Again, we disagree. The rule is intended to accommodate only the export of products and articles determined to be airworthy. The issuance of an airworthiness approval for products and articles whose status is unknown would be contrary to the fundamental airworthiness principles and obligations of our bilateral airworthiness agreements with other countries and/or jurisdictions.

Section 21.335(a) requires exporters to forward to the importing country or jurisdiction all documents specified by that country or jurisdiction. Paragraph (b) requires the exporter to preserve and package products and articles as necessary to protect them against corrosion and damage during transit or storage and to state the duration of effectiveness of such preservation and packaging. AIA, GE, aircraft parts manufacturers, and individuals assert that because it is difficult, or sometimes impossible, to predict how long an article may need to be preserved, it may be equally difficult to comply with the packaging and preservation requirements.

This rule requires that products and articles be properly preserved and packaged as necessary at the time of export. Exporters must state the duration of effectiveness, but they are not required, as the commenters suggest, to exercise control over the end use or storage of the parts exported. If a product or article does not require any preservation or protective packaging in order to prevent damage, this rule does not apply.

AIA and GE were concerned that U.S. exporters may be required to obtain an export airworthiness approval as part of the documents specified for export. They believed that import and export requirements should be the same. The commenters are correct. Based on the content of our agreement with a country, additional documentation,

including an export airworthiness approval from the importing country or jurisdiction, may be required.

AIA mentioned that § 21.335(a), or the preamble, should clearly state the documentation requirements for export, as there is often a variation in requirements. The FAA has numerous bilateral agreements with countries addressing the type, format, and content of documentation required for imported and exported products and articles. It would be impractical to delineate all those requirements in our regulations, as they are subject to change by the importing country. The FAA does request the importing authorities to periodically update and review its special import requirements, and we maintain that information in AC 21–2, Appendix 2, which is available on our Web site.

8. Definition of ''Standard Parts''

We proposed in the NPRM to expand the definition of ''standard parts'' that appeared in former § 21.303(b)(4). The proposed definition of ''standard parts'' included a part that conforms to a specification established by a foreign government agency or a consensus standards organization. However, due to conflicts between our proposed definition with other authorities' definitions of ''standard parts,'' the FAA has decided against revising the definition of ''standard parts'' at this time. Instead, we are maintaining the original use of the term, which now appears in § 21.9(a)(3).

9. Definitions

FAA has expanded the part 1 definition of ''approved,'' as it relates to the approval of products and articles, to include approvals issued under the provisions of a bilateral agreement between the United States and a foreign country or jurisdiction. This amendment clarifies that data approved by a foreign civil aviation authority under a bilateral agreement does not require further FAA approval. Furthermore, the term ''jurisdiction,'' as it appears in the definition, applies to entities that are not countries (*e.g.*, the European Union (EU)).

Section 21.1(a)(1) prescribes procedural requirements for issuing and changing design approvals, production approvals, airworthiness certificates, and airworthiness approvals. Paragraphs (b)(1) through (b)(8) define the terms airworthiness approval, article, commercial part, design approval, product, production approval, State of Design, and State of Manufacture.

We received forty-eight comments on this section. National Civil Aviation Agency—Brazil (ANAC) asked that we define the term ''airworthiness certificates.'' An airworthiness certificate is a form issued by the FAA or its designee to document whether a product meets its type design and is in a condition for safe operation. The usage of this form in this manner has been commonly accepted, and we have determined that the term ''airworthiness certificate'' is widely understood and requires no further definition.

ANAC stated that the term ''jurisdiction,'' as it appeared in the proposed definition of ''State of Design,'' should be defined because an airworthiness jurisdiction is sometimes different than the company's legal location jurisdiction. We have revised the definition of ''State of Design'' to clarify that it means an entity that has regulatory authority over an organization responsible for the design and continued airworthiness of a civil aeronautical product or article. The concept of ''airworthiness jurisdiction'' is addressed by the reference to regulatory authority.

ANAC further stated that we should better clarify the term ''State of Manufacture'' because a product or article could have more than one State of Manufacture. Accordingly, we have revised the definition of ''State of Manufacture'' to clarify that it means the country or jurisdiction with regulatory authority over the organization responsible for the production and airworthiness of a civil aeronautical product or article.

An individual commenter mentioned the definition of ''airworthiness approval'' should include a reference to FAA Forms 8130–3 and 8130–4. The commenter also stated that an FAA Form 8130–3 should be required for standard and commercial parts when sold to an owner/operator for installation. We disagree with both comments. The FAA reserves discretion to change or use different FAA forms for various functions. Therefore, we rarely use form numbers in the regulations. The required form and manner of regulatory compliance is usually stated in policy and guidance material. Also, as stated, an airworthiness approval is used to document the airworthiness status of products and articles. Because standard and commercial parts are not produced pursuant to an approved type design, it would be inappropriate to issue an airworthiness certificate for those parts. While the FAA does not issue airworthiness approvals for these parts, they have been subjected to evaluation by both the type design holder and the FAA to ensure their suitability of use in the design.

Boeing and two individual commenters stated that the term ''article'' should be used throughout Title 14. We have determined that the part 21 definition of ''article'' may be inappropriate for use in applications of the term in other parts of the regulations. Universal application of the definition could likely result in unintended consequences. However, the definition of ''article'' is appropriate for use in this part.

GE and two individual commenters contended that the definition of ''article'' should not include ''processes'' because generally, there are no processes that can be considered stand-alone articles. Prior to this rulemaking, we have traditionally defined ''article'' to include processes, particularly in reference to TSO parts. We are retaining that usage in this rule. We have determined that this definition is appropriate because there are, in fact, instances when a stand-alone process, such as software, is considered an article. When making a determination of whether a process is an article, the FAA must consider whether that process is a deliverable, stand-alone end item.

AIA, Boeing, and GE stated that we should define the term ''supplier''. In general, the term ''supplier'' is understood to mean any person or organization contracted to furnish products, articles, or related services at any tier. However, the term ''supplier'' is well-understood, and there is no need to define the term in this rulemaking action.

We have removed from subpart L the definitions of Class I, Class II, and Class III products and the definition of ''newly overhauled''. We now use the terms product and article consistently throughout part 21. In addition, we no longer require a definition of ''newly overhauled'' since all occurrences of the term and any associated requirements related to it have been removed from the regulations.

B. Miscellaneous Requirements

The following discussion addresses miscellaneous amendments made to part 21, many of which are primarily procedural or administrative in nature and do not constitute major departures from the pre-existing part 21 rules. In addition, we have made administrative changes to the regulatory text to use terms consistently and for plain language purposes.

1. Application for Parts Manufacturer Approval

Section 21.303 requires an article to conform to its ''approved design,'' rather than conforming to ''drawings in the

design,'' as was required by its predecessor rule. We have replaced the term ''fabrication processes,'' appearing in the former rule, with ''manufacturing processes'' to reflect that PMA holders will no longer have a fabrication inspection system. PMA holders must now comply with the same quality system requirements as all other PAHs, consistent with the size of the PAH and the complexity of the product or article produced. PMA applicants must also provide a statement certifying that the applicant has complied with the airworthiness requirements of this subchapter.

We received eleven comments on this section. AIA and GE recommended that we clarify in the rule the meaning of ''approved design''. The commenters noted that design data, such as process specifications, are more than likely referenced on a drawing and may, along with the drawing, comprise the complete type design data package. Specifications and design documents may include material properties, inspection criteria, non-destructive inspection criteria, design practices, design parameters, or documents that include operational limits.

We do not agree that a detailed definition of ''approved design'' is appropriate in this regulation. In our experience, it is widely understood among applicants and approval holders that an ''approved design'' means a complete design data package containing substantiating data (*e.g.,* processes, material specification, design parameters, and limitations). Our intent is to clarify that the approved design may consist of more than referenced drawings.

2. Production under Type Certificate (TC)

This rule revises the introductory text of § 21.123 to clarify that a TC holder is authorized to manufacture articles, not just products, for its type-certificated products. Paragraph (b) requires the TC holder to make each product and article available to the FAA for inspection. Paragraph (c) requires each manufacturer of a product, or article thereof, under a TC to maintain completed inspection and test records for specified periods of time. This rule also increases the record retention requirements for all PAHs and for persons producing under a TC from 2 years to at least 5 years. For critical components identified under § 45.15(c) of this chapter, the record retention requirement is at least 10 years. Paragraph (d) requires each manufacturer of a product, or article thereof, manufactured under a TC to allow the FAA to make any inspection or test (including any inspection or test at a supplier facility) necessary to determine compliance with this subchapter.

Industry groups, aircraft, aircraft engine, and parts manufacturers expressed four main concerns. AIA, GE, and Pratt & Whitney were concerned with the applicability of this section to existing TC or PC holders. The commenters suggested that subpart F should only apply to first-time applicants. If a person holds a current TC and PC for various product models, then that person is producing articles for any new models under an existing quality system. Commenters assert that the TC or PC holder should not be required to obtain a PC six months after the issuance of the new model TC, as required by § 21.123, because the person already has a PC. We partially agree. If the PC holder chooses to manufacture a more complex product, the FAA must review the quality system to determine whether it is adequate to produce products or articles that conform to the type design and is in a condition for safe operation.

A part manufacturer asked whether a TSO article that is incorporated into a TC is considered to have been manufactured in accordance with the type design for the TC. While the TSO article is part of the type design, it has its own approval process. A TSO article is produced using minimum performance specifications; those specifications constitute the design for the TSO article. That design data is submitted to the FAA for approval with the manufacturer's quality manual. A joint design/production approval is then granted under subpart O.

3. Falsification of Applications, Reports, or Records

Section 21.2 prohibits persons from making misleading statements on applications for certificates or approvals or in any record or report that is kept, made, or used to show compliance with any requirement of this part. For the purposes of this rule, a misleading statement requires a material representation or omission that is likely to mislead a person when that person is acting with reasonable diligence under the circumstances. The scope of § 21.2 is now expanded to prohibit fraudulent, intentionally false, or misleading statements on any record that is kept, made, or used to show compliance with any requirement of part 21. Also, a violation of this rule may be used as the basis for denying an approval issued under part 21, in addition to suspending or revoking an approval.

We received eight comments on this proposed rule. AIA, Boeing, GE, Pratt & Whitney, Embraer, and an individual commenter were concerned that some persons might unknowingly make misleading statements and be subject to an FAA violation. They stated that we should recognize, and the rule should reflect, that honest mistakes happen and that those mistakes should be given due consideration.

The FAA recognizes that honest mistakes happen, and to that end, we will collect and evaluate any available evidence regarding incorrect representations and examine the overall impression created by that representation. We must reserve the right to take action, as appropriate, to address material inaccuracies in the related application or records, whether or not the inaccuracies are intentional.

Experimental Aircraft Association (EAA) requested that we revise the preamble language to reflect that phrases such as ''direct replacement'' and ''ready to use in your aircraft'' are acceptable, as they have been used for years in both certificated and experimental aircraft industries. However, the FAA will not endorse the use of the phrases ''direct replacement'' and ''ready to use in your aircraft'' to suggest that an article is approved for installation on a type-certificated aircraft unless the statements are supported by objective evidence of such an approval.

An individual commenter stated that we should clarify that § 21.2 applies to noncertificated persons, commercial parts producers, standard parts producers, and surplus suppliers. Part 21 governs the certification of products or articles, and persons seeking such certification would be subject to its provisions.

4. Design Changes

Section 21.319 governs the classification and approval of PMA design changes. Prior to this rulemaking, part 21 did not formally address PMA design changes. Changes were accomplished using the design change process used for TCs.

Seven commenters, representing industry groups, aircraft manufacturers, and engine manufacturers, expressed two main concerns. The first concern was with the proposed definition of ''minor change''. In general, AIA, Boeing, and GE believe that limiting the applicability of design changes to an isolated view of ''parts-only'' could impact safety. For example, under § 21.319(a)(1), a change to the design of an article may be classified as minor; however, if the change was evaluated

with consideration of the complete aircraft or engine, the classification of the change might not be minor.

