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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

[FNS–2006–0037]

RIN 0584–AD77

Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Revisions in the WIC Food Packages Rule To Increase Cash Value Vouchers for Women

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Interim rule.

SUMMARY: This rule increases the amount of cash value vouchers from $8.00 to $10.00 issued to pregnant, postpartum and partially breastfeeding women participants for the purchase of fruits and vegetables as part of the WIC food packages. In the ''WIC Food Package'' interim rule published December 6, 2007, the Department was not able to provide all women participants fruit and vegetable cash value vouchers at the level recommended by the National Academies' Institute of Medicine (IOM). To be cost neutral, only fully breastfeeding women were provided the IOM recommended amount of $10.00 per month fruit and vegetable cash value vouchers; all other women participants were provided $8.00 per month fruit and vegetable cash value vouchers. This rule amends the interim rule to provide all Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) women participants with $10.00 per month fruit and vegetable cash value vouchers, consistent with IOM's recommendations. The Fiscal Year 2010 Agriculture Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act (Pub. L. 111–80), enacted on October 21, 2009, provides the funding for this increase.

DATES: *Effective Date:* This rule is effective on December 31, 2009. State agencies may begin applying the provisions set forth in this rule beginning October 21, 2009.

Implementation Date: State agencies must implement the provisions of this rule no later than April 30, 2010.

Comment Date: To be considered, comments on this interim rule must be postmarked on or before February 1, 2010.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit comments on this interim rule. Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov.* Preferred method; follow the online instructions for submitting comments on docket FNS–2006–0037.
- *Mail:* Comments should be addressed to Debra Whitford, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 528, Alexandria, Virginia 22302, (703) 305–2746.
- *Hand Delivery or Courier:* Deliver comments to Debra Whitford, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 528, Alexandria, Virginia 22302, (703) 305–2746. Hours of operation: 8:30 a.m.–5:30 p.m., Monday through Friday.

All comments submitted in response to this interim rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sandy Clark, Chief, Policy and Program Development Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 528, Alexandria, Virginia 22302, (703) 305–2746, or *Sandy.Clark@fns.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

An interim rule revising the WIC food packages was published in the **Federal Register** on December 6, 2007 (72 FR 68966). The interim rule revisions largely reflected recommendations made by the IOM of the National Academies in its report, ''WIC Food Packages: Time for a Change,'' with certain cost containment and administrative modifications found necessary by the Department to ensure cost neutrality.

Based on cost constraints, the Department was not able to provide all women participants fruit and vegetable cash value vouchers at IOM's recommended amount. To be cost neutral, only fully breastfeeding women were provided the IOM recommended amount of $10.00 per month fruit and vegetable cash value vouchers; all other women participants were provided $8.00 per month fruit and vegetable cash value vouchers. This rule amends the interim rule to provide all WIC women participants with $10.00 per month fruit and vegetable cash value vouchers, consistent with IOM's recommendations. The funding for this increase is provided by the Fiscal Year 2010 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, Public Law 111–80, enacted on October 21, 2009.

Executive Order 12866

The Office of Management and Budget designated this rule as not significant under Executive Order 12866; therefore, no OMB review is required.

Regulatory Flexibility Act

The Food, Nutrition and Consumer Services has certified that this rule will not have a significant economic impact on a substantial number of small entities. The provisions of this rule are applicable to all State and local agencies, vendors and farmers and farmers' markets regardless of their size or the volume of WIC business they conduct.

Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget; therefore, a Regulatory Impact Analysis (RIA) is not necessary.

Need for Action

This action amends the interim rule to provide all women WIC participants

with $10.00 per month in cash value vouchers for fruits and vegetables as recommended by the Institute of Medicine. IOM's intent was to move WIC participants toward increased fruit and vegetable consumption.

Benefits

The increase in the cash value vouchers for women participants will improve their ability to increase their consumption of fruits and vegetables. WIC authorized vendors will also realize increased sales by the implementation of this provision.

Costs

The provisions of this interim rule are not expected to increase significantly the administrative burden to the Department or to State agencies, nor will they affect overall program costs since the WIC Program is funded by an annual appropriation.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This interim rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The Special Supplemental Nutrition Program for Women, Infants and Children (WIC) is listed in the Catalog of Federal Domestic Assistance under No. 10.557. For reasons set forth in the final rule at 7 CFR part 3015, Subpart V and related Notice (48 FR 29115, June 24, 1983), this Program is included in the scope of Executive Order 12372, that requires intergovernmental consultation with State and local officials.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

1. Prior Consultation With WIC State and Local Agency Officials

Over the years FNS has received numerous requests from WIC State and local agencies to modify the current food packages to permit greater substitution of foods or introduction of additional foods. These requests have come from formal and informal discussions with State and local officials on an ongoing basis regarding program implementation and food package policy issues, and from written proposals and comments submitted to FNS by WIC State and local agencies to allow modifications and/or substitutions to the WIC food packages. Requests for revisions to the WIC food packages have also been received from Congress, participants, and organizations with interests in the welfare of WIC participants. FNS commissioned the National Academies' IOM to independently review the WIC Food Packages. IOM solicited public comment on revisions to the WIC food packages, via 3 public hearings, letters and e-mail, throughout its 22-month study period. IOM published its reports of these recommendations on April 27, 2005: ''WIC Food Packages: Time for a Change.'' Based largely on the recommendations from this report, with certain cost containment and administrative modifications found necessary by the Department to ensure cost neutrality, an interim rule revising the WIC food packages was published in the **Federal Register** on December 6, 2007 (72 FR 68966).

2. Nature of Concerns and the Need To Issue This Rule

Based on cost constraints, the Department was not able to provide all women participants fruit and vegetable cash value vouchers at IOM's recommended amount in the December 6, 2007 interim rule. To be cost neutral, only fully breastfeeding women were provided the IOM recommended amount of $10.00 per month fruit and vegetable cash value vouchers; all other women participants were provided $8.00 per month fruit and vegetable cash value vouchers.

3. Extent to Which We Meet Those Concerns

This rule amends the December 6, 2007 Interim Rule to provide all WIC women participants with $10.00 per month fruit and vegetable cash value vouchers, consistent with IOM's recommendations.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless specified in the **DATES** section of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

FNS has reviewed this rule in accordance with Departmental Regulations 4300–4, ''Civil Rights Impact Analysis'', and 1512–1, ''Regulatory Decision Making Requirements.'' FNS has determined that this interim rule's intent and provisions will not adversely affect access to WIC services by eligible persons. All data available to FNS indicate that protected individuals have the same opportunity to participate in WIC as non-protected individuals. FNS specifically prohibits State and local agencies operating the WIC Program from discrimination based on race, color, national origin, gender, age, and disability. Discrimination in any aspect of program administration is prohibited by Department of Agriculture regulations on non-discrimination (7 CFR Parts 15, 15a, and 15b), the Age Discrimination Act of 1975 (Pub. L. 94–135), the Rehabilitation Act of 1973 (Pub. L. 93–112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints shall be processed in accordance with 7 CFR Part 15.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; see 5 CFR part 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal

agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. This rule does not contain information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995.

E-Government Act Compliance

The Food and Nutrition Service is committed to complying with the E-Government Act, 2002 to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Good Cause Determination

As discussed above, the Fiscal Year 2010 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act (Pub. L. 111–80), enacted on October 21, 2009, provided the funding for this increase. Therefore, women should be afforded the immediate opportunity to benefit from increased access to fruits and vegetables. As the funding increases fruit and vegetable cash value vouchers to the amount recommended by the IOM to improve the nutrition of women participants, the Department finds that delaying the effective date of this rule would be contrary to the public interest. As such, it has been determined, in accordance with 5 U.S.C. 553(b)(B), that prior notice and comment would be unnecessary, and that good cause exists for making this rule effective without first publishing a proposed rule. However, the Department will consider all comments submitted in response to this interim rule, in addition to the comments received on the interim WIC Food Package rule published on December 6, 2007 (72 FR 68966). The comment period for both rules will end on February 1, 2010.

List of Subjects in 7 CFR Part 246

Food assistance programs, Grant programs—Social programs, Indians, Infants and children, Maternal and child health, Nutrition education, Public assistance programs, WIC, Women.

■ Accordingly, for the reasons set forth in the preamble, 7 CFR Part 246 is amended to read as follows:

PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

■ 1. The authority citation for 7 CFR part 246 continues to read as follows:

Authority: 42 U.S.C. 1786.

■ 2. Sections 246.10(e)(10) and (e)(11) are revised to read as follows:

§ 246.10 Supplemental foods.

* * * * *

(e) * * *

(10) *Maximum monthly allowances of supplemental foods in Food Packages IV through VII.* The maximum monthly allowances, options and substitution rates of supplemental foods for children and women in Food Package IV through VII are stated in Table 2 as follows:

TABLE 2—MAXIMUM MONTHLY ALLOWANCES OF SUPPLEMENTAL FOODS FOR CHILDREN AND WOMEN IN FOOD PACKAGES IV, V, VI AND VII

Foods [1]	Children	Women		
	Food Package IV 1 through 4 years	Food Package V: Pregnant and partially breastfeeding (up to 1 year postpartum) [2]	Food Package VI: Postpartum (up to 6 months postpartum) [3]	Food Package VII: Fully breastfeeding (up to 1 year post-partum) [4 5]
Juice, single strength [6].	128 fl oz	144 fl oz	96 fl oz	144 fl oz.
Milk, fluid	16 qt [7 8 9 10]	22 qt [7 8 11 12]	16 qt [7 8 11 12]	24 qt [7 8 11 12].
Breakfast cereal [13]	36 oz	36 oz	36 oz	36 oz.
Cheese	N/A	N/A	N/A	1 lb.
Eggs	1 dozen	1 dozen	1 dozen	2 dozen.
Fruits and vegetables [14 15].	$6.00 in cash value vouchers.	$10.00 in cash value vouchers.	$10.00 in cash value vouchers.	$10.00 in cash value vouchers.
Whole wheat bread or other whole grains [16].	2 lb	1 lb	N/A	1 lb.
Fish (canned)	N/A	N/A	N/A	30 oz.
Legumes, dry [17]	1 lb	1 lb	1 lb	1 lb.
And/or	Or	And	Or	And
Peanut butter	18 oz	18 oz	18 oz	18 oz.