We disagree with the commenters and have determined that safety will not be adversely affected by classifying changes to PMA parts as ''minor''. The classification of a change to a PMA article as minor under § 21.319 does not waive the installer of the requirements of compliance to part 21, subpart D for the TC holder. This is due to the installation of the changed PMA article, or the requirements of § 21.113 for any person altering a type product with a major change in type design. For example, if the installation of the changed PMA article causes a major change to the type product, § 21.113 requires an STC for installation approval.

To clarify that the PMA change classification is only to apply at the article level, we modified the definition of minor change. Section 21.319(a)(1) has been changed to read, ''A 'minor change' to the design of an article produced under a PMA is one that has no appreciable effect on the approval basis.''

Boeing recommended that we review the EASA regulation and associated guidance and provide a discussion in the rule language to differentiate how design changes are approved under differing methods of obtaining a PMA. The issue of design change classifications encompasses individuals other than just PMA holders who obtained their approvals with licensing agreement data. TC holders can license their design data to any third person, including to PAHs who have no intention of seeking a PMA. The PMA holder can only evaluate the change to its own design approval for its own article. If the PMA holder is making a design change that affects the product on which the article is installed, it requires an STC for the product.

Furthermore, a comparison of our proposed regulation regarding design changes with EASA regulations and guidance is beyond the scope of this rulemaking.

5. Changes in Quality System

Section 21.150 specifies requirements regarding changes in the quality system. Previously, we required the PC holder to notify the FAA of any change that might affect the inspection, conformity, or airworthiness of the product. This rule amends that requirement to now apply to ''articles,'' as well as products. Accordingly, we have incorporated this requirement in subparts K and O, which are applicable to PMA holders and TSO authorizations, respectively. Again, this rule standardizes requirements for all PAHs.

6. Transferability of a Type Certificate

Today's rule requires a TC holder to notify the FAA before the transfer, execution, or termination of a licensing agreement. Such notification allows us time to coordinate with our affected offices and to inform the prospective licensees of their responsibilities. We also now require a grantor to notify the FAA of TC transfer when the State of Design is changing before the transfer occurs. Transferring a TC when the State of Design is changing requires FAA coordination with the aviation authority of the prospective State of Design to identify requirements in support of the transfer and to reduce the FAA's burden in managing the certificate.

Embraer suggested the FAA place limits on how much advance notice is required before transferring a certificate. We have determined that it is more efficient to coordinate the transfer of a TC before the transfer, rather than after it has occurred. Depending on the scope of the transferred TC (complex aircraft or engine, *etc.*), the length of transfer time may vary. Therefore, predetermined time limits could restrict the process.

ANAC suggested we require an agreement between States for licensing agreements in which the licensee or the licensor is in another country. ANAC believes such an agreement would make the oversight process more efficient. We agree. However, bilateral agreements between authorities already address licensing agreements between States, and we need not make this a regulatory requirement. We exercise oversight responsibilities for licensors in the United States. We have no oversight responsibility over licensees located in other States.

An individual commenter stated that the rule language regarding the anticipated date of the agreement in § 21.47(d) requires further explanation. That commenter also questioned whether the licensing agreement should be sent to the Manufacturing Inspection District Office (MIDO), rather than the Aircraft Certification Office (ACO), as any manufacturing activity based on the licensing agreement must be approved by the MIDO. The ''anticipated date of the transfer'' is a projection and may be speculative at times on the part of the licensor. Furthermore, § 21.47(d) applies to TC holders. A production approval applicant must work with both the ACO and its cognizant MIDO.

7. Special Flight Permits

Section 21.197(c)(1) allows the issuance of special flight permits by part 119 certificate holders that have an approved program for continuing flight authorization. It also allows the issuance of special flight permits by management specification holders authorized to conduct operations under part 91 for aircraft they operate and maintain under a continuous maintenance program prescribed by § 91.1411.

The flight permits include conditions and limitations for flight and may be issued for aircraft that do not meet applicable airworthiness standards. Formerly, the FAA allowed the issuance of special flight permits only by operators that maintain their aircraft under a continuous airworthiness maintenance program (CAMP). This rule provides relief to operators who do not have a CAMP but periodically require the issuance of special flight permits. The operator must have the necessary quality system and infrastructure to support this authorization.

8. TC Applicant—Compliance with Applicable Requirements

We established § 21.20(a) to require an applicant for a TC, including an amended TC or STC, to show compliance with all applicable requirements and to provide the FAA the means by which such compliance has been shown. It also requires an applicant for a TC, including an amended TC or STC, to provide a statement certifying that the applicant has complied with the applicable requirements.

We received four comments on this section. Embraer, a repair station, and two individual commenters stated that it would be difficult for an applicant to determine if all of the requirements had been met prior to applying for a TC. Therefore, further guidance might be required. The type certification process requires the applicant and the ACO to work closely together through the entire certification process. The ACO will advise applicants of the requirements prior to receipt of the certifying statement. This rule is intended to expedite the type certification approval process by ensuring that an applicant's submission package is complete prior to the FAA making the compliance determination.

9. Issuance of Standard Airworthiness Certificates

We revised § 21.183(c) to allow a person to obtain a standard airworthiness certificate for an aircraft

that is imported to the U.S. via an export certificate of airworthiness, provided the aircraft is type certificated under § 21.21 or § 21.29, manufactured under the authority of another State of Manufacture, and there is no undue burden on the FAA. The State of Manufacture must certify (in accordance with the provisions of an agreement with the United States for import and export of that aircraft), and the FAA would have to determine that the aircraft conforms to its type design and is in a condition for safe operation.

An individual commenter stated that § 21.183(c) should be revised to apply the standards to new aircraft only. However, it would be inappropriate to apply the rule for new aircraft only because there are instances when used aircraft may be eligible for a standard airworthiness certificate, such as when a used aircraft is imported into the United States. If an airworthiness determination can also be made for these aircraft, we have determined that used aircraft should be eligible for a standard airworthiness certificate.

That commenter also asserted the 100-hour inspection requirements of § 21.183(d)(2) should not be relaxed. The commenter believed the only exception should be when: (1) An aircraft is imported from a country with which the United States has a bilateral agreement that addresses maintenance, and (2) the aircraft is currently certificated and operating under an acceptable inspection/maintenance program. Section 21.183(d)(2) does not relax the 100-hour inspection requirement. Section 21.183(d)(2) merely provides an alternative means of determining whether a product is acceptable.

The commenter further asserted that the U.S. should only accept a used aircraft from a country or jurisdiction that is not the State of Manufacture when we have a bilateral agreement for maintenance with that country or jurisdiction. Finally, the commenter stated that the U.S. should not accept an aircraft for an airworthiness certification in a category that requires a TC, unless the State of Manufacture for that aircraft provides a certification of its status at manufacture.

The intent of § 21.183(d)(2) is to provide the ability to accept equivalent inspection standards and the corresponding airworthiness determinations from those countries and jurisdictions with which the U.S. has a bilateral agreement. This rule incorporates current policy, is consistent with bilateral practices, and may reduce the cost of importing a used aircraft when duplicate inspection requirements are eliminated.

10. Approval of Major Changes in Type Design

The FAA now requires an applicant for approval of a major change in type design to show that the changed product complies with the applicable requirements. The applicant must provide the FAA the means by which such compliance has been shown and a statement certifying that the applicant has complied with the applicable requirements.

11. Quality Manual

Section 21.138 requires each PC applicant to provide a quality manual describing its quality system to the FAA for approval. This requirement also applies to PMA and TSO approval holders. The quality manual must address the quality system requirements of the subpart under which the applicant seeks production approval. The quality manual should also address changes to the quality system, revisions to the manual, and a means of tracking revisions to the manual. These changes must be acceptable to the FAA. In addition, this rule requires that the quality manual be in the English language and retrievable in a form acceptable to us so that regardless of the media used, the quality manual is easily available to the PAH and FAA personnel.

12. Production Limitation Record

Section 21.142 clarifies that the PC holder, not a PC applicant, is authorized to manufacture the products listed on the production limitation record (PLR). A PLR is issued once an applicant obtains a PC, allowing the PC holder to manufacture the products listed on the PLR.

13. Persons Authorized to Perform Maintenance, Preventive Maintenance, Rebuilding, and Alterations

The FAA has amended § 43.3(j)(3) by removing all references to an aircraft production inspection system (APIS). This change is consistent with the amendments to part 21, subpart F. This change also allows a manufacturer to perform any inspection required by parts 91 or 125 on aircraft it manufactured under a TC only or currently manufactures under a PC.

Transport Canada stated that § 43.3(j) should be revised to eliminate the special maintenance privileges afforded to manufacturers so that all persons or organizations are subject to the same requirements.

We recognize that this section needs clarification to address the performance of maintenance and oversight of those manufacturers who exercise the privileges of § 43.3(j). FAA is currently working to address this and other maintenance/manufacturing issues.

14. Statement of Conformity

The proposed rule requires a TC applicant to provide a statement of conformity for each aircraft engine or propeller presented for TC. This rule also removes the flight and operational check requirements that were previously in § 21.130. Those requirements were redundant with the requirements in §§ 21.127(a), 21.128, and 21.129. We have removed from the regulations prescriptive details related to particular FAA forms, form content, and form. This information is more appropriately located in policy documents that are more easily amended to reflect future changes in procedures.

Previously, § 21.130(c) exempted TC holders from providing a statement of conformity for products manufactured for the Armed Forces if they had accepted the product. We have removed that exception. Now, TC holders must issue an FAA Form 8130–2, Conformity Certificate—Military Aircraft, for products manufactured for the Armed Forces. This amendment facilitates a future applicant's ability to obtain a special airworthiness certificate under § 21.183(d) for surplus military aircraft.

A parts manufacturer questioned the additional benefit associated with obtaining an FAA Form 8130–2, in addition to Form 8130–3, that would have been required under our original proposal. Because we are no longer mandating the issuance of an airworthiness approval, the commenter's concern about issuance of a Form 8130–3 approval is no longer at issue. However, a Form 8130–2 is still required for military aircraft used in civil applications. The FAA (or the DAR) relies on the statement of conformity issued by the manufacturer as objective evidence that the product or article for which the TC was issued conforms to its approved type design and is in a condition for safe operation.

15. Privileges

We have revised § 21.119(c) to clarify that the STC holder may obtain a PC for the change in the type design approved by the STC if the STC holder meets the requirements of subpart G, pertaining to the issuance of PCs.

16. Issuance of Airworthiness Certificates for Restricted Category Aircraft

We have revised § 21.185(c) to allow, under certain conditions, the issuance of a special airworthiness certificate for restricted category aircraft that are imported into the U.S. with an export certificate of airworthiness. That aircraft must be type certificated under §§ 21.25 or 21.29 and be manufactured under the authority of another State of Manufacture. The State of Manufacture must certify that the aircraft conforms to its type design and is in condition for safe operation at the time of export. Again, the FAA must find that the aircraft conforms to its type design and is in condition for safe operation.

17. Acceptance of Articles

We have revised § 21.502 by replacing the word ''approval'' with ''acceptance'' to clarify that subpart N governs only the import or acceptance of articles into the U.S.; not the original design or production approvals of articles. This revision also requires that an article (including an article produced under a letter of TSO design approval) be marked in accordance with part 45 of this chapter to meet the requirements for FAA acceptance.

C. Compliance Dates

This rule is effective 180 days after publication in the **Federal Register**. The compliance date for part 1; part 21, subparts H, I, L, and N; and part 45, subpart B, §§ 45.11 and 45.13 is 180 days after publication in the **Federal Register**. The rule changes in these subparts are either cost relieving or have no economic impact on industry. The changes do not affect, and are not affected by, other changes to the rule. Therefore, the compliance date is the same as the effective date. All other portions of the final rule either promulgate new requirements or are tied to other requirements that have an extended compliance date. These rule provisions have a compliance date of 18 months after the rule's publication in the **Federal Register**.

Prior to the effective compliance dates of this final rule, compliance with any portion of this rule that conflicts with an existing rule is not allowed. However, it is possible to comply with the former part 21 requirements and the requirements of this rule concurrently.

III. Regulatory Notices and Analyses

Paperwork Reduction Act

This rule contains new information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA submitted the information requirements associated with this rule to the Office of Management and Budget (OMB) for review and approval. An agency may not collect or sponsor the collection of information, nor impose an information collection requirement, unless it displays a currently valid OMB control number.

As required by the Act, we submitted a copy of the new information requirements to OMB for its review when we published the NPRM. Additionally, in the NPRM, we solicited comments from the public on the proposed new information collection requirements. Affected parties, however, do not have to comply with the information collection requirements of this rule until OMB approves the FAA's request for this information collection requirement. The FAA will publish a separate document notifying you of the OMB Control Number and the compliance date(s) for the information collection requirements of this rule.

The NPRM (71 FR 58914, October 5, 2006) summarized the FAA's analysis of the economic impacts of this rule. The FAA expected private entities would incur reporting and recordkeeping costs when applying for and operating under this rule and solicited comments on minimizing the cost and burden of the collection.

Based on comments to the docket that costs were prohibitive and benefits small, the FAA withdrew proposals that required airworthiness approvals for all (domestic and overseas) shipments of aircraft engines, propellers, and articles; certifying staff to issue the approvals; and marking requirements for all aircraft products and articles. These changes removed $327.1 million or 99.2 percent of the original undiscounted (gross) cost, and $187.6 million or 99.1 percent of the original present value total cost.

We also removed the provision in § 21.331 to allow PAHs to issue their own export airworthiness approvals. The issuance of an export airworthiness approval by the manufacturer would violate the terms of our bilateral agreements with other countries and jurisdictions. A fundamental premise of all bilaterals is that exported parts must be accompanied by an airworthiness approval issued by the relevant authority or its authorized designee. We estimated undiscounted cost savings of $95.5 million over 10 years, and present value cost savings of $54.8 million from this rule change in the NPRM. The net cost relief from changes to the NPRM to the rule amount to $231.6 million in undiscounted costs and $132.8 million in present value costs.

The average total annual cost burden and average total annual hour burden discussed in the NPRM do not take into consideration that section 3, Quality System manual and section 4, Organization, have costs that are front-loaded at a ratio of 80 percent in the first two years. Adjustments have been made to account for that front-loading.

Estimates of the Hour Burden of the Collection Information

The requirements for hour burden of the information collection associated with this rule fall into the following categories:

- Reporting of Failures, Malfunctions, and Defects;
- Commercial Parts;
- PC Quality System (internal audits);
- PC Quality System (in-service feedback);
- PMA Application (statement of compliance);
- PMA Quality System;
- PMA Quality Manual;
- TSO Organization.

The total annual hour burden for this rule is estimated to be approximately 2,589 hours.

Benefits of this Rulemaking

- The rule becomes effective in 2009. However, the FAA does not propose to make this information collection effective until approximately 12 months after the rule's effective date.
- The costs savings a private entity will attain under this rule will exceed the costs imposed by this rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has enhanced two ICAO definitions in these regulations.

Regulatory Evaluation, Regulatory Flexibility Determination, International Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small

entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995).

In conducting these analyses, the FAA has determined this final rule has benefits that justify its costs, and it is a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 because it raises novel policy issues contemplated under that executive order. Accordingly, OMB has reviewed this rule. The rule is also ''significant'' as defined in DOT's Regulatory Policies and Procedures. The final rule, if adopted, will not have a significant economic impact on a substantial number of small entities, will not create unnecessary obstacles to international trade and will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the final regulatory evaluation supporting this rule, are summarized below.

Regulatory Evaluation Summary

For more information, we suggest readers go to the full regulatory evaluation. A copy is in the docket for this rulemaking.

This portion of the preamble summarizes the FAA's analysis of the economic impact of this rule. It also includes summaries of the final regulatory flexibility analysis, international trade impact assessment, and the unfunded mandate assessment. For more information, we suggest readers go to the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

Total Benefits and Costs of this Rule

We find the modest costs of this rule to be overwhelmed by very large cost savings and some safety benefits. We estimate the undiscounted 10-year costs of this rule to be about $2.1 million, the undiscounted 10-year cost savings to be about $126 million, and the undiscounted 10-year safety benefits to be about $10.1 million. We estimate the present value (2009 dollars) costs of this rule to be about $1.7 million, the present value cost savings to be about $88.4 million, and the present value safety benefits to be about $7.1 million. Consequently, we estimate this rule to be highly cost-beneficial with undiscounted 10-year net benefits of about $134 million and present value net benefits of about $93.8 million.

Persons Potentially Affected by this Rule

This rule primarily directly affects all type certificate (TC) and production approval holders (PAHs), including holders of PCs, TSOs, and PMAs. Regional air cargo carriers and exporters of used aircraft and used engines, propellers, and other articles (primarily distributors and individuals) are also directly affected by this rule.

Assumptions and Sources of Information

- As the rule mandates procedural changes with small front-loaded costs, we use a 10-year period of analysis, 2009 through 2018.
- This rule will become a final rule in 2009. The FAA intends to make cost-neutral or cost-relieving subparts and sections of this rule that are stand-alone changes effective 180 days after publication in the **Federal Register**. For purposes of our cost-benefit analysis, we assume safety benefits and benefits of cost-relieving changes will begin in 2009. The remaining portions of the rule (with positive costs) will be effective 12 months after the rule's effective date. We assume one-time costs will occur in 2010 and continuing costs will begin in 2010.
- The discount rate is 7 percent (Office of Management & Budget, Circular A–94, ''Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs'', October 29, 1992, p. 8).
- We obtained the number of PAHs by PAH type from the FAA's Certificate Management Information System (CMIS) database.
- PAHs are defined as ''small'' or ''large'' using U.S. Small Business Administration (SBA) size standards. (See table of Small Business Size Standards Matched to North American Industry Classification System Codes, July 21, 2006.)
- We estimated the number of small (and large) PAHs using a 45 percent sample of all PAH data from the FAA's Small Airplane and Rotorcraft Directorates.
- The fully burdened wage rate for engineers and quality system professionals is $80 an hour.
- The fully burdened wage rate for pilots in the regional air cargo industry is $55 an our (RACCA).
- We obtained data on aircraft and aircraft engine exports from the Trade Policy Information System (TPIS) database (International Trade Administration, Department of Commerce).
- Importing countries accept large transport category airplanes based on a bridge inspection document (Industry expert from the Aeronautical Repair Station Association (ARSA)).
- Exporters of used aircraft and used engines compete away 90 percent of the cost savings to overseas buyers.
- Forty percent of U.S. engine exports are used engines (based on the percentage of used aircraft exports shown by TPIS database).
- Aircraft engine overhauls occur every five years (FAA expert from the Office of Aviation Safety, Flight Standards Service (AFS)).
- Eighty percent of importing countries accept used large jet engines without a complete overhaul (ARSA industry expert).
- We obtained information on aircraft accidents caused by inadequate quality control from the National Transportation Safety Board (NTSB) accident reports and the FAA's Aviation Safety Information Analysis and Sharing (ASIAS) database for air claims.
- The value of a statistical fatality averted is $3 million *(Economic Values for FAA Investment and Regulator Decisions, a Guide,* p. 2–2, Aviation Specialist Group, Inc., for Office of Aviation Policy and Plans, FAA, Washington, DC, December 31, 2004).[1]
- The legal and medical costs for fatalities and injuries are obtained from *Economic Values for FAA Investment and Regulator Decisions,* pp. 2–2 to 2–4.
- This rule will prevent 50 percent of future accidents caused by inadequate quality control.
- Data on costs of compliance with this rule were obtained from FAA data and industry representatives.

Changes From the NPRM to the Final Rule

Based on comments to the docket that costs were prohibitive and benefits small, the FAA has withdrawn major proposals requiring airworthiness approvals for all (domestic and overseas) shipments of aircraft engines, propellers, and articles; certifying staff to issue these approvals; and marking

[1] The current value of the equivalent life saved is $5.8 million, and under that value, benefits would be even higher.

requirements for all aircraft products and articles. These changes remove $327.1 million or 99.2 percent of the original undiscounted (gross) cost, and $187.6 million or 99.1 percent of the original present value total cost.

We have also, however, removed the provision in § 21.331 that would have allowed PAHs to issue their own export airworthiness approvals. The issuance of an export airworthiness approval by the manufacturer would violate the terms of our bilateral agreements with other countries and jurisdictions. A fundamental premise of all bilaterals is that exported parts must be accompanied by an airworthiness approval issued by the relevant authority or its authorized designee. In the NPRM, we estimated undiscounted cost savings of $95.5 million and present value cost savings of $54.8 million from this rule change. Consequently, the net cost relief from changes to the NPRM amount to $231.6 million in undiscounted costs and $132.8 million in present value costs.

Benefits of this Rulemaking

The benefits of the rule include estimated cost savings from three rule changes that relieve regulatory burden and estimated safety benefits. As the table shows, we estimate the undiscounted 10-year cost savings from these rule changes to be about $126.0 million and the present value cost savings to be about $88.4 million. Safety benefits from this rule will arise to the extent that it prevents accidents caused by inadequate quality control. As the table shows, we estimate the undiscounted 10-year safety benefits of this to be about $10.1 million and the present value (2009 dollars) safety benefits to be about $7.1 million. As the table shows, summing the cost savings and the safety benefits yields undiscounted total 10-year benefits of about $95.5 million and total present value (2009$) benefits of about $95.5 million.

TABLE 1—SUMMARY TABLE OF BENEFITS BY RULE SECTION

Section No.	Section description	Present value cost savings/benefits	Undiscounted cost savings/benefits
§ 21.197	Special flight permits	$4,596,668	$6,661,500
§ 21.329(c) deleted	Annual type inspection no longer required for used A/C to receive export airworthiness certificate.	6,719,695	9,567,330
§ 21.331 (§ 21.329(e) deleted)	New overhaul no longer required for used engine to receive export airworthiness approval.	77,122,043	109,804,440
	Total Cost Savings	88,438,406	126,033,270
	Safety Benefits	7,067,034	10,061,867
	Total Benefits of the Rule	95,505,440	136,095,137

Costs of This Rulemaking

The Final Regulatory Evaluation for this rule examines the impact of an FAA final rule that will make extensive changes to its part 21 certification procedures and identification requirements for aeronautical products and articles. These changes will:

- Standardize several requirements for PAHs, including requirements for a quality system and quality manual to reflect industry best practices;
- Revise export airworthiness approval requirements to facilitate global manufacturing and trade;
- Move all part marking requirements from part 21, Certification Procedures for Products and Parts, to part 45, Identification and Registration Marking; and
- Add a new classification of parts called ''commercial parts.''

The intent of these changes is to promote safety by ensuring that, whether manufactured locally or abroad, aircraft products and articles meet applicable standards. These changes will update the regulations to reflect the current global environment for the manufacture and trade of aircraft products and articles and, more generally, to improve regulatory efficiency.

Most of these changes standardize, clarify, or simplify rule language, while other rule changes are already industry practice. Consequently, they impose no new costs and possibly have qualitative positive benefits by increasing the efficiency of the regulatory process. Of the dozens of rule changes, only eight have net positive costs, not including probable qualitative benefits. Our estimates are shown in the table. As the table shows, we estimate undiscounted 10-year costs to be about $2.1 million and present value (2009 dollars) costs to be about $1.7 million.