Table 2 Footnotes: N/A = the supplemental food is not authorized in the corresponding food package.

[1] Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods.

[2] Food Package V is issued to two categories of WIC participants: Women participants with singleton pregnancies and breastfeeding women whose partially breastfed infants receive formula from the WIC Program in amounts that do not exceed the maximum formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C, or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[3] Food Package VI is issued to two categories of WIC participants: Non-breastfeeding postpartum women and breastfeeding postpartum women whose partially breastfed infants receive more than the maximum infant formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C, or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[4] Food Package VII is issued to three categories of WIC participants: Fully breastfeeding women whose infants do not receive formula from the WIC Program; women pregnant with two or more fetuses; and women fully or partially breastfeeding multiple infants.

[5] Women fully breastfeeding multiple infants are prescribed 1.5 times the maximum allowances.

[6] Combinations of single-strength and concentrated juices may be issued provided that the total volume does not exceed the maximum monthly allowance for single-strength juice.

[7] Whole milk, as specified in FDA standards, is the only type of milk allowed for 1-year-old children (12 through 23 months). Reduced fat milks, as specified in FDA standards, i.e., 2% milk fat, are the only types of milk allowed for children ≥ 24 months of age and women.

[8] Evaporated milk may be substituted at the rate of 16 fluid ounces of evaporated milk per 32 fluid ounces of fluid milk or a 1:2 fluid ounce substitution ratio. Dry milk may be substituted at an equal reconstituted rate to fluid milk. When a combination of different milk forms is provided, the full maximum monthly fluid milk allowance must be provided.

[9] For children, cheese may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk. No more than 1 lb. of cheese may be substituted for milk. With medical documentation, additional amounts of cheese may be substituted in cases of lactose intolerance or other qualifying conditions, up to the maximum allowance for fluid milk.

[10] For children, soy-based beverage and calcium-set tofu may be substituted for milk only with medical documentation for qualifying conditions. Soy-based beverage may be substituted for milk, with medical documentation, for children in Food Package IV on a quart for quart basis up to the total maximum allowance of milk. Tofu may be substituted for milk, with medical documentation, for children in Food Package IV at the rate of 1 pound of tofu per 1 quart of milk up to the total maximum allowance of milk.

[11] For women, cheese or calcium-set tofu may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk or 1 pound of tofu per 1 quart of milk. A maximum of 4 quarts of milk can be substituted in this manner in Food Packages V and VI; however, no more than 1 pound of cheese may be substituted for milk. A maximum of 6 quarts of milk can be substituted in this manner in Food Package VII; therefore, no more than 2 lbs. of cheese may be substituted for milk. With medical documentation, additional amounts of cheese or tofu may be substituted, up to the maximum allowances for fluid milk, in cases of lactose intolerance or other qualifying conditions.

[12] For women, soy-based beverage may be substituted for milk at the rate of 1 quart of soy-based beverage for 1 quart of milk up to the total maximum monthly allowance of milk.

[13] At least one-half of the total number of breakfast cereals on the State agency's authorized food list must have whole grain as the primary ingredient and meet labeling requirements for making a health claim as a "whole grain food with moderate fat content" as defined in Table 4 of paragraph (e)(12) of this section.

[14] Processed (canned, frozen, dried) fruits and vegetables may be substituted for fresh fruits and vegetables. Dried fruit and dried vegetables are not authorized for children in Food Package IV.

[15] The monthly value of the fruit/vegetable cash-value vouchers will be adjusted annually for inflation as described in § 246.16(j).

[16] Brown rice, bulgur (cracked wheat), oatmeal, whole-grain barley, soft corn or whole wheat tortillas may be substituted for whole wheat bread on an equal weight basis.

[17] Canned legumes may be substituted for dried legumes at the rate of 64 oz. of canned beans for 1 lb. dried beans. Under Food Packages V and VII, two additional combinations of dry or canned beans/peas are authorized: 1 lb. Dry and 64 oz. Canned beans/peas (and no peanut butter); or 2 lb. Dry or 128 oz. Canned beans/peas (and no peanut butter) or 36 oz. peanut butter (and no beans).

(11) *Maximum monthly allowances of supplemental foods for children and women with qualifying conditions in Food Package III.* The maximum monthly allowances, options and substitution rates of supplemental foods for participants with qualifying conditions in Food Package III are stated in Table 3 as follows:

TABLE 3—MAXIMUM MONTHLY ALLOWANCES OF SUPPLEMENTAL FOODS FOR CHILDREN AND WOMEN IN FOOD PACKAGE III

Foods [1]	Children	Women		
	1 through 4 years	Pregnant and partially breastfeeding (up to 1 year postpartum) [2]	Postpartum (up to 6 months postpartum) [3]	Fully breastfeeding (up to 1 year postpartum) [4 5]
Juice, single strength [6].	128 fl oz	144 fl oz	96 fl oz	144 fl oz.
WIC Formula [7 8]	455 fl oz liquid concentrate	455 fl oz liquid concentrate	455 fl oz liquid concentrate	455 fl oz liquid concentrate.
Milk	16 qt [9 10 11 12]	22 qt [9 10 13 14]	16 qt [9 10 13 14]	24 qt [9 10 13 14].
Breakfast cereal [15 16]	36 oz	36 oz	36 oz	36 oz.
Cheese	N/A	N/A	N/A	1 lb.
Eggs	1 dozen	1 dozen	1 dozen	2 dozen.
Fruits and vegetables [17 18].	$6.00 in cash value vouchers.	$10.00 in cash value vouchers.	$10.00 in cash value vouchers.	$10.00 in cash value vouchers.
Whole wheat bread [19].	2 lb	1 lb	N/A	1 lb.
Fish (canned)	N/A	N/A	N/A	30 oz.
Legumes, dry [20]	1 lb	1 lb	1 lb	1 lb.
And/or	Or	And	Or	And
Peanut butter	18 oz	18 oz	18 oz	18 oz.

Table 3 Footnotes: N/A = the supplemental food is not authorized in the corresponding food package.

[1] Table 4 of paragraph (e)(12) of this section describes the minimum requirements and specifications for the supplemental foods.

[2] Food Package V is issued to two categories of WIC participants—women participants with singleton pregnancies and breastfeeding women whose partially breastfed infants receive formula from the WIC Program in amounts that do not exceed the maximum formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C, or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[3] Food Package VI is issued to two categories of WIC participants—non-breastfeeding postpartum women and breastfeeding postpartum women whose partially breastfed infants receive more than the maximum formula allowances for Food Packages I–BF/FF–A, I–BF/FF–B, I–BF/FF–C or II–BF/FF, as appropriate for the age of the infant as described in Table 1 of paragraph (e)(9) of this section.

[4] Food Package VII is issued to three categories of WIC participants—fully breastfeeding women whose infants do not receive formula from the WIC Program; women pregnant with two or more fetuses; and women fully or partially breastfeeding multiple infants.

[5] Women fully breastfeeding multiple infants are prescribed 1.5 times the maximum allowances.

[6] Combinations of single-strength and concentrated juices may be issued provided that the total volume does not exceed the maximum monthly allowance for single-strength juice.

[7] WIC formula means infant formula, exempt infant formula, or WIC-eligible medical food.

[8] Powder and Ready-to-Feed may be substituted at rates that provide comparable nutritive value.

[9] Whole milk, as specified in FDA standards, is the only type of milk allowed for 1-year-old children (12 through 23 months). Reduced fat milks, as specified in FDA standards, i.e., 2% milk fat, are the only types of milk allowed for children > 24 months of age and women. With medical documentation, whole milk may be substituted for reduced fat milk for children > 24 months of age and women.

[10] Evaporated milk may be substituted at the rate of 16 fluid ounces of evaporated milk per 32 fluid ounces of fluid milk or a 1:2 fluid ounce substitution ratio. Dry milk may be substituted at an equal reconstituted rate to fluid milk. When a combination of different milk forms is provided, the full maximum monthly fluid milk allowance must be provided.

[11] For children, cheese may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk. No more than 1 lb. of cheese may be substituted for milk. With medical documentation, additional amounts of cheese may be substituted in cases of lactose intolerance or other qualifying conditions, up to the maximum allowance for fluid milk.

[12] For children, soy-based beverage and tofu may be substituted for milk only with medical documentation for qualifying conditions. Soy-based beverage may be substituted for milk, with medical documentation, for children in Food Package IV on a quart for quart basis up to the total maximum allowance of milk. Tofu may be substituted for milk, with medical documentation, for children in Food Package IV at the rate of 1 pound of tofu per 1 quart of milk up to the total maximum allowance of milk.