TABLE 2—SUMMARY TABLE OF COSTS BY RULE SECTION

Section No.	Section description	Present value costs	Undiscounted costs
§ 21.3(f)	Reporting of failures, malfunctions, and defects	$4,614	$6,942
§ 21.9(a)(4)	Commercial parts	499,890	790,596
§ 21.137(l)	PC Quality system (internal audits)	11,813	12,640
§ 21.137(m)	PC Quality system (in-service feedback)	39,626	42,400
§ 21.303(a)(5)	PMA Application (statement of compliance)	276,262	295,600
§ 21.307	PMA Quality system	415,551	444,640
§ 21.308	PMA Quality manual	424,374	454,080
§ 21.605	TSO Organization	22,430	24,000
Total Costs		1,694,560	2,070,898

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The Initial Regulatory Flexibility Analysis of this rule, published in the **Federal Register** (72 FR 6968, February 14, 2007), found a significant economic impact on a substantial number of small entities. We received numerous comments to the docket that the costs of the rule were prohibitive, and particularly so for small firms. The greatest concern was with our requirements for (1) airworthiness approvals for all (domestic and overseas) shipments of aircraft engines, propellers, and articles and (2) marking requirements for all aircraft products and articles. In response to these comments, the FAA has withdrawn these major proposals. These changes remove $187.6 million, or 99.1 percent of the original present value (gross) cost. As a consequence, for all firms in our sample of small firms affected by the rule, the annualized cost of the rule relative to estimated average annual revenues is less than 0.1 percent.

Several comments to the docket argued that we have greatly underestimated the cost for PMA holders—especially small holders—to comply with the requirement for a quality system (§ 21.307) and quality manual (§ 21.308), particularly the internal audit provision. According to these comments, additional staff will be required at a cost, in the case of a one-person shop, of up to $60,000 a year. Our reference to ISO standards and other preamble language may have misled these commenters. We intend that the requirements be scalable relative to firm size and product complexity. The complexity of the quality system and the size of the quality manual depend on the size of the PAH and the complexity of the product or articles manufactured. A small PMA producing a simple article requires only a simple quality system—Some of the quality system requirements might even be ''not applicable.'' In the case of a one-person shop producing a simple article, the internal audit provision might be not applicable or, if deemed applicable, might be satisfied with an audit every four years. The corresponding quality manual might consist of only three or four pages.

Therefore, as the FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would have only a domestic impact and therefore would not create unnecessary obstacles to the foreign commerce of the United States. We have assessed the potential effect of this rule and determined it complies with the Trade Agreements Act, as it will promote international trade by:

- Revising export airworthiness certificate and approval requirements to no longer require used aircraft to undergo an annual type inspections and to no longer require used engines and propellers to be newly overhauled; and
- Changing language in order to harmonize with bilateral agreements and European Union (EU) regulations.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $136.1 million. This rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action 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, and, therefore, does not have federalism implications.

Regulations Affecting Intrastate Aviation in Alaska

Section 1205 of the FAA Reauthorization Act of 1996 (110 Stat. 3213) requires the FAA, when modifying its regulations in a manner affecting intrastate aviation in Alaska, to consider the extent to which Alaska is not served by transportation modes other than aviation, and to establish appropriate regulatory distinctions. In the NPRM, we requested comments on whether the proposed rule should apply differently to intrastate operations in Alaska. We did not receive any comments, and we have determined, based on the administrative record of this rulemaking, that there is no need to make any regulatory distinctions applicable to intrastate aviation in Alaska.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this

rulemaking action qualifies for the categorical exclusion identified in paragraph 308(b) and involves no extraordinary circumstances.

Regulations that Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because while it is a ''significant regulatory action,'' it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. You can find out more about SBREFA on the Internet at *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/*.

Availability of Rulemaking Documents

You can get an electronic copy of rulemaking documents using the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/;* or
3. Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

You may access all documents the FAA considered in developing this final rule, including economic analyses and technical reports, from the Internet through the Federal eRulemaking Portal referenced in paragraph (1).

List of Subjects

14 CFR Part 1

Air transportation.

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 43

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 45

Aircraft, Exports, Signs and symbols.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations parts 1, 21, 43, and 45 as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

■ 2. Amend § 1.1 by revising the definition of ''Approved'' to read as follows:

§ 1.1 General definitions.

* * * * *

Approved, unless used with reference to another person, means approved by the FAA or any person to whom the FAA has delegated its authority in the matter concerned, or approved under the provisions of a bilateral agreement between the United States and a foreign country or jurisdiction.

* * * * *

■ 3. Amend § 1.2 by adding the abbreviations *PMA* and *TSO* in alphabetical order to read as follows:

§ 1.2 Abbreviations and symbols.

* * * * *

PMA means parts manufacturer approval.

* * * * *

TSO means technical standard order.

* * * * *

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS, ARTICLES, AND PARTS

■ 4. The authority citation for part 21 continues to read as follows:

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44704, 44707, 44709, 44711, 44713, 44715, 45303.

PART 21 [AMENDED]

■ 5. Amend part 21 by:

■ a. Removing the word ''Administrator'' and adding in its place the word ''FAA'' wherever it appears;

■ b. Removing the word ''shall'' and adding in its place the word ''must'' wherever it appears; and

■ c. Removing the phrase ''type certificate only'' and adding in its place the phrase ''type certificate'' wherever it appears.

■ 6. Revise § 21.1 to read as follows:

§ 21.1 Applicability and definitions.

(a) This part prescribes—

(1) Procedural requirements for issuing and changing—

(i) Design approvals;

(ii) Production approvals;

(iii) Airworthiness certificates; and

(iv) Airworthiness approvals;

(2) Rules governing applicants for, and holders of, any approval or certificate specified in paragraph (a)(1) of this section; and

(3) Procedural requirements for the approval of articles.

(b) For the purposes of this part—

(1) *Airworthiness approval* means a document issued by the FAA for an aircraft, aircraft engine, propeller, or article which certifies that the aircraft, aircraft engine, propeller, or article conforms to its approved design and is in a condition for safe operation;

(2) *Article* means a material, part, component, process, or appliance;

(3) *Commercial part* means an article that is listed on an FAA-approved Commercial Parts List included in a design approval holder's Instructions for Continued Airworthiness required by § 21.50;

(4) *Design approval* means a type certificate (including amended and supplemental type certificates) or the approved design under a PMA, TSO authorization, letter of TSO design approval, or other approved design;

(5) *Product* means an aircraft, aircraft engine, or propeller;

(6) *Production approval* means a document issued by the FAA to a person that allows the production of a product or article in accordance with its approved design and approved quality system, and can take the form of a production certificate, a PMA, or a TSO authorization;

(7) *State of Design* means the country or jurisdiction having regulatory authority over the organization responsible for the design and continued airworthiness of a civil aeronautical product or article;

(8) *State of Manufacture* means the country or jurisdiction having regulatory authority over the organization responsible for the production and airworthiness of a civil aeronautical product or article.

■ 7. Amend § 21.2 by revising paragraphs (a) introductory text, (a)(1), (a)(2), and (b) to read as follows:

§ 21.2 Falsification of applications, reports, or records.

(a) A person may not make or cause to be made—

(1) Any fraudulent, intentionally false, or misleading statement on any application for a certificate or approval under this part;

(2) Any fraudulent, intentionally false, or misleading statement in any record or report that is kept, made, or used to show compliance with any requirement of this part;

* * * * *

(b) The commission by any person of an act prohibited under paragraph (a) of this section is a basis for—

(1) Denying issuance of any certificate or approval under this part; and

(2) Suspending or revoking any certificate or approval issued under this part and held by that person.

■ 8. Amend § 21.3 by revising paragraphs (a), (b), (d)(1), (d)(2), (e)(3), and (f) to read as follows:

§ 21.3 Reporting of failures, malfunctions, and defects.

(a) The holder of a type certificate (including amended or supplemental type certificates), a PMA, or a TSO authorization, or the licensee of a type certificate must report any failure, malfunction, or defect in any product or article manufactured by it that it determines has resulted in any of the occurrences listed in paragraph (c) of this section.

(b) The holder of a type certificate (including amended or supplemental type certificates), a PMA, or a TSO authorization, or the licensee of a type certificate must report any defect in any product or article manufactured by it that has left its quality system and that it determines could result in any of the occurrences listed in paragraph (c) of this section.

* * * * *

(d) * * *

(1) Failures, malfunctions, or defects that the holder of a type certificate (including amended or supplemental type certificates), PMA, TSO authorization, or the licensee of a type certificate determines—

(i) Were caused by improper maintenance or use;

(ii) Were reported to the FAA by another person under this chapter; or

(iii) Were reported under the accident reporting provisions of 49 CFR part 830 of the regulations of the National Transportation Safety Board.

(2) Failures, malfunctions, or defects in products or articles—

(i) Manufactured by a foreign manufacturer under a U.S. type certificate issued under § 21.29 or under an approval issued under § 21.621; or

(ii) Exported to the United States under § 21.502.

(e) * * *

(3) Must include as much of the following information as is available and applicable:

(i) The applicable product and article identification information required by part 45 of this chapter;

(ii) Identification of the system involved; and

(iii) Nature of the failure, malfunction, or defect.

(f) If an accident investigation or service difficulty report shows that a product or article manufactured under this part is unsafe because of a manufacturing or design data defect, the holder of the production approval for that product or article must, upon request of the FAA, report to the FAA the results of its investigation and any action taken or proposed by the holder of that production approval to correct that defect. If action is required to correct the defect in an existing product or article, the holder of that production approval must send the data necessary for issuing an appropriate airworthiness directive to the appropriate aircraft certification office.

■ 9. Amend § 21.5 by revising paragraph (a) to read as follows:

§ 21.5 Airplane or Rotorcraft Flight Manual.

(a) With each airplane or rotorcraft not type certificated with an Airplane or Rotorcraft Flight Manual and having no flight time before March 1, 1979, the holder of a type certificate (including amended or supplemental type certificates) or the licensee of a type certificate must make available to the owner at the time of delivery of the aircraft a current approved Airplane or Rotorcraft Flight Manual.

* * * * *

■ 10. Amend subpart A by adding § 21.8 to read as follows:

§ 21.8 Approval of articles.

If an article is required to be approved under this chapter, it may be approved—

(a) Under a PMA;

(b) Under a TSO;

(c) In conjunction with type certification procedures for a product; or

(d) In any other manner approved by the FAA.

■ 11. Amend subpart A by adding § 21.9 to read as follows:

§ 21.9 Replacement and modification articles.

(a) If a person knows, or should know, that a replacement or modification article is reasonably likely to be installed on a type-certificated product, the person may not produce that article unless it is—

(1) Produced under a type certificate;

(2) Produced under an FAA production approval;

(3) A standard part (such as a nut or bolt) manufactured in compliance with a government or established industry specification;

(4) A commercial part as defined in § 21.1 of this part;

(5) Produced by an owner or operator for maintaining or altering that owner or operator's product; or

(6) Fabricated by an appropriately rated certificate holder with a quality system, and consumed in the repair or alteration of a product or article in accordance with part 43 of this chapter.

(b) Except as provided in paragraphs (a)(1) through (a)(4) of this section, a person who produces a replacement or modification article for sale may not represent that part as suitable for installation on a type-certificated product.

(c) Except as provided in paragraphs (a)(1) through (a)(4) of this section, a person may not sell or represent an article as suitable for installation on an aircraft type-certificated under §§ 21.25(a)(2) or 21.27 unless that article—

(1) Was declared surplus by the U.S. Armed Forces, and

(2) Was intended for use on that aircraft model by the U.S. Armed Forces.

§ 21.15 [Amended]

■ 12. Amend § 21.15 by removing the words ''Aircraft Certification Office'' in paragraph (a) and adding, in their place, the words ''aircraft certification office''.

■ 13. Amend subpart B by adding § 21.20 to read as follows:

§ 21.20 Compliance with applicable requirements.

The applicant for a type certificate, including an amended or supplemental type certificate, must—

(a) Show compliance with all applicable requirements and must provide the FAA the means by which such compliance has been shown; and

(b) Provide a statement certifying that the applicant has complied with the applicable requirements.

§ 21.21 [Amended]

■ 14. Amend § 21.21 by removing the words ''the Federal Aviation Regulations'' and add in their place the words ''this subchapter'' wherever they appear.

§ 21.27 [Amended]

■ 15. Amend § 21.27 as follows:

■ a. Remove the words ''the Federal Aviation Regulations'' in paragraph (c) and add, in their place, the words ''this subchapter''; and

■ b. Remove the word ''FAR'' from each place it appears in the table in paragraph (f) and add in its place the words ''14 CFR''.

■ 16. Revise § 21.29 to read as follows:

§ 21.29 Issue of type certificate: import products.

(a) The FAA may issue a type certificate for a product that is manufactured in a foreign country or jurisdiction with which the United States has an agreement for the acceptance of these products for export and import and that is to be imported into the United States if—

(1) The applicable State of Design certifies that the product has been examined, tested, and found to meet—

(i) The applicable aircraft noise, fuel venting, and exhaust emissions requirements of this subchapter as designated in § 21.17, or the applicable aircraft noise, fuel venting, and exhaust emissions requirements of the State of Design, and any other requirements the FAA may prescribe to provide noise, fuel venting, and exhaust emission levels no greater than those provided by the applicable aircraft noise, fuel venting, and exhaust emission requirements of this subchapter as designated in § 21.17; and

(ii) The applicable airworthiness requirements of this subchapter as designated in § 21.17, or the applicable airworthiness requirements of the State of Design and any other requirements the FAA may prescribe to provide a level of safety equivalent to that provided by the applicable airworthiness requirements of this subchapter as designated in § 21.17;

(2) The applicant has provided technical data to show the product meets the requirements of paragraph (a)(1) of this section; and

(3) The manuals, placards, listings, and instrument markings required by the applicable airworthiness (and noise, where applicable) requirements are presented in the English language.

(b) A product type certificated under this section is considered to be type certificated under the noise standards of part 36 of this subchapter and the fuel venting and exhaust emission standards of part 34 of this subchapter. Compliance with parts 36 and 34 of this subchapter is certified under paragraph (a)(1)(i) of this section, and the applicable airworthiness standards of this subchapter, or an equivalent level of safety, with which compliance is certified under paragraph (a)(1)(ii) of this section.

§ 21.33 [Amended]

■ 17. Amend § 21.33(a) introductory text by removing the words ''the Federal Aviation Regulations'' and adding, in their place, the words ''this subchapter''.

§ 21.45 [Amended]

■ 18. Amend § 21.45 as follows:

■ a. Remove the words ''or certified'' from paragraph (b) and add in their place the words ''on certificated''; and

■ b. Remove the reference ''§§ 21.133 through 21.163'' from paragraph (c) and add in its place the words ''subpart G of this part''.

■ 19. Revise § 21.47 to read as follows:

§ 21.47 Transferability.

(a) A holder of a type certificate may transfer it or make it available to other persons by licensing agreements.

(b) For a type certificate transfer in which the State of Design will remain the same, each transferor must, before such a transfer, notify in writing the appropriate aircraft certification office. This notification must include the applicable type certificate number, the name and address of the transferee, and the anticipated date of the transfer.

(c) For a type certificate transfer in which the State of Design is changing, a type certificate may only be transferred to or from a person subject to the authority of another State of Design if the United States has an agreement with that State of Design for the acceptance of the affected product for export and import. Each transferor must notify the appropriate aircraft certification office before such a transfer in a form and manner acceptable to the FAA. This notification must include the applicable type certificate number; the name, address, and country of residence of the transferee; and the anticipated date of the transfer.

(d) Before executing or terminating a licensing agreement that makes a type certificate available to another person, the type certificate holder must notify in writing the appropriate aircraft certification office. This notification must include the type certificate number addressed by the licensing agreement, the name and address of the licensee, the extent of authority granted the licensee, and the anticipated date of the agreement.

■ 20. Amend § 21.50 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 21.50 Instructions for continued airworthiness and manufacturer's maintenance manuals having airworthiness limitations sections.

* * * * *

(b) The holder of a design approval, including either the type certificate or supplemental type certificate for an aircraft, aircraft engine, or propeller for which application was made after January 28, 1981, must furnish at least one set of complete Instructions for Continued Airworthiness to the owner of each type aircraft, aircraft engine, or propeller upon its delivery, or upon issuance of the first standard airworthiness certificate for the affected aircraft, whichever occurs later. The Instructions must be prepared in accordance with §§ 23.1529, 25.1529, 25.1729, 27.1529, 29.1529, 31.82, 33.4, 35.4, or part 26 of this subchapter, or as specified in the applicable airworthiness criteria for special classes of aircraft defined in § 21.17(b), as applicable. If the holder of a design approval chooses to designate parts as commercial, it must include in the Instructions for Continued Airworthiness a list of commercial parts submitted in accordance with the provisions of paragraph (c) of this section. Thereafter, the holder of a design approval must make those instructions available to any other person required by this chapter to comply with any of the terms of those instructions. In addition, changes to the Instructions for Continued Airworthiness shall be made available to any person required by this chapter to comply with any of those instructions.

(c) To designate commercial parts, the holder of a design approval, in a manner acceptable to the FAA, must submit:

(1) A Commercial Parts List;

(2) Data for each part on the List showing that:

(i) The failure of the commercial part, as installed in the product, would not degrade the level of safety of the product; and

(ii) The part is produced only under the commercial part manufacturer's specification and marked only with the commercial part manufacturer's markings; and

(3) Any other data necessary for the FAA to approve the List.

■ 21. Revise § 21.53(a) to read as follows:

§ 21.53 Statement of conformity.

(a) Each applicant must provide, in a form and manner acceptable to the FAA, a statement that each aircraft engine or

propeller presented for type certification conforms to its type design.

* * * * *

§ 21.73 [Amended]

■ 22. Amend § 21.73(b) by removing the words ''Any manufacturer of aircraft manufactured in a foreign country with which the United States has an agreement'' and adding in their place the words ''Any manufacturer of aircraft in a State of Manufacture subject to the provisions of an agreement with the United States''.

■ 23. Revise § 21.75 to read as follows:

§ 21.75 Application.

Each applicant for a provisional type certificate, for an amendment thereto, or for a provisional amendment to a type certificate must apply to the appropriate aircraft certification office and provide the information required by this subpart.

■ 24. Revise § 21.97(a) to read as follows:

§ 21.97 Approval of major changes in type design.

(a) An applicant for approval of a major change in type design must—

(1) Provide substantiating data and necessary descriptive data for inclusion in the type design;

(2) Show that the changed product complies with the applicable requirements of this subchapter, and provide the FAA the means by which such compliance has been shown; and

(3) Provide a statement certifying that the applicant has complied with the applicable requirements.

* * * * *

■ 25. Revise § 21.113 to read as follows:

§ 21.113 Requirement for supplemental type certificate.

(a) If a person holds the TC for a product and alters that product by introducing a major change in type design that does not require an application for a new TC under § 21.19, that person must either apply to the appropriate aircraft certification office for an STC or apply to amend the original type certificate under subpart D of this part.

(b) If a person does not hold the TC for a product and alters that product by introducing a major change in type design that does not require an application for a new TC under § 21.19, that person must apply to the appropriate aircraft certification office for an STC.

(c) The application for an STC must be made in the form and manner prescribed by the FAA.

§ 21.117 [Amended]

■ 26. Amend § 21.117 by removing the words ''if he'' from paragraph (a) and adding in their place the words ''if the FAA finds that the applicant''.

■ 27. Revise § 21.119(c) to read as follows:

§ 21.119 Privileges.

* * * * *

(c) Obtain a production certificate in accordance with the requirements of subpart G of this part for the change in the type design approved by the supplemental type certificate.

■ 28. Amend subpart F by adding § 21.122 to read as follows:

§ 21.122 Location of or change to manufacturing facilities.

(a) An applicant may obtain a production certificate for manufacturing facilities located outside of the United States if the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter.

(b) The type certificate holder must obtain FAA approval before making any changes to the location of any of its manufacturing facilities.

(c) The type certificate holder must immediately notify the FAA, in writing, of any change to the manufacturing facilities that may affect the inspection, conformity, or airworthiness of its product or article.

■ 29. Revise § 21.123 to read as follows:

§ 21.123 Production under type certificate.

Each manufacturer of a product being manufactured under a type certificate must—

(a) Maintain at the place of manufacture all information and data specified in §§ 21.31 and 21.41;

(b) Make each product and article thereof available for inspection by the FAA;

(c) Maintain records of the completion of all inspections and tests required by §§ 21.127, 21.128, and 21.129 for at least 5 years for the products and articles thereof manufactured under the approval and at least 10 years for critical components identified under § 45.15(c) of this chapter;

(d) Allow the FAA to make any inspection or test, including any inspection or test at a supplier facility, necessary to determine compliance with this subchapter;

(e) Mark the product in accordance with part 45 of this chapter, including any critical parts;

(f) Identify any portion of that product (*e.g.,* sub-assemblies, component parts, or replacement articles) that leave the manufacturer's facility as FAA approved with the manufacturer's part number and name, trademark, symbol, or other FAA-approved manufacturer's identification; and

(g) Except as otherwise authorized by the FAA, obtain a production certificate for that product in accordance with subpart G of this part within 6 months after the date of issuance of the type certificate.

§ 21.125 [Removed and Reserved]

■ 30. Remove and reserve § 21.125.

■ 31. Revise § 21.130 to read as follows:

§ 21.130 Statement of Conformity.

Each holder or licensee of a type certificate who manufactures a product under this subpart must provide, in a form and manner acceptable to the FAA, a statement that the product for which the type certificate has been issued conforms to its type certificate and is in a condition for safe operation.

■ 32. Revise subpart G to read as follows:

Subpart G—Production Certificates

Sec.
21.131 Applicability.
21.132 Eligibility.
21.133 Application.
21.135 Organization.
21.137 Quality system.
21.138 Quality manual.
21.139 Location of or change to manufacturing facilities.
21.140 Inspections and tests.
21.141 Issuance.
21.142 Production limitation record.
21.143 Duration.
21.144 Transferability.
21.145 Privileges.
21.146 Responsibility of holder.
21.147 Amendment of production certificates.
21.150 Changes in quality system.

Subpart G—Production Certificates

§ 21.131 Applicability.

This subpart prescribes—

(a) Procedural requirements for issuing production certificates; and

(b) Rules governing holders of those certificates.

§ 21.132 Eligibility.

Any person may apply for a production certificate if that person holds, for the product concerned—

(a) A current type certificate,

(b) A supplemental type certificate, or

(c) Rights to the benefits of that type certificate or supplemental type certificate under a licensing agreement.

§ 21.133 Application.

Each applicant must apply for a production certificate in a form and manner prescribed by the FAA.

§ 21.135 Organization.

Each applicant for or holder of a production certificate must provide the FAA with a document describing how its organization will ensure compliance with the provisions of this subpart. At a minimum, the document must describe assigned responsibilities and delegated authority, and the functional relationship of those responsible for quality to management and other organizational components.

§ 21.137 Quality system.

Each applicant for or holder of a production certificate must establish and describe in writing a quality system that ensures that each product and article conforms to its approved design and is in a condition for safe operation. This quality system must include:

(a) *Design data control.* Procedures for controlling design data and subsequent changes to ensure that only current, correct, and approved data is used.

(b) *Document control.* Procedures for controlling quality system documents and data and subsequent changes to ensure that only current, correct, and approved documents and data are used.

(c) *Supplier control.* Procedures that—

(1) Ensure that each supplier-furnished product or article conforms to its approved design; and

(2) Require each supplier to report to the production approval holder if a product or article has been released from that supplier and subsequently found not to conform to the applicable design data.

(d) *Manufacturing process control.* Procedures for controlling manufacturing processes to ensure that each product and article conforms to its approved design.

(e) *Inspecting and testing.* Procedures for inspections and tests used to ensure that each product and article conforms to its approved design. These procedures must include the following, as applicable:

(1) A flight test of each aircraft produced unless that aircraft will be exported as an unassembled aircraft.

(2) A functional test of each aircraft engine and each propeller produced.

(f) *Inspection, measuring, and test equipment control.* Procedures to ensure calibration and control of all inspection, measuring, and test equipment used in determining conformity of each product and article to its approved design. Each calibration standard must be traceable to a standard acceptable to the FAA.

(g) *Inspection and test status.* Procedures for documenting the inspection and test status of products and articles supplied or manufactured to the approved design.

(h) *Nonconforming product and article control.* (1) Procedures to ensure that only products or articles that conform to their approved design are installed on a type-certificated product. These procedures must provide for the identification, documentation, evaluation, segregation, and disposition of nonconforming products and articles. Only authorized individuals may make disposition determinations.