[13] For women, cheese or calcium-set tofu may be substituted for milk at the rate of 1 pound of cheese per 3 quarts of milk or 1 pound of tofu per 1 quart of milk. A maximum of 4 quarts of milk can be substituted in this manner in Food Packages V and VI; however, no more than 1 pound of cheese may be substituted for milk. A maximum of 6 quarts of milk can be substituted in this manner in Food Package VII; therefore, no more than 2 lbs. of cheese may be substituted for milk. With medical documentation, additional amounts of cheese or tofu may be substituted, up to the maximum allowances for fluid milk, in cases of lactose intolerance or other qualifying conditions.

[14] For women, soy-based beverage may be substituted for milk at the rate of 1 quart of soy-based beverage for 1 quart of milk up to the total maximum monthly allowance of milk.

[15] 32 dry ounces of infant cereal may be substituted for 36 ounces of breakfast cereal.

[16] At least one half of the total number of breakfast cereals on the State agency's authorized food list must have whole grain as the primary ingredient and meet labeling requirements for making a health claim as a ''whole grain food with moderate fat content'' as defined in Table 4 of paragraph (e)(12) of this section.

[17] Processed (canned, frozen, dried) fruits and vegetables may be substituted for fresh fruits and vegetables. Dried fruit and dried vegetables are not authorized for children.

[18] The monthly value of the fruit/vegetable cash-value vouchers will be adjusted annually for inflation as described in § 246.16(j).

[19] Brown rice, bulgur (cracked wheat), oatmeal, whole-grain barley, soft corn or whole wheat tortillas may be substituted for whole wheat bread on an equal weight basis.

[20] Canned legumes may be substituted for dried legumes at the rate of 64 oz of canned beans for 1 lb dried beans. Issuance of two additional combinations of dry or canned beans/peas is authorized for the Pregnant and Partially Breastfeeding (up to 1 year postpartum) category and Fully Breastfeeding (Enhanced) (up to 1 year postpartum) category: 1 lb. Dry and 64 oz. Canned beans/peas (and no peanut butter); or 2 lb. Dry or 128 oz. Canned beans/peas (and no peanut butter) or 36 oz. peanut butter (and no beans).

* * * * *

§ 246.16 [Amended]

■ 3. Paragraph 246.16(j) (2) (ii) is amended by revising ''$8'' to read ''$10''

Dated: December 24, 2009.

Julia Paradis,

Administrator, Food and Nutrition Service.

[FR Doc. E9–30991 Filed 12–30–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0637; Directorate Identifier 2008–NM–183–AD; Amendment 39–16153; AD 2009–26–14]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model CN–235, CN–235–100, CN–235–200, and CN–235–300 Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding an existing 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:

* * * As a consequence of cracks [that were originally] detected on some CN–235 aircraft, in flap fittings P/N 35–15501–0101, –0102, –0201 and –0202, attaching the structure of the outer flaps to their rear supports and, in the adjacent structure, DGAC Spain issued AD Nr. 01/97[.] * * *

Since AD 1/97 Rev.1 was published, similar cracks have been detected in flaps longerons. * * *

* * * * *

Fatigue cracking of the rear internal support fittings and longerons of the outer flap structure could result in failure of the outer flaps, and consequent reduced controllability of the airplane. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective February 4, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of February 4, 2010.

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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; 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 15, 2009 (74 FR 34272). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> As a consequence of cracks [that were originally] detected on some CN–235 aircraft, in flap fittings P/N 35–15501–0101, –0102, –0201 and –0202, attaching the structure of the outer flaps to their rear supports and, in the adjacent structure, DGAC [Dirección General de Aviación Civil] Spain issued AD Nr. 01/97 which required, pending the analysis of the problem, boroscopic inspections of the attachment zones between both outer flaps to their rear support. After concluding that process and based on the investigation results, DGAC Spain issued AD Nr. 1/97 Rev.1 [which corresponds to FAA AD 99–07–13] to require the replacement of the outer flaps with new designed parts, as specified in EADS–CASA Service Bulletin (SB) 235–57–20.
>
> Since AD 1/97 Rev.1 was published, similar cracks have been detected in flaps longerons. EADS–CASA issued SB 235–57–20 Revision 1, extending the scope of the inspection to these flaps longerons, instructing the drilling of holes to facilitate the inspection and introducing an improved outer flap replacement kit that included a new improved longeron. SB 235–57–20 Revision 2 has been issued to add useful references and to update the applicability.
>
> For the reasons described above, this new EASA [European Aviation Safety Agency] AD retains the requirements of DGAC Spain AD Nr. 1/97 Rev.1, which is superseded, and confirms the approval of additional outer flaps replacement options, as specified in paragraph 2 E.2 of EADS–CASA SB 235–57–20 R2.

Fatigue cracking of the rear internal support fittings and longerons of the outer flap structure could result in failure of the outer flaps, and

consequent reduced controllability of the airplane. 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 8 products of U.S. registry. We also estimate that it will take about 69 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Required parts will cost about $193,603 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $1,592,984, or $199,123 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 removing Amendment 39–11098 (64 FR 15659, April 1, 1999) and adding the following new AD:

2009–26–14 CONSTRUCCIONES AERONAUTICAS, S.A. (CASA): Amendment 39–16153. Docket No. FAA–2009–0637; Directorate Identifier 2008–NM–183–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 4, 2010.

Affected ADs

(b) This AD supersedes AD 99–07–13, Amendment 39–11098.

Applicability

(c) This AD applies to CASA Model CN–235, CN–235–100, CN–235–200, and CN–235–300 airplanes, certificated in any category, all serial numbers, if part number (P/N) 35–15501–0001, –0002, –0003, or –0004, or P/N 35–A0736–0001 or –0002 outer flaps are installed.

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Reason

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

As a consequence of cracks [that were originally] detected on some CN–235 aircraft, in flap fittings P/N 35–15501–0101, –0102, –0201 and –0202, attaching the structure of the outer flaps to their rear supports and, in the adjacent structure, DGAC Spain issued AD Nr. 01/97 which required, pending the analysis of the problem, boroscopic inspections of the attachment zones between both outer flaps to their rear support. After concluding that process and based on the investigation results, DGAC [Dirección General de Aviación Civil] Spain issued AD Nr. 1/97 Rev.1 [which corresponds to FAA AD 99–07–13] to require the replacement of the outer flaps with new designed parts, as specified in EADS–CASA Service Bulletin (SB) 235–57–20.

Since AD 1/97 Rev.1 was published, similar cracks have been detected in flaps longerons. EADS–CASA issued SB 235–57–20 Revision 1, extending the scope of the inspection to these flaps longerons, instructing the drilling of holes to facilitate the inspection and introducing an improved outer flap replacement kit that included a new improved longeron. SB 235–57–20 Revision 2 has been issued to add useful references and to update the applicability.

For the reasons described above, this new EASA [European Aviation Safety Agency] AD retains the requirements of DGAC Spain AD Nr. 1/97 Rev.1, which is superseded, and confirms the approval of additional outer flaps replacement options, as specified in paragraph 2 E.2 of EADS–CASA SB 235–57–20 R2.

Fatigue cracking of the rear internal support fittings and longerons of the outer flap

structure could result in failure of the outer flaps, and consequent reduced controllability of the airplane.

Actions and Compliance

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

(1) For airplanes equipped with P/N 35–A0736–0001 or –0002 outer flaps: Within 300 flight cycles after the effective date of this AD, do a borescopic inspection to detect cracking of the outer flaps fittings and longerons, in accordance with the Accomplishment Instructions of EADS–CASA Service Bulletin SB–235–57–20, Revision 2, dated March 30, 2007.

(2) For airplanes equipped with P/N 35–15501–0001, –0002, –0003, or –0004 outer flaps: At the earlier of the times specified in paragraphs (f)(2)(i) and (f)(2)(ii) of this AD, do a borescopic inspection to detect cracking of the outer flaps fittings; and within 300 flight cycles after the effective date of this AD, do a borescopic inspection to detect cracking of the longerons. Do the inspections in accordance with the Accomplishment Instructions of EADS–CASA Service Bulletin SB–235–57–20, Revision 2, dated March 30, 2007.

(i) Within 600 flight cycles after the most recent inspection done in accordance with AD 99–07–13, or within 14 days after the effective date of this AD, whichever occurs later.

(ii) Within 300 flight cycles after the effective date of this AD.

(3) If, during any inspection required by paragraph (f)(1) or (f)(2) of this AD, no crack is detected, repeat the borescopic inspections of the outer flap fittings and longerons in accordance with the Accomplishment Instructions of EADS–CASA Service Bulletin SB–235–57–20, Revision 2, dated March 30, 2007, thereafter at intervals not to exceed 300 flight cycles or 6 months, whichever occurs first, until the replacement specified in paragraph (f)(4) or (f)(5) of this AD is accomplished.

(4) If any crack is detected during any inspection required by paragraph (f)(1), (f)(2), or (f)(3) of this AD, prior to further flight, replace the outer flap with a new or retrofitted flap in accordance with the Accomplishment Instructions of EADS–CASA Service Bulletin SB–235–57–20, Revision 2, dated March 30, 2007. Such replacement constitutes terminating action for the repetitive borescopic inspection required by this AD for the replaced outer flap only.

(5) For affected parts that have not been replaced in accordance with paragraph (f)(4) of this AD: At the later of the times specified in paragraphs (f)(5)(i) and (f)(5)(ii) of this AD, replace each outer flap with a new or retrofitted outer flap in accordance with the Accomplishment Instructions of EADS–CASA Service Bulletin SB–235–57–20, Revision 2, dated March 30, 2007. Replacing all outer flaps terminates the requirements of this AD.