(2) Procedures to ensure that discarded articles are rendered unusable.

(i) *Corrective and preventive actions.* Procedures for implementing corrective and preventive actions to eliminate the causes of an actual or potential nonconformity to the approved design or noncompliance with the approved quality system.

(j) *Handling and storage.* Procedures to prevent damage and deterioration of each product and article during handling, storage, preservation, and packaging.

(k) *Control of quality records.* Procedures for identifying, storing, protecting, retrieving, and retaining quality records. A production approval holder must retain these records for at least 5 years for the products and articles manufactured under the approval and at least 10 years for critical components identified under § 45.15(c) of this chapter.

(l) *Internal audits.* Procedures for planning, conducting, and documenting internal audits to ensure compliance with the approved quality system. The procedures must include reporting results of internal audits to the manager responsible for implementing corrective and preventive actions.

(m) *In-service feedback.* Procedures for receiving and processing feedback on in-service failures, malfunctions, and defects. These procedures must include a process for assisting the design approval holder to—

(1) Address any in-service problem involving design changes; and

(2) Determine if any changes to the Instructions for Continued Airworthiness are necessary.

(n) *Quality escapes.* Procedures for identifying, analyzing, and initiating appropriate corrective action for products or articles that have been released from the quality system and that do not conform to the applicable design data or quality system requirements.

§ 21.138 Quality manual.

Each applicant for or holder of a production certificate must provide a manual describing its quality system to the FAA for approval. The manual must be in the English language and retrievable in a form acceptable to the FAA.

§ 21.139 Location of or change to manufacturing facilities.

(a) An applicant may obtain a production certificate for manufacturing facilities located outside of the United States if the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter.

(b) The production certificate holder must obtain FAA approval before making any changes to the location of any of its manufacturing facilities.

(c) The production certificate holder must immediately notify the FAA, in writing, of any change to the manufacturing facilities that may affect the inspection, conformity, or airworthiness of its product or article.

§ 21.140 Inspections and tests.

Each applicant for or holder of a production certificate must allow the FAA to inspect its quality system, facilities, technical data, and any manufactured products or articles and witness any tests, including any inspections or tests at a supplier facility, necessary to determine compliance with this subchapter.

§ 21.141 Issuance.

The FAA issues a production certificate after finding that the applicant complies with the requirements of this subpart.

§ 21.142 Production limitation record.

The FAA issues a production limitation record as part of a production certificate. The record lists the type certificate number and the model of every product that the production certificate holder is authorized to manufacture.

§ 21.143 Duration.

A production certificate is effective until surrendered, suspended, revoked, or the FAA otherwise establishes a termination date.

§ 21.144 Transferability.

The holder of a production certificate may not transfer the production certificate.

§ 21.145 Privileges.

(a) The holder of a production certificate may—

(1) Obtain an aircraft airworthiness certificate without further showing, except that the FAA may inspect the aircraft for conformity with the type design; or

(2) In the case of other products, obtain approval from the FAA for installation on type-certificated aircraft.

(b) Notwithstanding the provisions of § 147.3 of this chapter, the holder of a production certificate for a primary category aircraft, or for a normal, utility, or acrobatic category aircraft of a type design that is eligible for a special airworthiness certificate in the primary category under § 21.184(c), may—

(1) Conduct training for persons in the performance of a special inspection and preventive maintenance program approved as a part of the aircraft's type design under § 21.24(b), provided a person holding a mechanic certificate with appropriate airframe and powerplant ratings issued under part 65 of this chapter gives the training; and

(2) Issue a certificate of competency to persons successfully completing the approved training program, provided the certificate specifies the aircraft make and model to which the certificate applies.

§ 21.146 Responsibility of holder.

The holder of a production certificate must—

(a) Amend the document required by § 21.135 as necessary to reflect changes in the organization and provide these amendments to the FAA.

(b) Maintain the quality system in compliance with the data and procedures approved for the production certificate;

(c) Ensure that each completed product or article for which a production certificate has been issued, including primary category aircraft assembled under a production certificate by another person from a kit provided by the holder of the production certificate, presented for airworthiness certification or approval conforms to its approved design and is in a condition for safe operation;

(d) Mark the product or article for which a certificate or approval has been issued. Marking must be in accordance with part 45 of this chapter, including any critical parts;

(e) Identify any portion of the product or article (e.g., sub-assemblies, component parts, or replacement articles) that leave the manufacturer's facility as FAA approved with the manufacturer's part number and name, trademark, symbol, or other FAA approved manufacturer's identification;

(f) Have access to type design data necessary to determine conformity and airworthiness for each product and article produced under the production certificate;

(g) Retain its production certificate and make it available to the FAA upon request; and

(h) Make available to the FAA information regarding all delegation of authority to suppliers.

§ 21.147 Amendment of production certificates.

The holder of a production certificate must apply for an amendment to a production certificate in a form and manner prescribed by the FAA. The applicant for an amendment to a production certificate to add a type certificate or model, or both, must comply with the applicable requirements of §§ 21.137, 21.138, and 21.150.

§ 21.150 Changes in quality system.

After the issuance of a production certificate—

(a) Each change to the quality system is subject to review by the FAA; and

(b) The holder of a production certificate must immediately notify the FAA, in writing, of any change that may affect the inspection, conformity, or airworthiness of its product or article.

■ 33. Amend § 21.183 by revising paragraphs (c), (d)(1), (d)(2) introductory text, and (d)(3) to read as follows:

§ 21.183 Issue of standard airworthiness certificates for normal, utility, acrobatic, commuter, and transport category aircraft; manned free balloons; and special classes of aircraft.

* * * * *

(c) *Import aircraft.* An applicant for a standard airworthiness certificate for an import aircraft is entitled to that certificate if—

(1) The aircraft is type certificated in accordance with § 21.21 or § 21.29 and produced under the authority of another State of Manufacture;

(2) The State of Manufacture certifies, in accordance with the export provisions of an agreement with the United States for import of that aircraft, that the aircraft conforms to the type design and is in condition for safe operation; and

(3) The FAA finds that the aircraft conforms to the type design and is in condition for safe operation.

(d) * * *

(1) The applicant presents evidence to the FAA that the aircraft conforms to a type design approved under a type certificate or a supplemental type certificate and to applicable Airworthiness Directives;

(2) The aircraft (except an experimentally certificated aircraft that previously had been issued a different airworthiness certificate under this section) has been inspected in accordance with the performance rules for 100-hour inspections set forth in § 43.15 of this chapter, or an equivalent performance standard acceptable to the FAA, and found airworthy by—

* * * * *

(3) The FAA finds after inspection, that the aircraft conforms to the type design, and is in condition for safe operation.

* * * * *

■ 34. Revise § 21.185(c) to read as follows:

§ 21.185 Issue of airworthiness certificates for restricted category aircraft.

* * * * *

(c) *Import aircraft.* An applicant for the original issue of a special airworthiness certificate for a restricted category import aircraft is entitled to that certificate if—

(1) The aircraft is type-certificated in accordance with § 21.25 or § 21.29 and produced under the authority of another State of Manufacture;

(2) The State of Manufacture certifies, in accordance with the export provisions of an agreement with the United States for import of that aircraft that the aircraft conforms to the type design and is in condition for safe operation; and

(3) The FAA finds that the aircraft conforms to the type design and is in condition for safe operation.

* * * * *

■ 35. Revise § 21.195(d)(2) to read as follows:

§ 21.195 Experimental certificates: Aircraft to be used for market surveys, sales demonstrations, and customer crew training.

* * * * *

(d) * * *

(2) The applicant shows that the aircraft has been flown for at least 50 hours, or for at least 5 hours if it is a type certificated aircraft which has been modified. The FAA may reduce these operational requirements if the applicant provides adequate justification.

■ 36. Revise § 21.197(c) to read as follows:

§ 21.197 Special flight permits.

* * * * *

(c) Upon application, as prescribed in §§ 91.1017 or 119.51 of this chapter, a special flight permit with a continuing authorization may be issued for aircraft that may not meet applicable airworthiness requirements, but are capable of safe flight for the purpose of flying aircraft to a base where maintenance or alterations are to be

performed. The permit issued under this paragraph is an authorization, including conditions and limitations for flight, which is set forth in the certificate holder's operations specifications. The permit issued under this paragraph may be issued to—

(1) Certificate holders authorized to conduct operations under part 119 of this chapter, that have an approved program for continuing flight authorization; or

(2) Management specification holders authorized to conduct operations under part 91, subpart K of this chapter for those aircraft they operate and maintain under a continuous airworthiness maintenance program prescribed by § 91.1411 of this chapter.

§ 21.223 [Amended]

■ 37. Amend § 21.223 by removing the word ''control'' from paragraph (c).

§ 21.225 [Amended]

■ 38. Amend § 21.225 by removing the word ''control'' from paragraph (b).

§ 21.231 [Amended]

■ 39. Amend § 21.231(a)(6) by removing the words ''paragraph (a)(4)'' and adding in their place the words ''paragraph (a)(5)''.

§ 21.251 [Amended]

■ 40. Amend § 21.251(b)(4)(iii) and (b)(4)(iv) as follows:

a. Remove the words ''(FAA Form 8130–3)'' in both paragraphs; and

b. Remove the words ''Airworthiness approval tags'' and add in their place the words ''Airworthiness approvals'' in both paragraphs.

§ 21.253 [Amended]

■ 41. Amend § 21.253 by removing the words ''(FAA Form 312)'' from paragraph (a)(1).

■ 42. Revise § 21.267(d) to read as follows:

§ 21.267 Production certificates.

* * * * *

(d) After placing the manufacturing and quality system data required by § 21.137 with the data required by § 21.293(a)(1)(ii), a statement certifying that this has been done.

§ 21.271 [Amended]

■ 43. Amend § 21.271(a) by removing the words ''(FAA Form 8130–3)''.

■ 44. Revise § 21.293(a)(2) introductory text to read as follows:

§ 21.293 Current records.

(a) * * *

(2) For 5 years—

* * * * *

■ 45. Revise subpart K to read as follows:

Subpart K—Parts Manufacturer Approvals

Sec.
21.301 Applicability.
21.303 Application.
21.305 Organization.
21.307 Quality system.
21.308 Quality manual.
21.309 Location of or change to manufacturing facilities.
21.310 Inspections and tests.
21.311 Issuance.
21.313 Duration.
21.314 Transferability.
21.316 Responsibility of holder.
21.319 Design changes.
21.320 Changes in quality system.

Subpart K—Parts Manufacturer Approvals

§ 21.301 Applicability.

This subpart prescribes—

(a) Procedural requirements for issuing PMAs; and

(b) Rules governing holders of PMAs.

§ 21.303 Application.

(a) The applicant for a PMA must apply in a form and manner prescribed by the FAA, and include the following:

(1) The identity of the product on which the article is to be installed.

(2) The name and address of the manufacturing facilities at which these articles are to be manufactured.

(3) The design of the article, which consists of—

(i) Drawings and specifications necessary to show the configuration of the article; and

(ii) Information on dimensions, materials, and processes necessary to define the structural strength of the article.

(4) Test reports and computations necessary to show that the design of the article meets the airworthiness requirements of this subchapter. The test reports and computations must be applicable to the product on which the article is to be installed, unless the applicant shows that the design of the article is identical to the design of a article that is covered under a type certificate. If the design of the article was obtained by a licensing agreement, the applicant must provide evidence of that agreement.

(5) An applicant for a PMA based on test reports and computations must provide a statement certifying that the applicant has complied with the airworthiness requirements of this subchapter.

(b) Each applicant for a PMA must make all inspections and tests necessary to determine—

(1) Compliance with the applicable airworthiness requirements;

(2) That materials conform to the specifications in the design;

(3) That the article conforms to its approved design; and

(4) That the manufacturing processes, construction, and assembly conform to those specified in the design.

§ 21.305 Organization.

Each applicant for or holder of a PMA must provide the FAA with a document describing how its organization will ensure compliance with the provisions of this subpart. At a minimum, the document must describe assigned responsibilities and delegated authority, and the functional relationship of those responsible for quality to management and other organizational components.

§ 21.307 Quality system.

Each applicant for or holder of a PMA must establish a quality system that meets the requirements of § 21.137.

§ 21.308 Quality manual.

Each applicant for or holder of a PMA must provide a manual describing its quality system to the FAA for approval. The manual must be in the English language and retrievable in a form acceptable to the FAA.

§ 21.309 Location of or change to manufacturing facilities.

(a) An applicant may obtain a PMA for manufacturing facilities located outside of the United States if the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter.

(b) The PMA holder must obtain FAA approval before making any changes to the location of any of its manufacturing facilities.

(c) The PMA holder must immediately notify the FAA, in writing, of any change to the manufacturing facilities that may affect the inspection, conformity, or airworthiness of its PMA article.

§ 21.310 Inspections and tests.

(a) Each applicant for or holder of a PMA must allow the FAA to inspect its quality system, facilities, technical data, and any manufactured articles and witness any tests, including any inspections or tests at a supplier facility, necessary to determine compliance with this subchapter.

(b) Unless otherwise authorized by the FAA, the applicant or holder—

(1) May not present any article to the FAA for an inspection or test unless compliance with § 21.303(b)(2) through (4) has been shown for that article; and

(2) May not make any change to an article between the time that compliance with § 21.303(b)(2) through

(4) is shown for that article and the time that the article is presented to the FAA for the inspection or test.

§ 21.311 Issuance.

The FAA issues a PMA after finding that the applicant complies with the requirements of this subpart and the design complies with the requirements of this chapter applicable to the product on which the article is to be installed.

§ 21.313 Duration.

A PMA is effective until surrendered, withdrawn, or the FAA otherwise terminates it.

§ 21.314 Transferability.

The holder of a PMA may not transfer the PMA.

§ 21.316 Responsibility of holder.

Each holder of a PMA must—

(a) Amend the document required by § 21.305 as necessary to reflect changes in the organization and provide these amendments to the FAA;

(b) Maintain the quality system in compliance with the data and procedures approved for the PMA;

(c) Ensure that each PMA article conforms to its approved design and is in a condition for safe operation;

(d) Mark the PMA article for which an approval has been issued. Marking must be in accordance with part 45 of this chapter, including any critical parts;

(e) Identify any portion of the PMA article (*e.g.,* sub-assemblies, component parts, or replacement articles) that leave the manufacturer's facility as FAA approved with the manufacturer's part number and name, trademark, symbol, or other FAA approved manufacturer's identification;

(f) Have access to design data necessary to determine conformity and airworthiness for each article produced under the PMA;

(g) Retain each document granting PMA and make it available to the FAA upon request; and

(h) Make available to the FAA information regarding all delegation of authority to suppliers.

§ 21.319 Design changes.

(a) *Classification of design changes.* (1) A ''minor change'' to the design of an article produced under a PMA is one that has no appreciable effect on the approval basis.

(2) A ''major change'' to the design of an article produced under a PMA is any change that is not minor.

(b) *Approval of design changes.* (1) Minor changes to the basic design of a PMA may be approved using a method acceptable to the FAA.

(2) The PMA holder must obtain FAA approval of any major change before including it in the design of an article produced under a PMA.

§ 21.320 Changes in quality system.

After the issuance of a PMA—

(a) Each change to the quality system is subject to review by the FAA; and

(b) The holder of the PMA must immediately notify the FAA, in writing, of any change that may affect the inspection, conformity, or airworthiness of its article.

■ 46. Revise subpart L to read as follows:

Subpart L—Export Airworthiness Approvals

Sec.
21.321 Applicability.
21.325 Export airworthiness approvals.
21.327 Application.
21.329 Issuance of export certificates of airworthiness.
21.331 Issuance of export airworthiness approvals for aircraft engines, propellers, and articles.
21.335 Responsibilities of exporters.

Subpart L—Export Airworthiness Approvals

§ 21.321 Applicability.

This subpart prescribes—

(a) Procedural requirements for issuing export airworthiness approvals; and

(b) Rules governing the holders of those approvals.

§ 21.325 Export airworthiness approvals.

(a) An export airworthiness approval for an aircraft is issued in the form of an export certificate of airworthiness. This certificate does not authorize operation of that aircraft.

(b) The FAA prescribes the form and manner in which an export airworthiness approval for an aircraft engine, propeller, or article is issued.

(c) If the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter, an export airworthiness approval may be issued for a product or article located outside of the United States.

§ 21.327 Application.

Any person may apply for an export airworthiness approval. Each applicant must apply in a form and manner prescribed by the FAA.

§ 21.329 Issuance of export certificates of airworthiness.

(a) A person may obtain from the FAA an export certificate of airworthiness for an aircraft if—

(1) A new or used aircraft manufactured under subpart F or G of this part meets the airworthiness requirements under subpart H of this part for a—

(i) Standard airworthiness certificate; or

(ii) Special airworthiness certificate in either the ''primary'' or the ''restricted'' category; or

(2) A new or used aircraft not manufactured under subpart F or G of this part has a valid—

(i) Standard airworthiness certificate; or

(ii) Special airworthiness certificate in either the ''primary'' or the ''restricted'' category.

(b) An aircraft need not meet a requirement specified in paragraph (a) of this section, as applicable, if—

(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and

(2) The export certificate of airworthiness lists as an exception any difference between the aircraft to be exported and its type design.

§ 21.331 Issuance of export airworthiness approvals for aircraft engines, propellers, and articles.

(a) A person may obtain from the FAA an export airworthiness approval to export a new aircraft engine, propeller, or article that is manufactured under this part if it conforms to its approved design and is in a condition for safe operation.

(b) A new aircraft engine, propeller, or article need not meet a requirement of paragraph (a) of this section if—

(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and

(2) The export airworthiness approval lists as an exception any difference between the aircraft engine, propeller, or article to be exported and its approved design.

(c) A person may obtain from the FAA an export airworthiness approval to export a used aircraft engine, propeller, or article if it conforms to its approved design and is in a condition for safe operation.

(d) A used aircraft engine or propeller need not meet a requirement of paragraph (c) of this section if—

(1) The importing country or jurisdiction accepts, in a form and manner acceptable to the FAA, a deviation from that requirement; and

(2) The export airworthiness approval lists as an exception any difference between the used aircraft engine or propeller to be exported and its approved design.

§ 21.335 Responsibilities of exporters.

Unless otherwise agreed to by the importing country or jurisdiction, each exporter must—

(a) Forward to the importing country or jurisdiction all documents specified by that country or jurisdiction;

(b) Preserve and package products and articles as necessary to protect them against corrosion and damage during transit or storage and state the duration of effectiveness of such preservation and packaging;

(c) Remove or cause to be removed any temporary installation incorporated on an aircraft for the purpose of export delivery and restore the aircraft to the approved configuration upon completion of the delivery flight;

(d) Secure all proper foreign entry clearances from all the countries or jurisdictions involved when conducting sales demonstrations or delivery flights; and

(e) When title to an aircraft passes or has passed to a foreign purchaser—

(1) Request cancellation of the U.S. registration and airworthiness certificates from the FAA, giving the date of transfer of title, and the name and address of the foreign owner;

(2) Return the Registration and Airworthiness Certificates to the FAA; and

(3) Provide a statement to the FAA certifying that the U.S. identification and registration numbers have been removed from the aircraft in compliance with § 45.33.

■ 47. Revise subpart N to read as follows:

Subpart N—Acceptance of Aircraft Engines, Propellers, and Articles for Import

Sec.
21.500 Acceptance of aircraft engines and propellers.
21.502 Acceptance of articles.

Subpart N—Acceptance of Aircraft Engines, Propellers, and Articles for Import

§ 21.500 Acceptance of aircraft engines and propellers.

An aircraft engine or propeller manufactured in a foreign country or jurisdiction meets the requirements for acceptance under this subchapter if—

(a) That country or jurisdiction is subject to the provisions of an agreement with the United States for the acceptance of that product;

(b) That product is marked in accordance with part 45 of this chapter; and

(c) The holder or licensee of a U.S. type certificate for that product furnishes with each such aircraft engine or propeller imported into the United States, an export airworthiness approval issued in accordance with the provisions of that agreement certifying that the individual aircraft engine or propeller—

(1) Conforms to its U.S. type certificate and is in condition for safe operation; and

(2) Has been subjected by the manufacturer to a final operational check.

§ 21.502 Acceptance of articles.

An article (including an article produced under a letter of TSO design approval) manufactured in a foreign country or jurisdiction meets the requirements for acceptance under this subchapter if—

(a) That country or jurisdiction is subject to the provisions of an agreement with the United States for the acceptance of that article;

(b) That article is marked in accordance with part 45 of this chapter; and

(c) An export airworthiness approval has been issued in accordance with the provisions of that agreement for that article for import into the United States.

■ 48. Revise subpart O to read as follows:

Subpart O—Technical Standard Order Approvals

Sec.
21.601 Applicability and definitions.
21.603 Application.
21.605 Organization.
21.607 Quality system.
21.608 Quality manual.
21.609 Location of or change to manufacturing facilities.
21.610 Inspections and tests.
21.611 Issuance.
21.613 Duration.
21.614 Transferability.
21.616 Responsibility of holder.
21.618 Approval for deviation.
21.619 Design changes.
21.620 Changes in quality system.
21.621 Issue of letters of TSO design approval: import articles.

Subpart O—Technical Standard Order Approvals

§ 21.601 Applicability and definitions.

(a) This subpart prescribes—

(1) Procedural requirements for issuing TSO authorizations;

(2) Rules governing the holders of TSO authorizations; and

(3) Procedural requirements for issuing letters of TSO design approval.

(b) For the purposes of this subpart—

(1) A TSO issued by the FAA is a minimum performance standard for specified articles used on civil aircraft;

(2) A TSO authorization is an FAA design and production approval issued to the manufacturer of an article that has been found to meet a specific TSO;

(3) A letter of TSO design approval is an FAA design approval for an article that has been found to meet a specific TSO in accordance with the procedures of § 21.621;

(4) An article manufactured under a TSO authorization, an FAA letter of acceptance as described in § 21.613(b), or an article manufactured under a letter of TSO design approval described in § 21.621 is an approved article for the purpose of meeting the regulations of this chapter that require the article to be approved; and

(5) An article manufacturer is the person who controls the design and quality of the article produced (or to be produced, in the case of an application), including any related parts, processes, or services procured from an outside source.

§ 21.603 Application.

(a) An applicant for a TSO authorization must apply to the appropriate aircraft certification office in the form and manner prescribed by the FAA. The applicant must include the following documents in the application:

(1) A statement of conformance certifying that the applicant has met the requirements of this subpart and that the article concerned meets the applicable TSO that is effective on the date of application for that article.

(2) One copy of the technical data required in the applicable TSO.

(b) If the applicant anticipates a series of minor changes in accordance with § 21.619, the applicant may set forth in its application the basic model number of the article and the part number of the components with open brackets after it to denote that suffix change letters or numbers (or combinations of them) will be added from time to time.

(c) If the application is deficient, the applicant must, when requested by the FAA, provide any additional information necessary to show compliance with this part. If the applicant fails to provide the additional information within 30 days after the FAA's request, the FAA denies the application and notifies the applicant.

§ 21.605 Organization.

Each applicant for or holder of a TSO authorization must provide the FAA with a document describing how the applicant's organization will ensure compliance with the provisions of this subpart. At a minimum, the document must describe assigned responsibilities and delegated authority, and the functional relationship of those responsible for quality to management and other organizational components.

§ 21.607 Quality system.

Each applicant for or holder of a TSO authorization must establish a quality system that meets the requirements of § 21.137.

§ 21.608 Quality manual.

Each applicant for or holder of a TSO authorization must provide a manual describing its quality system to the FAA for approval. The manual must be in the English language and retrievable in a form acceptable to the FAA.

§ 21.609 Location of or change to manufacturing facilities.