(i) Before the accumulation of 4,000 total flight cycles on the flap.

(ii) Within 1,200 flight cycles or 24 months after the effective date of this AD, whichever occurs first.

(6) Actions done before the effective date of this AD in accordance with CASA Service Bulletin SB–235–57–20, dated December 23, 1997; or EADS–CASA Service Bulletin SB–235–57–20, Revision 1, dated April 30, 2004; are acceptable for compliance with the corresponding requirements of paragraph (f)(2) 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: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1112; 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 EASA Airworthiness Directive 2008–0119, dated June 27, 2008; and EADS–CASA Service Bulletin SB–235–57–20, Revision 2, dated March 30, 2007; for related information.

Material Incorporated by Reference

(i) You must use EADS–CASA Service Bulletin SB–235–57–20, Revision 2, dated March 30, 2007, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact EADS–CASA, Military Transport Aircraft Division (MTAD), Integrated Customer Services (ICS), Technical Services, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 55 05; e-mail *MTA.TechnicalService@casa.eads.net*; Internet *http://www.eads.net*.

(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 December 16, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–30707 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0686; Directorate Identifier 2009–NM–044–AD; Amendment 39–16155; AD 2009–26–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model MD–11 and MD–11F Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Model MD–11 and MD–11F airplanes. This AD requires a one-time inspection to determine if wires touch the upper surface of the center upper auxiliary fuel tank and marking the location, if necessary; a one-time inspection of all wire bundles above the center upper auxiliary fuel tank for splices and damage; a one-time inspection for damage to the fuel vapor barrier seal and upper surface of the center upper auxiliary fuel tank; and corrective actions, if necessary. This AD also requires installation of nonmetallic barrier/shield sleeving, new clamps, new attaching hardware, and a new extruded channel. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result

in fuel tank explosions and consequent loss of the airplane.

DATES: This AD is effective February 4, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of February 4, 2010.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an airworthiness directive (AD) that would apply to certain McDonnell Douglas Corporation Model MD–11 and MD–11F airplanes. That NPRM was published in the **Federal Register** on August 19, 2009 (74 FR 41813). That NPRM proposed to require a one-time inspection to determine if wires touch the upper surface of the center upper auxiliary fuel tank and marking the location, if necessary; a one-time inspection of all wire bundles above the center upper auxiliary fuel tank for splices and damage; a one-time inspection for damage to the fuel vapor barrier seal and upper surface of the center upper auxiliary fuel tank; and corrective actions, if necessary. That NPRM also proposed to require installation of nonmetallic barrier/shield sleeving, new clamps, new attaching hardware, and a new extruded channel.

Comments

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

Request To Include Boeing Information Notice MD11–28–126 IN 02 in the Final Rule

FedEx requests that Boeing Information Notice MD11–28–126 IN 02, dated July 1, 2009, be incorporated into the final rule. FedEx states that without including the information notice, FedEx will not be able to comply with the AD unless an Alternative Method of Compliance (AMOC) is granted. We partially agree. Boeing issued Information Notice MD11–28–126 IN 02 to clarify the group applicability. The information notice is not approved by the FAA; therefore, we do not require the information notice for accomplishment of work and it is not incorporated into the requirements of this final rule. Note 1 has been added to this AD to explain that the information notice provides clarification of the airplane groups identified in the service bulletin.

Request for Compliance Time Extension

KLM requests that we extend the compliance time so that it will fall during regularly scheduled maintenance periods. KLM states that the 60-month compliance time specified in the NPRM does not take into consideration the impact on operators of accessing the area above the center upper auxiliary fuel tank, which is only opened during 72-month intervals. KLM states the work-hours and costs specified in the NPRM are unrealistic because the inspection is not done in the 72-month period.

We do not agree with the commenter's request to extend the compliance time. We have determined that the compliance time, as proposed, represents the maximum interval of time allowable for the affected airplanes to continue to safely operate before the modification is done. Since maintenance schedules vary among operators, there would be no assurance that the airplane would be modified during that maximum interval. However, operators may request an AMOC in accordance with the procedures specified in paragraph (j) of this AD. We have not changed the AD in this regard.

Explanation of Changes Made to This AD

We have revised this AD to identify the legal name of the manufacturer as published in the most recent type certificate data sheet for the affected airplane models.

Conclusion

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

Costs of Compliance

We estimate that this AD affects 111 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Inspection/Installation [1].	136 to 154	$80	$9,405 to $12,201	$20,285 to $24,521 ..	111	$2,251,635 to $2,721,831.

[1] Depending on airplane configuration.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–26–16 McDonnell Douglas Corporation: Amendment 39–16155. Docket No. FAA–2009–0686; Directorate Identifier 2009–NM–044–AD.

Effective Date

(a) This airworthiness directive (AD) is effective February 4, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model MD–11 and MD–11F airplanes; certificated in any category; as identified in Boeing Service Bulletin MD11–28–126, Revision 1, dated June 18, 2009.

Note 1: Boeing Information Notice MD11–28–126 IN 02, dated July 1, 2009, provides guidance that clarifies the airplane groups identified in Boeing Service Bulletin MD11–28–126, Revision 1, dated June 18, 2009.

Subject

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

Unsafe Condition

(e) This AD results from fuel system reviews conducted by the manufacturer. The Federal Aviation Administration is issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

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

Actions

(g) Within 60 months after the effective date of this AD: Do the actions specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), and (g)(5) of this AD, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin MD11–28–126, Revision 1, dated June 18, 2009, except as required by paragraph (h) of this AD. Do all applicable corrective actions before further flight.

(1) Do a general visual inspection to determine if wires touch the upper surface of the center upper auxiliary fuel tank, and mark the location, as applicable.

(2) Do a detailed inspection for splices and damage of all wire bundles above the center upper auxiliary fuel tank.

(3) Do a detailed inspection for damage (burn marks) on the upper surface of the center upper auxiliary fuel tank.

(4) Do a detailed inspection for damage (burn marks) on the fuel vapor barrier seal.

(5) Install nonmetallic barrier/shield sleeving, new clamps, new attaching hardware, and a new extruded channel.

(h) If damage (burn marks) is found on the upper surface of the center upper auxiliary fuel tank during any inspection required by paragraph (g)(3) of this AD, and Boeing Service Bulletin MD11–28–126, Revision 1, dated June 18, 2009, specifies to contact The Boeing Company for repair instructions: Before further flight, repair the auxiliary fuel tank using a method approved in accordance with the procedures specified in paragraph (j)(3) of this AD.

Actions Accomplished According to Previous Issue of Service Bulletin

(i) Actions accomplished before the effective date of this AD according to Boeing Service Bulletin MD11–28–126, dated March 3, 2009, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

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

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

Material Incorporated by Reference

(k) You must use Boeing Service Bulletin MD11–28–126, Revision 1, dated June 18, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

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

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go

to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on December 16, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–30709 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0052; Directorate Identifier 2008–NE–01–AD; Amendment 39–16151; AD 2009–26–12]

RIN 2120–AA64

Airworthiness Directives; Engine Components, Inc. (ECi) Reciprocating Engine Cylinder Assemblies

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, ''Parallel Valve'' reciprocating engines, with certain Engine Components, Inc. (ECi) cylinder assemblies, part number (P/N) AEL65102 series ''Titan,'' installed. That AD currently requires initial and repetitive visual inspections and compression tests to detect cracks at the head-to-barrel interface, replacement of cylinder assemblies found cracked, and replacement of certain cylinder assemblies at new, reduced times-in-service. This AD requires the same actions, but for an expanded population of cylinder assemblies. This AD results from reports of 10 additional cylinder head separations since issuing AD 2008–19–05, on cylinder serial numbers not listed in that AD. We are issuing this AD to prevent loss of engine power due to cracks at the head-to-barrel interface and possible engine failure caused by separation of a cylinder head, which could result in loss of control of the aircraft.

DATES: This AD becomes effective February 4, 2010.

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: Peter W. Hakala, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76193; e-mail: *peter.w.hakala@faa.gov;* telephone (817) 222–5145; fax (817) 222–5785.

SUPPLEMENTARY INFORMATION: The FAA proposed to amend 14 CFR part 39 by superseding AD 2008–19–05, Amendment 39–15672 (73 FR 53105, September 15, 2008), with a proposed AD. The proposed AD applies to Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, ''Parallel Valve'' reciprocating engines, with certain Engine Components, Inc. (ECi) cylinder assemblies, part number (P/N) AEL65102 series ''Titan,'' installed. We published the proposed AD in the **Federal Register** on July 30, 2009 (74 FR 37955). That action proposed to require initial and repetitive visual inspections and compression tests to detect cracks at the head-to-barrel interface, replacement of cylinder assemblies found cracked, and replacement of certain cylinder assemblies at new, reduced times-in-service, and for an expanded population of cylinder assemblies.

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.

Two commenters state that proposed AD paragraphs (m) and (n) are confusing and contradictory. Paragraph (m) allows repair or replacement of cylinders with leakage provided that the cylinder is not cracked, but paragraph (n) prohibits removed cylinders from being re-installed.

We agree. We changed paragraph (m) to state ''For Group 'A' cylinder assemblies only, repair or replace the engine cylinder assembly before further flight if the cause of the low gauge reading in paragraph (k) of this AD is from leaking intake or exhaust valves, or from leaking piston rings.'' We also changed paragraph (n) to state, ''After the effective date of this AD, do not install any Group 'B' ECi cylinder assembly, P/N AEL65102, onto any engine and do not attempt to repair or reuse Group 'B' cylinder assemblies.''