(a) An applicant may obtain a TSO authorization for manufacturing facilities located outside of the United States if the FAA finds no undue burden in administering the applicable requirements of Title 49 U.S.C. and this subchapter.

(b) The TSO authorization holder must obtain FAA approval before making any changes to the location of any of its manufacturing facilities.

(c) The TSO authorization holder must immediately notify the FAA, in writing, of any change to the manufacturing facilities that may affect the inspection, conformity, or airworthiness of its product or article.

§ 21.610 Inspections and tests.

Each applicant for or holder of a TSO authorization must allow the FAA to inspect its quality system, facilities, technical data, and any manufactured articles and witness any tests, including any inspections or tests at a supplier facility, necessary to determine compliance with this subchapter.

§ 21.611 Issuance.

If the FAA finds that the applicant complies with the requirements of this subchapter, the FAA issues a TSO authorization to the applicant (including all TSO deviations granted to the applicant).

§ 21.613 Duration.

(a) A TSO authorization or letter of TSO design approval is effective until surrendered, withdrawn, or otherwise terminated by the FAA.

(b) If a TSO is revised or canceled, the holder of an affected FAA letter of acceptance of a statement of conformance, TSO authorization, or letter of TSO design approval may continue to manufacture articles that meet the original TSO without obtaining a new acceptance, authorization, or approval but must comply with the requirements of this chapter.

§ 21.614 Transferability.

The holder of a TSO authorization or letter of TSO design approval may not transfer the TSO authorization or letter of TSO design approval.

§ 21.616 Responsibility of holder.

Each holder of a TSO authorization must—

(a) Amend the document required by § 21.605 as necessary to reflect changes in the organization and provide these amendments to the FAA.

(b) Maintain a quality system in compliance with the data and procedures approved for the TSO authorization;

(c) Ensure that each manufactured article conforms to its approved design, is in a condition for safe operation, and meets the applicable TSO;

(d) Mark the TSO article for which an approval has been issued. Marking must be in accordance with part 45 of this chapter, including any critical parts;

(e) Identify any portion of the TSO article (e.g., sub-assemblies, component parts, or replacement articles) that leave the manufacturer's facility as FAA approved with the manufacturer's part number and name, trademark, symbol, or other FAA approved manufacturer's identification;

(f) Have access to design data necessary to determine conformity and airworthiness for each article produced under the TSO authorization. The manufacturer must retain this data until it no longer manufactures the article. At that time, copies of the data must be sent to the FAA;

(g) Retain its TSO authorization and make it available to the FAA upon request; and

(h) Make available to the FAA information regarding all delegation of authority to suppliers.

§ 21.618 Approval for deviation.

(a) Each manufacturer who requests approval to deviate from any performance standard of a TSO must show that factors or design features providing an equivalent level of safety compensate for the standards from which a deviation is requested.

(b) The manufacturer must send requests for approval to deviate, together with all pertinent data, to the appropriate aircraft certification office. If the article is manufactured under the authority of a foreign country or jurisdiction, the manufacturer must send requests for approval to deviate, together with all pertinent data, through the civil aviation authority of that country or jurisdiction to the FAA.

§ 21.619 Design changes.

(a) *Minor changes by the manufacturer holding a TSO authorization.* The manufacturer of an article under an authorization issued under this part may make minor design changes (any change other than a major change) without further approval by the FAA. In this case, the changed article keeps the original model number (part numbers may be used to identify minor changes) and the manufacturer must forward to the appropriate aircraft certification office, any revised data that are necessary for compliance with § 21.603(b).

(b) *Major changes by the manufacturer holding a TSO authorization.* Any design change by the manufacturer extensive enough to require a substantially complete investigation to determine compliance with a TSO is a major change. Before making a major change, the manufacturer must assign a new type or model designation to the article and apply for an authorization under § 21.603.

(c) *Changes by persons other than the manufacturer.* No design change by any person (other than the manufacturer who provided the statement of conformance for the article) is eligible for approval under this part unless the person seeking the approval is a manufacturer and applies under § 21.603(a) for a separate TSO authorization. Persons other than a manufacturer may obtain approval for design changes under part 43 or under the applicable airworthiness regulations of this chapter.

§ 21.620 Changes in quality system.

After the issuance of a TSO authorization—

(a) Each change to the quality system is subject to review by the FAA; and

(b) The holder of the TSO authorization must immediately notify the FAA, in writing, of any change that may affect the inspection, conformity, or airworthiness of its article.

§ 21.621 Issuance of letters of TSO design approval: import articles.

(a) The FAA may issue a letter of TSO design approval for an article—

(1) Designed and manufactured in a foreign country or jurisdiction subject to the export provisions of an agreement with the United States for the acceptance of these articles for import; and

(2) For import into the United States if—

(i) The State of Design certifies that the article has been examined, tested, and found to meet the applicable TSO

or the applicable performance standards of the State of Design and any other performance standards the FAA may prescribe to provide a level of safety equivalent to that provided by the TSO; and

(ii) The manufacturer has provided to the FAA one copy of the technical data required in the applicable performance standard through its State of Design.

(b) The FAA issues the letter of TSO design approval that lists any deviation granted under § 21.618.

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

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

Authority: 49 U.S.C. 106(g), 40113, 44701, 44703, 44705, 44707, 44711, 44713, 44717, 44725.

§ 43.2 [Amended]

■ 50. Amend § 43.2(a)(2) by removing the reference to ''§ 21.305 of this chapter'' and adding in its place ''part 21 of this chapter''.

■ 51. Revise § 43.3(j)(3) to read as follows:

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

* * * * *

(j) * * *

(3) Perform any inspection required by part 91 or part 125 of this chapter on aircraft it manufactured under a type certificate, or currently manufactures under a production certificate.

PART 45—IDENTIFICATION AND REGISTRATION MARKING

■ 52. Revise the authority citation for part 45 to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113–40114, 44101–44105, 44107–44111, 44504, 44701, 44708–44709, 44711–44713, 44725, 45302–45303, 46104, 46304, 46306, 47122.

PART 45—[AMENDED]

■ 53. Amend part 45 by:

■ a. Removing the word ''Administrator'' and the words ''Administrator of the FAA'' and adding in their place the word ''FAA'' wherever they appear; and

■ b. Removing the word ''shall'' and adding in its place the word ''must'' wherever it appears.

■ 54. Amend § 45.1 by revising paragraphs (a) and (b) and removing paragraph (c) to read as follows:

§ 45.1 Applicability.

* * * * *

(a) Marking products and articles manufactured under—

(1) A type certificate;

(2) A production approval as defined under part 21 of this chapter; and

(3) The provisions of an agreement between the United States and another country or jurisdiction for the acceptance of products and articles; and

(b) Nationality and registration marking of U.S. registered aircraft.

Subpart B—Marking of Products and Articles

■ 55. Revise the heading of subpart B to read as set forth above.

■ 56. Amend subpart B by adding § 45.10 to read as follows:

§ 45.10 Marking.

No person may mark a product or article in accordance with this subpart unless—

(a) That person produced the product or article —

(1) Under part 21, subpart F, G, K, or O of this chapter; or

(2) For export to the United States under the provisions of an agreement between the United States and another country or jurisdiction for the acceptance of products and articles; and

(b) That product or article conforms to its approved design, and is in a condition for safe operation; and, for a TSO article; that TSO article meets the applicable performance standards.

■ 57. Revise § 45.11 to read as follows:

§ 45.11 Marking of products.

(a) *Aircraft.* A manufacturer of aircraft covered under § 21.182 of this chapter must mark each aircraft by attaching a fireproof identification plate that—

(1) Includes the information specified in § 45.13 using an approved method of fireproof marking;

(2) Must be secured in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident; and

(3) Except as provided in paragraphs (d) through (h) of this section, must be secured to the aircraft fuselage exterior so that it is legible to a person on the ground, and must be either adjacent to and aft of the rear-most entrance door or on the fuselage surface near the tail surfaces.

(b) *Aircraft engines.* A manufacturer of an aircraft engine produced under a type certificate or production certificate must mark each engine by attaching a fireproof identification plate. Such plate—

(1) Must include the information specified in § 45.13 using an approved method of fireproof marking;

(2) Must be affixed to the engine at an accessible location; and

(3) Must be secured in such a manner that it will not likely be defaced or removed during normal service, or lost or destroyed in an accident.

(c) *Propellers and propeller blades and hubs.* Each person who produces a propeller, propeller blade, or propeller hub under a type certificate or production certificate must mark each product or part using an approved fireproof method. The marking must—

(1) Be placed on a non-critical surface;

(2) Contain the information specified in § 45.13;

(3) Not likely be defaced or removed during normal service; and

(4) Not likely be lost or destroyed in an accident.

(d) *Manned free balloons.* A manufacturer of manned free balloons must mark each balloon by attaching the identification plate described in paragraph (a) of this section. The plate must be secured to the balloon envelope and must be located, if practicable, where it is legible to the operator when the balloon is inflated. In addition, the basket and heater assembly must be permanently and legibly marked with the manufacturer's name, part number (or equivalent), and serial number (or equivalent).

(e) *Aircraft manufactured before March 7, 1988.* The owner or operator of an aircraft manufactured before March 7, 1988 must mark the aircraft by attaching the identification plate required by paragraph (a) of this section. The plate must be secured at an accessible exterior or interior location near an entrance, if the model designation and builder's serial number are also displayed on the exterior of the aircraft fuselage. The model designation and builder's serial number must be—

(1) Legible to a person on the ground,

(2) Located either adjacent to and aft of the rear-most entrance door or on the fuselage near the tail surfaces, and

(3) Displayed in such a manner that they are not likely to be defaced or removed during normal service.

(f) For powered parachutes and weight-shift-control aircraft, the identification plate required by paragraph (a) of this section must be secured to the exterior of the aircraft fuselage so that it is legible to a person on the ground.

(g) The identification plate described in paragraph (a) of this section may be secured to the aircraft at an accessible location near an entrance for—

(1) Aircraft produced for—

(i) Operations under part 121 of this chapter,

(ii) Commuter operations (as defined in § 119.3 of this chapter), or

(iii) Export.

(2) Aircraft operating under part 121 of this chapter and under an FAA-approved continuous airworthiness maintenance program; or

(3) Aircraft operating in commuter air carrier operations (as defined in § 119.3 of this chapter) under an FAA-approved continuous airworthiness maintenance program.

(h) *Gliders*. Paragraphs (a)(3) and (e) of this section do not apply to gliders.

§ 45.13 [Amended]

■ 58. Amend § 45.13 by removing the text ''and (b)'' from paragraph (a) introductory text and adding in their place the text ''through (c)'' and by removing the words ''of this part'' from paragraph (c).

§ 45.14 [Removed]

■ 59. Remove § 45.14.

■ 60. Revise § 45.15 to read as follows:

§ 45.15 Marking requirements for PMA articles, TSO articles, and Critical parts.

(a) *PMA articles*. The manufacturer of a PMA article must permanently and legibly mark—

(1) Each PMA article, with the PMA holder's name, trademark, symbol, or other FAA approved identification and part number; and

(2) The letters ''FAA–PMA''.

(b) *TSO articles*. The manufacturer of a TSO article must permanently and legibly mark —

(1) Each TSO article with the TSO holder's name, trademark, symbol, or other FAA approved identification and part number; and

(2) Each TSO article, unless otherwise specified in the applicable TSO, with the TSO number and letter of designation, all markings specifically required by the applicable TSO, and the serial number or the date of manufacture of the article or both.

(c) *Critical parts*. Each person who manufactures a part for which a replacement time, inspection interval, or related procedure is specified in the Airworthiness Limitations section of a manufacturer's maintenance manual or Instructions for Continued Airworthiness must permanently and legibly mark that part with a serial number (or equivalent) unique to that part in addition to the other applicable requirements of this section.

(d) If the FAA finds a part or article is too small or otherwise impractical to mark with any of the information required by this part, the manufacturer must attach that information to the part or its container.

§ 45.16 [Amended]

■ 61. Amend § 45.16 by removing the last sentence of the section.

Issued in Washington, DC, on October 6, 2009.

J. Randolph Babbitt,

Administrator.

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