Conclusion

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

Costs of Compliance

We estimate that this AD will affect about 18,000 ECi cylinder assemblies installed in aircraft of U.S. registry. The visual inspection and compression tests will take about 4 work-hours for each engine. An individual cylinder replacement will require $1,100 for parts and 6 work-hours. Lycoming engines with a set of 4 ECi cylinders will require 12 work-hours for the cylinder replacement. Lycoming engines with a set of 6 ECi cylinders will require 16 work-hours for the cylinder replacement. We estimate 18 percent of the affected population of cylinders will be replaced. We estimate the total cost of the AD to U.S. operators to be $10,172,000. Our estimate is exclusive of any 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 39–39–15672 (73 FR 53105, September 15, 2008), and by adding a new airworthiness directive, Amendment 39–16151, to read as follows:

2009–26–12 Engine Components, Inc. (ECi): Amendment 39–16151. Docket No. FAA–2008–0052; Directorate Identifier 2008–NE–01–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 4, 2010.

Affected ADs

(b) This AD supersedes AD 2008–19–05, Amendment 39–15672.

Applicability

(c) If your engine has not been overhauled, or not had any cylinder assemblies replaced since new, no further action is required.

(d) This AD applies to the Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, ''Parallel Valve,'' reciprocating engines listed in Table 1 of this AD, with ECi cylinder assembly, part number (P/N) AEL65102 series ''Titan,'' and with cylinder head, P/N AEL85099, installed.

(1) The applicable cylinder assembly serial numbers (S/Ns) are S/N 1138–02 through S/N 35171–22 (referred to in this AD as Group ''A'' cylinder assemblies); and

(2) S/N 35239–01 through S/N 42179–30 (referred to in this AD as Group ''B'' cylinder assemblies).

(3) The cylinder assembly P/N is at the crankcase end of the cylinder assembly, and might be difficult to see. As a guide in determining if your cylinder assemblies are affected, all affected cylinder assemblies have cylinder head P/N AEL85099. The cylinder head P/N is at the top of the cylinder head, near the intake and exhaust valve springs, and is easier to locate than the cylinder assembly P/N.

(4) The set of numbers appearing on the cylinder, above and to the left of the S/N, in the form of ''123456'' is not used for determining this AD's applicability.

TABLE 1—ENGINE MODELS

Cylinder assembly part No.	Installed on engine models
AEL65102–NST04	O–320–A1B, A2B, A2C, A2D, A3A, A3B, B2B, B2C, B2D, B2E, B3B, B3C, C2B, C2C, C3B, C3C, D1A, D1AD, D1B, D1C, D1D, D1F, D2A, D2B, D2C, D2F, D2G, D2H, D2J, D3G, E1A, E1B, E1C, E1F, E1J, E2A, E2B, E2C, E2D, E2E, E2F, E2G, E2H, E3D, E3H.
	IO–320–A1A, A2A, B1A, B1B, B1C, B1D, B1E, B2A, D1A, D1AD, D1B, D1C, E1A, E1B, E2A, E2B.
	AEIO–320–D1B, D2B, E1A, E1B, E2A, E2B.
	AIO–320–A1A, A1B, A2A, A2B, B1B, C1B.
	LIO–320–B1A.
AEL65102–NST05	IO–320–C1A, C1B, C1F, F1A.
	LIO–320–C1A.
AEL65102–NST06	O–320–A1A, A2A, A2B, A2C, A3A, A3B, A3C, E1A, E1B, E2A, E2C, (also, an O–320 model with no suffix).
	IO–320–A1A, A2A.
AEL65102–NST07	IO–320–B1A, B1B.
	LIO–320– B1A.
AEL65102–NST08	O–320–B1A, B1B, B2A, B2B, B3A, B3B, B3C, C1A, C1B, C2A, C2B, C3A, C3B, C3C, D1A, D1B, D2A, D2B, D2C.
AEL65102–NST10	O–360–A1A, A1C, A1D, A2A, A2E, A3A, A3D, A4A, B1A, B1B, B2A, B2B, C1A, C1C, C1G, C2A, C2B, C2C, C2D, D1A, D2A, D2B.
	IO–360–B1A, B1B, B1C.
	HO–360–A1A, B1A, B1B.
	HIO–360–B1A, B1B.
	AEIO–360–B1B.
	O–540–A1A, A1A5, A1B5, A1C5, A1D, A1D5, A2B, A3D5, A4A5, A4B5, A4C5, A4D5, B1A5, B1B5, B1D5, B2A5, B2B5, B2C5, B4A5, B4B5, D1A5, E1A, E4A5, E4B5, E4C5, F1A5, F1B5, G1A5, G2A5.
	IO–540–C1B5, C1C5, C2C, C4B5, C4B5D, C4C5, D4A5, D4B5, N1A5.
AEL65102–NST12	O–360–A1A, A1AD, A1D, A1F, A1F6, A1F6D, A1G, A1G6, A1G6D, A1H, A1H6, A1J, A1LD, A1P, A2A, A2D, A2F, A2G, A2H, A3A, A3AD, A3D, A4A, A4AD, A4D, A4G, A4J, A4JD, A4K, A4M, A4N, A4P, A5AD, B1A, B2C, C1A, C1C, C1E, C1F, C1G, C2A, C2B, C2C, C2D, C2E, C4F, C4P, D2A, F1A6, G1A6.
	HO–360 –C1A.
	LO–360–A1G6D, A1H6.
	HIO–360–B1A, B1B, G1A.
	LTO–360–A1A6D.
	TO–360–A1A6D.
	IO–360–B1B, B1BD, B1D, B1E, B1F, B1F6, B1G6, B2E, B2F, B2F6, B4A, E1A, L2A, M1A, M1B.
	AEIO–360–B1B, B1D, B1E, B1F, B1F6, B1G6, B1H, B2F, B2F6, B4A, H1A, H1B.
	O–540–A4D5, B2B5, B2C5, B2C5D, B4B5, B4B5D, E4A5, E4B5, E4C5, G1A5, G2A5, H1A5, H1A5D, H1B5, H1B5D, H2A5, H2A5D, H2B5D.

TABLE 1—ENGINE MODELS—Continued

Cylinder assembly part No.	Installed on engine models
	IO–540–C4B5, C4B5D, C4D5, C4D5D, D4A5, D4B5, D4C5, N1A5, N1A5D, T4A5D, T4B5, T4B5D, T4C5D, V4A5, V4A5D.
	AEIO–540–D4A5, D4B5, D4C5, D4D5.
AEL65102–NST26	IO–540–J4A5, R1A5.
	TIO–540–C1A, E1A, G1A, H1A.
AEL65102–NST38	IO–360–F1A.
	TIO–540–AA1AD, AB1AD, AB1BD, AF1A, AG1A, AK1A, C1A, C1AD, K1AD.
	LTIO–540–K1AD.
AEL65102–NST43	O–360–J2A.
	O–540–F1B5, J1A5D, J1B5D, J1C5D, J1D5D, J2A5D, J2B5D, J2C5D, J2D5D, J3A5, J3A5D, J3C5D.
	IO–540–AB1A5, W1A5, W1A5D, W3A5D.
AEL65102–NST44	O–540–L3C5D.

The Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, ''Parallel Valve'', reciprocating engines are installed on, but not limited to, the aircraft listed in the following Table 2:

TABLE 2—ENGINES INSTALLED ON, BUT NOT LIMITED TO

Engine models	Installed on, but not limited to
O–320–A1A	Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Apache (PA–23), Pawnee (PA–25).
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Mooney Aircraft: Mark (20A).
	Dinfia: Ranquel (1A–46).
	Simmering-Graz Pauker: Flamingo (SGP–M–222).
	Aviamilano: Scricciolo (P–19).
	Vos Helicopter Co.: Spring Bok.
O–320–A1B	Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Apache (PA–23).
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	S.O.C.A.T.A.: Horizon (Gardan).
O–320–A2A	Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Agriculture (PA–18A ''150''), Super Cub (PA–18 ''150''), Caribbean (PA–22 ''150''), Pawnee (PA–25).
	Intermountain Mfg. Co.: Call Air Texas (A–5, A–5T).
	Lake Aircraft: Colonial (C–1).
	Rawdon Bros.: Rawdon (T–1, T–15, T–15D).
	Shinn Engineering: Shinn (2150–A).
	Dinfia: Ranquel (1A–46).
	Neiva: (1PD–5802).
	Sud: Gardan-Horizon (GY–80).
	LaVerda: Falco (F8L Series II, America).
	Malmo: Vipan (MF1–10).
	Kingsford Smith: Autocrat (SCRM–153).
	Aero Commander: 100.
O–320–A2B	Piper Aircraft: Tri-Pacer (PA–22 ''150'', PA–22S ''150''), Cherokee (PA–28 ''150''), Super Cub (PA–18 ''150'').
	Champion Aircraft: Challenger (7GCA, 7GCB, 7KC), Citabria (7GCAA, 7GCRC), Agriculture (7GCBA).
	Beagle: Pup (150).
	Artic: Interstate S1B2.
	Robinson: R–22.
	Varga: Kachina 2150A.
O–320–A2C	Robinson: R–22.
	Cicare: Cicare AG.
	Bellanca Aircraft: Citabria 150 (7GCAA), Citabria 150S (7GCBC).
O–320–A2D	Piper Aircraft: Apache (PA–23).
O–320–A3A	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Corben-Fettes: Globe Special (Globe GC–1B).
O–320–A3B	Piper Aircraft: Apache (PA–23).
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Teal II: TSC (1A2).
O–320–B1A	Piper Aircraft: Apache (PA–23 ''160'').
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Malmo: Vipan (MF1–10).
O–320–B1B	Piper Aircraft: Apache (PA–23 ''160'').
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
O–320–B2A	Piper Aircraft: Tri-Pacer (PA–22 ''160'', PA–22S ''160'').
O–320–B2B	Piper Aircraft: Tri-Pacer (PA–22 ''160'', PA–22S ''160'').
	Beagle: Airedale (D5–160).
	Fuji-Heavy Industries: Fuji (F–200).
	Uirapuru: Aerotec 122.
O–320–B2C	Robinson: R–22.

TABLE 2—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

Engine models	Installed on, but not limited to
O–320–B2D	Maule: MX–7–160.
O–320–B2E	Lycon.
O–320–B3A	Piper Aircraft: Apache (PA–23 ''160'').
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
O–320–B3B	Piper Aircraft: Apache (PA–23 ''160'').
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Sud: Gardan (GY80–160).
O–320–C1A	Piper Aircraft: Apache (PA–23 ''160'').
	Riley Aircraft: Rayjay (Apache).
O–320–C1B	Piper Aircraft: Apache (PA–23 ''160'').
O–320–C3A	Piper Aircraft: Apache (PA–23 ''160'').
O–320–C3B	Piper Aircraft: Apache (PA–23 ''160'').
O–320–D1A	Sud: Gardan (GY–80).
	Gyroflug: Speed Cancard.
	Grob: G115.
O–320–D1F	Slingsby: T67 Firefly.
O–320–D2A	Piper Aircraft: Cherokee (PA–28S ''160'').
	Robin: Major (DR400–140B), Chevalier (DR–360), (R–3140).
	S.O.C.A.T.A.: Tampico TB9.
	Slingsby: T67C Firefly.
	Daetwyler: MD–3–160.
	Nash Aircraft Ltd.: Petrel.
	Aviolight: P66D Delta.
	General Avia: Pinguino.
O–320–D2B	Beech Aircraft: Musketeer (M–23).
	Piper Aircraft: Cherokee (PA–28 ''160'').
O–320–D2J	Cessna Aircraft: Skyhawk 172.
O–320–D3G	Piper Aircraft: Warrior II, Cadet (PA–28–161).
O–320–E1A	Grob: G115.
O–320–E1C	M.B.B. (Messerschmitt-Boelkow-Blohm): Monsun (BO–209–B).
O–320–E1F	M.B.B.: Monsun (BO–209–B).
O–320–E2A	Piper Aircraft: Cherokee (PA–28 ''140'', PA–28 ''150'').
	Robin: Major (DR–340), Sitar, Bagheera (GY–100–135).
	S.O.C.A.T.A.: Super Rallye (MS–886), Rallye Commodore (MS–892).
	Siai-Marchetti: (S–202).
	F.F.A.: Bravo (AS–202/15).
	Partenavia: Oscar (P66B), Bucker (131 APM).
	Aeromot: Paulistina P–56.
	Pezetel: Koliber 150.
O–320–E2C	Beech Aircraft: Musketeer III (M–23III).
	M.B.B.: Monsun (BO–209–B).
O–320–E2D	Cessna Aircraft: Cardinal (172–I, 177).
O–320–E2F	M.B.B.: Monsun (BO–209–B), Wassmer Pacific (WA–51).
O–320–E2G	American Aviation Corp.: Traveler.
O–320–E3D	Piper Aircraft: Cherokee (140).
	Beech Aircraft: Sport.
IO–320–B2A	Piper Aircraft: Twin Comanche (PA–30).
IO–320–B1C	Hi. Shear: Wing.
IO–320–B1D	Ted Smith Aircraft: Aerostar.
IO–320–C1A	Piper Aircraft: Twin Comanche (PA–30 Turbo).
IO–320–D1A	M.B.B.: Monsun (BO–209–C).
IO–320–D1B	M.B.B.: Monsun (BO–209–C).
IO–320–E1A	M.B.B.: Monsun (BO–209–C).
IO–320–E1B	Bellanca Aircraft.
IO–320–E2A	Champion Aircraft: Citabria.
IO–320–E2B	Bellanca Aircraft.
IO–320–F1A	CAAR Engineering: Carr Midget.
LIO–320–B1A	Piper Aircraft: Twin Comanche (PA–39).
LIO–320–C1A	Piper Aircraft: Twin Comanche (PA–39).
AIO–320–B1B	M.B.B.: Monsun (BO–209–C).
AEIO–320–D1B	Slingsby: T67M Firefly.
AEIO–320–D2B	Hundustan Aeronautics Ltd.: HT–2.
AEIO–320–E1A	Bellanca Aircraft.
	Champion Aircraft.
AEIO–320–E1B	Bellanca Aircraft.
	Champion Aircraft: Decathalon (8KCAB–CS).
AEIO–320–E2B	Bellanca Aircraft.
	Champion Aircraft: Decathalon (8KCAB).
O–320–A1A	Riley Aircraft: Riley Twin.
O–360–A1A	Beech Aircraft: Travel Air (95, B–95).
	Piper Aircraft: Comanche (PA–24).
	Intermountain Mfg. Co.: Call Air (A–6).

TABLE 2—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

Engine models	Installed on, but not limited to
	Lake Aircraft: Colonial (C–2, LA –4, –4A or –4P).
	Doyn Aircraft: Doyn-Cessna (170B, 172, 172A, 172B).
	Mooney Aircraft: Mark "20B" (M–20B).
	Earl Horton: Pawnee (Piper PA–25).
	Dinfia: Ranquel (1A–51).
	Neiva: (1PD–5901).
	Regente: (N–591).
	Wassmer: Super 4 (WA–50A), Sancy (WA–40), Baladou (WA–40), Pariou (WA–40).
	Sud: Gardan (GY–180).
	Bolkow: (207).
	Partenavia: Oscar (P–66).
	Siai-Marchetti: (S–205).
	Procaer: Picchio (F–15–A).
	S.A.A.B.: Safir (91–D).
	Malmo: Vipan (MF–10B).
	Aero Boero: AB–180.
	Beagle: Airedale (A–109).
	DeHavilland: Drover (DHA–3MK3).
	Kingsford-Smith: Bushmaster (J5–6).
	Aero Engine Service Ltd.: Victa (R–2).
O–360–A1AD	S.O.C.A.T.A.: Tabago TB–10.
O–360–A1D	Piper Aircraft: Comanche (PA–24).
	Lake Aircraft: Colonial (LA–4, –4A or –4P).
	Doyn Aircraft: Doyn-Beech (Beech 95).
	Mooney Aircraft: Master "21" (M–20E), Mark "20B", "20D", (M20B, M20C), Mooney Statesman (M–20G).
	Dinfia: Querandi (1A–45).
	Wassmer: (WA–50).
	Malmo: Vipan (MF1–10).
	Cessna Aircraft: Skyhawk.
	Doyn Aircraft: Doyn-Piper (PA–23 "160").
O–360–A1F6	Cessna Aircraft: Cardinal.
O–360–A1F6D	Cessna Aircraft: Cardinal 177.
	Teal III: TSC (1A3).
O–360–A1G6	Aero Commander.
O–360–A1G6D	Beech Aircraft: Duchess 76.
O–360–A1H6	Piper Aircraft: Seminole (PA–44).
O–360–A1LD	Wassmer: Europa WA–52.
O–360–A1P	Aviat: Husky.
O–360–A2A	Center Est Aeronautique: Regente (DR–253).
	S.O.C.A.T.A.: Rallye Commodore (MS–893).
	Societe Aeronautique Normande: Mousquetaire (D–140).
	Bolkow: Klemm (K1–107C).
	Partenavia: Oscar (P–66).
	Beagle: Husky (D5–180) (J1–U).
O–360–A2D	Piper Aircraft: Comanche (PA–24), Cherokee "C" (PA–28 "180").
	Mooney Aircraft: Master "21" (M–20D), Mark "21" (M–20E).
O–360–A2E	Std. Helicopter.
O–360–A2F	Aero Commander: Lark (100).
	Cessna Aircraft: Cardinal.
O–360–A2G	Beech Aircraft: Sport.
O–360–A3A	C.A.A.R.P.S.A.N.: (M–23III).
	Societe Aeronautique Normande: Jodel (D–140C).
	Robin: Regent (DR400/180), Remorqueur (DR400/180R), R–3170.
	S.O.C.A.T.A.: Rallye 180GT, Sportavia Sportsman (RS–180).
	Norman Aeroplace Co.: NAC–1 Freelance.
	Nash Aircraft Ltd.: Petrel.
O–360–A3AD	S.O.C.A.T.A.: TB–10.
	Robin: Aiglon (R–1180T).
O–360–A4A	Piper Aircraft: Cherokee "D" (PA–28 "180").
O–360–A4D	Varga: Kachina.
O–360–A4G	Beech Aircraft: Musketeer Custom III.
O–360–A4K	Grumman American: Tiger.
	Beech Aircraft: Sundowner 180.
O–360–A4M	Piper Aircraft: Archer II (PA–28 "18").
	Valmet: PIK–23.
O–360–A4N	Cessna Aircraft: 172 (Optional).
O–360–A4P	Penn Yan: Super Cub Conversion.
O–360–A5AD	C. Itoh and Co.: Fuji FA–200.
O–360–B2C	Seabird Aviation: SB7L.
O–360–C1A	Intermountain Mfg. Co.: Call Air (A–6).
O–360–C1E	Bellanca Aircraft: Scout (8GCBC–CS).
O–360–C1F	Maule: Star Rocket MX–7–180.

TABLE 2—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

Engine models	Installed on, but not limited to
O–360–C1G	Christen: Husky (A–1).
O–360–C2B	Hughes Tool Co.: (269A).
O–360–C2D	Hughes Tool Co.: (269A).
O–360–C2E	Hughes Tool Co.: (YHO–2HU) Military.
	Bellanca Aircraft: Scout (8GCBC FP).
O–360–C4F	Maule: MX–7–180A.
O–360–C4P	Penn Yan: Super Cub Conversion.
O–360–F1A6	Cessna Aircraft: Cutlass RG.
O–360–J2A	Robinson: R22.
IO–360–B1A	Beech Aircraft: Travel-Air (B–95A).
	Doyn Aircraft: Doyn-Piper (PA–23 "200").
IO–360–B1B	Beech Aircraft: Travel-Air (B–95B).
	Doyn Aircraft: Doyn-Piper (PA–23 "200").
	Fuji: (FA–200).
IO–360–B1D	United Consultants: See-Bee.
IO–360–B1E	Piper Aircraft: Arrow (PA–28 "180R").
IO–360–B1F	Utva: 75.
IO–360–B2E	C.A.A.R.P. C.A.P.: (10).
IO–360–B1F6	Great Lakes: Trainer.
IO–360–B1G6	American Blimp: Spector 42.
IO–360–B2F6	Great Lakes: Trainer.
LO–360–A1G6D	Beech Aircraft: Duchess.
LO–360–A1H6	Piper Aircraft: Seminole (PA–44).
IO–360–E1A	T.R. Smith Aircraft: Aerostar.
IO–360–L2A	Cessna Aircraft: Skyhawk C–172.
IO–360–M1A	Diamond Aircraft: DA–40.
IO–360–M1B	Vans Aircraft: RV6, RV7, RV8.
	Lancair: 360.
AEIO–360–B1F	F.F.A.: Bravo (200).
	Grob: G115/Sport-Acro.
AEIO–360–B1G6	Great Lakes.
AEIO–360–B2F	Mundry: CAP–10.
AEIO–360–B4A	Pitts: S–1S.
AEIO–360–H1A	Bellanca Aircraft: Super Decathalon (8KCAB–180).
AEIO–360–H1B	American Champion: Super Decathalon.
VO–360–A1A	Brantly Hynes Helicopter: (B–2).
VO–360–A1B	Brantly Hynes Helicopter: (B–2, B2–A). Military (YHO–3BR).
VO–360–B1A	Brantly Hynes Helicopter: (B–2, B2–A).
IVO–360–A1A	Brantly Hynes Helicopter: (B2–B).
HO–360–B1A	Hughes Tool Co.: (269A).
HO–360–B1B	Hughes Tool Co.: (269A).
HO–360–C1A	Schweizer: (300C).
HIO–360–B1A	Hughes Tool Co.: Military (269–A–1), (TH–55A).
HIO–360–B1B	Hughes Tool Co.: (269A).
HIO–360–G1A	Schweizer: (CB).
O–540–A1A	Rhein-Flugzeugbau: (RF–1).
O–540–A1A5	Piper Aircraft: Comanche (PA–24 "180").
	Helio: Military (H–250).
	Yoeman Aviation: (YA–1).
O–540–A1B5	Piper Aircraft: Aztec (PA–23 "250"), Comanche (PA–24 "250").
O–540–A1C5	Piper Aircraft: Comanche (PA–24 "250").
O–540–A1D	Found Bros.: (FBA–2C).
	Dornier: (DO–28–B1).
O–540–A1D5	Piper Aircraft: Aztec (PA–23 "250"), Comanche (PA–24 "250"), Military Aztec (U–11A).
	Dornier: (DO–28).
O–540–A2B	Aero Commander: (500).
	Mid-States Mfg. Co.: Twin Courier (H–500), (U–5).
O–540–A3D5	Piper Aircraft: Navy Aztec (PA–23 "250").
O–540–B1A5	Piper Aircraft: Apache (PA–23 "235").
O–540–B1B5	Piper Aircraft: Comanche (PA–24 "250").
	Doyn Aircraft: Doyn-Piper (PA–24 "250").
O–540–B1D5	Wassmer: (WA–421).
O–540–B2B5	Piper Aircraft: Pawnee (PA–25 "235"), Cherokee (PA–28 "235"), Aztec (PA–23 "235").
	Intermountain Mfg. Co.: Call Air (A–9).
	Rawdon Bros.: Rawdon (T–1).
	S.O.C.A.T.A.: Rallye 235CA.
O–540–B2C5	Piper Aircraft: Pawnee (PA–25 "235").
O–540–B4B5	Piper Aircraft: Cherokee (PA–28 "235").
	Embraer: Corioca (EMB–710).
	S.O.C.A.T.A.: Rallye 235GT, Rallye 235C.
	Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235).
O–540–E4A5	Piper Aircraft: Comanche (PA–24 "260").

TABLE 2—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

Engine models	Installed on, but not limited to
	Aviamilano: Flamingo (F–250).
	Siai-Marchetti: (SF–260), (SF–208).
O–540–E4B5	Britten-Norman: (BN–2).
	Piper Aircraft: Cherokee Six (PA–32 "260").
O–540–E4C5	Pilatus Britten-Norman: Islander (BN–2A–26), Islander (BN–2A–27), Islander II (BN–2B–26), Islander (BN–2A–21), Trislander (BN–2A–Mark III–2).
O–540–F1B5	Omega Aircraft: (BS–12D1).
	Robinson: (R–44).
O–540–G1A5	Piper Aircraft: Pawnee (PA–25 "260").
O–540–H1B5D	Aero Boero: 260.
O–540–H2A5	Embraer: Impanema "AG".
	Gippsland: GA–200.
O–540–H2B5D	Aero Boero: 260.
O–540–J1A5D	Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235).
O–540–J3A5	Robin: R–3000/235.
O–540–J3A5D	Piper Aircraft: Dakota (PA–28–236).
O–540–J3C5D	Cessna Aircraft: Skylane RG.
O–540–L3C5D	Cessna Aircraft: TR–182, Turbo Skylane RG.
IO–540–C1B5	Piper Aircraft: Aztec B (PA–23 "250"), Comanche (PA–24 "250").
IO–540–C1C5	Riley Aircraft: Turbo-Rocket.
IO–540–C4B5	Piper Aircraft: Aztec C (PA–23 "250"), Aztec F.
	Wassmer: (WA4–21).
	Avions Pierre Robin: (HR100/250).
	Bellanca Aircraft: Aries T–250.
	Aerofab: Renegade 250.
IO–540–C4D5	S.O.C.A.T.A.: TB–20.
IO–540–C4D5D	S.O.C.A.T.A.: Trinidad TB–20.
IO–540–D4A5	Piper Aircraft: Comanche (PA–24 "260").
	Siai-Marchetti: (SF–260).
IO–540–D4B5	Cerva: (CE–43 Guepard).
IO–540–J4A5	Piper Aircraft: Aztec (PA–23 "250").
IO–540–R1A5	Piper Aircraft: Comanche (PA–24).
IO–540–T4A5D	General Aviation: Model 114.
IO–540–T4B5	Commander: 114B.
IO–540–T4B5D	Rockwell: 114.
IO–540–T4C5D	Lake Aircraft: Seawolf.
IO–540–V4A5	Maule: MT–7–260, M–7–260.
	Aircraft Manufacturing Factory.
IO–540–V4A5D	Brooklands: Scoutmaster.
IO–540–W1A5	Maule: MX–7–235, MT–7–235, M7–235.
IO–540–W1A5D	Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235).
IO–540–W3A5D	Schweizer: Power Glider.
AEIO–540–D4A5	Christen: Pitts (S–2S, S–2B).
	Siai-Marchetti: SF–260.
	H.A.L.: HPT–32.
	Slingsby: Firefly T3A.
AEIO–540–D4B5	Moravan: Zlin-50L.
	H.A.L.: HPT–32.
AEIO–540–D4D5	Burkhart Grob: Grob G, 115T Aero.
TIO–540–C1A	Piper Aircraft: Turbo Aztec (PA–23–250).
TIO–540–K1AD	Piper Aircraft.
TIO–540–AA1AD	Aerofab Inc.: Turbo Renegade (270).
TIO–540–AB1AD	S.O.C.A.T.A.: Trinidad TC TB–21.
TIO–540–AB1BD	Schweizer.
TIO–540–AF1A	Mooney Aircraft: "TLS" M20M.
TIO–540–AG1A	Commander Aircraft: 114TC.
TIO–540–AK1A	Cessna Aircraft: Turbo Skylane T182T.
LTIO–540–K1AD	Piper Aircraft.

Unsafe Condition

(e) This AD results from reports of 10 additional cylinder head separations since issuing AD 2008–19–05, on cylinder S/Ns not listed in that AD. We are issuing this AD to prevent loss of engine power due to cracks at the head-to-barrel interface in the cylinder assemblies and possible engine failure caused by separation of a cylinder head, which could result in loss of control of the aircraft.

Compliance

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

Engines Overhauled or Cylinder Assemblies Replaced Since New

(g) If your engine was overhauled or had a cylinder assembly replaced since new, do the following:

(1) Before further flight, inspect the maintenance records and engine logbook to determine if the overhaul or repair facility installed ECi cylinder assemblies, P/N AEL65102, with cylinder head, PN

AEL85099, S/N 1138–02 through S/N 35171–22, or S/N 35239–01 through S/N 42179–30, in your engine.

(2) If your cylinder assemblies are not ECi, P/N AEL65102, no further action is required.

(3) If your cylinder assemblies are ECi, P/N AEL65102, but the S/N is not listed in this AD, no further action is required.

(4) If the cylinder assemblies are ECi, P/N AEL65102, and if the S/N is listed in this AD, do the following:

Group "A" Cylinder Assemblies; S/N 1138–02 Through S/N 35171–22

(i) For Group "A" cylinder assemblies:

(A) Perform an initial visual inspection as specified in paragraphs (h) through (i) of this AD, and an initial compression test as specified in paragraphs (j) through (m) of this AD, within the next 10 operating hours time–in-service (TIS), if the cylinder assembly has 350 or more operating hours TIS on the effective date of this AD, but fewer than 2,000 operating hours TIS.

(B) Perform an initial visual inspection as specified in paragraphs (h) through (i) of this AD, and an initial compression test as specified in paragraphs (j) through (m) of this AD, within the next 10 operating hours TIS, or before exceeding 350 operating hours TIS, whichever occurs later, if the cylinder assembly has fewer than 350 operating hours TIS on the effective date of this AD.

(C) Replace cylinder assemblies installed in helicopter engines within the next 25 operating hours TIS after the effective date of this AD if the cylinder assembly has 1,500 operating hours TIS or more on the effective date of this AD.

(D) Replace cylinder assemblies installed in airplane engines within the next 25 operating hours TIS after the effective date of this AD if the cylinder assembly has 2,000 operating hours TIS or more on the effective date of this AD.

(E) Perform repetitive visual inspections as specified in paragraphs (h) through (i) of this AD, and repetitive compression tests as specified in paragraphs (j) through (m) of this AD, within every 50 operating hours TIS.

(F) Replace cylinder assemblies installed in helicopter engines that pass the visual inspections and compression tests, no later than 1,500 operating hours TIS after the effective date of this AD.

(G) Replace cylinder assemblies installed in airplane engines that pass the visual inspections and compression tests, no later than 2,000 operating hours TIS after the effective date of this AD.

Group "B" Cylinder Assemblies; S/N 35239–01 through S/N 42179–30

(ii) For Group "B" cylinder assemblies:

(A) Perform an initial visual inspection as specified in paragraphs (h) through (i) of this AD, and initial compression test as specified in paragraphs (j) through (l) of this AD, within the next 10 operating hours TIS.

(B) Replace the cylinder assembly within the next 25 operating hours TIS after the effective date of this AD if the cylinder assembly has 350 or more operating hours TIS on the effective date of this AD.

(C) Replace cylinder assemblies that pass the initial visual inspections and compression tests, before exceeding 350 operating hours TIS after the effective date of this AD.

Visual Inspection

(h) Visually inspect each cylinder head around the exhaust valve side for cracks or any signs of black or white residue of combustion leakage from cracks.

(i) Replace cracked cylinder assemblies before further flight.

Cylinder Assembly Compression Test

(j) Perform a standard cylinder differential compression test.

(k) During the compression test, if the cylinder pressure gauge reads below 70 pounds-per-square-inch, apply a water and soap solution to the side of the leaking cylinder, near the head-to-barrel interface.

(l) Replace the cylinder assembly before further flight if air leakage and bubbles are observed on the side of the cylinder assembly, near the head-to-barrel interface.

(m) For Group "A" cylinder assemblies only, repair or replace the engine cylinder assembly before further flight if the cause of the low gauge reading in paragraph (k) of this AD is from leaking intake or exhaust valves, or from leaking piston rings.

Prohibition of Group "B" ECi Cylinder Assemblies Affected by This AD

(n) After the effective date of this AD, do not install any Group "B" ECi cylinder assembly, P/N AEL65102, onto any engine and do not attempt to repair or reuse Group "B" cylinder assemblies.

Alternative Methods of Compliance

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

Special Flight Permits

(p) Under 14 CFR 39.23, we will not approve special flight permits for this AD for engines that have failed the visual inspection or the cylinder assembly compression test required by this AD.

Related Information

(q) Contact Peter W. Hakala, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76193; e-mail: *peter.w.hakala@faa.gov;* telephone (817) 222–5145; fax (817) 222–5785, for more information about this AD.

Issued in Burlington, Massachusetts, on December 22, 2009.

Peter A. White,

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

[FR Doc. E9–30732 Filed 12–30–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0328; Directorate Identifier 2008–NE–44–AD; Amendment 39–16103; AD 2009–24–11]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CF34–1A, CF34–3A, and CF34–3B Series Turbofan Engines; Delay of Effective Date

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

ACTION: Final rule; delay of effective date.

SUMMARY: The FAA is delaying the effective date of the final rule airworthiness directive (AD) 2009–24–11, which published in the **Federal Register**, for an additional 30 days, from January 4, 2010 to February 3, 2010. The FAA is delaying the effective date to allow us a sufficient amount of time to make corrections to the compliance text of the final rule.

DATES: The effective date for the final rule published in the **Federal Register** on November 30, 2009 (74 FR 62481) is delayed until February 3, 2010.

FOR FURTHER INFORMATION CONTACT: John Frost, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *john.frost@faa.gov;* telephone (781) 238–7756; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On November 30, 2009 (74 FR 62481), we published a final rule AD, FR Doc. E9–28236, in the **Federal Register**. That AD applies to GE CF34–1A, CF34–3A, and CF34–3B series turbofan engines. We are delaying the effective date to allow us a sufficient amount of time to make corrections to the compliance text of the final rule. Since AD 2009–24–11 was issued, we discovered that when we recodified the compliance section as part of our response to a comment received on the proposed AD, we inadvertently left out of the AD certain fan blade effectivity information from paragraphs (f) and (g) and (j). Paragraphs (f) and (g) are missing information on fan blades, P/Ns 6018T30P14 or 4923T56G08, that have any fan blade S/Ns listed in Appendix A of General Electric Aircraft Engines (GEAE) Service Bulletin (SB) No. CF34–AL S/B 72–0245, Revision 01, dated July 30, 2008. Also, paragraph (j) is missing

information on fan blades, P/N 6018T30P14 or P/N 4923T56G08, that have any fan blade S/Ns listed in Appendix A of GEAE SB No. CF34–BJ S/B72–0229, Revision 01, dated July 30, 2008.

Issued in Burlington, Massachusetts, on December 23, 2009.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E9–30978 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1211; Directorate Identifier 2009–NM–121–AD; Amendment 39–16149; AD 2009–26–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A380–841, –842, and –861 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:

As a result of the Movable Flap Track Fairing (MFTF) #6 crack findings (ref. AD 2008–0216), a detailed review has been launched for all MFTF #2 to #6. This investigation has revealed some cracking at MFTF #4 pivot support-ring.

This condition, if not corrected, could lead to in-flight loss of MFTF #4, potentially resulting in injuries to persons on the ground.

* * * * *

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

DATES: This AD becomes effective January 15, 2010.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of January 15, 2010.

We must receive comments on this AD by February 16, 2010.

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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; 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 2009–0113, dated May 27, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

As a result of the Movable Flap Track Fairing (MFTF) #6 crack findings (ref. AD 2008–0216), a detailed review has been launched for all MFTF #2 to #6. This investigation has revealed some cracking at MFTF #4 pivot support-ring.

This condition, if not corrected, could lead to in-flight loss of MFTF #4, potentially resulting in injuries to persons on the ground.

To prevent the risk of a MFTF #4 detachment, this AD requires an inspection programme and/or replacement of the fairings in order to ensure they are removed from service before any crack becomes critical.

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

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A380–57–8016, dated May 11, 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–2009–1211; Directorate Identifier 2009–NM–121–

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:

2009–26–10 AIRBUS: Amendment 39–16149. Docket No. FAA–2009–1211; Directorate Identifier 2009–NM–121–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 15, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Airbus Model A380–841, –842, and –861 airplanes; certificated in any category; all serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 57: Wings.

Reason

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

As a result of the Movable Flap Track Fairing (MFTF) #6 crack findings (ref. AD 2008–0216), a detailed review has been launched for all MFTF #2 to #6. This investigation has revealed some cracking at MFTF #4 pivot support ring.

This condition, if not corrected, could lead to in-flight loss of MFTF #4, potentially resulting in injuries to persons on the ground.

To prevent the risk of a MFTF #4 detachment, this AD requires an inspection programme and/or replacement of the fairings in order to ensure they are removed from service before any crack becomes critical.

Actions and Compliance

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

(1) At the applicable time specified in paragraphs (f)(1)(i) and (f)(2)(ii) of this AD: Do special detailed (ultrasonic and high frequency eddy current) inspections on the # 4 left-hand and right-hand movable flap track fairing (MFTF) for cracks of the filet radii of the pivot bracket support rings and the monolithic carbon fibre reinforced plastic (CFRP) structure in the pivot support area, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A380–57–8016, dated May 11, 2009.

(i) For Airbus Model A380–841 and –842 airplanes, do the actions before the accumulation of 600 flight cycles on the #4 MFTF on an airplane, or within 60 flight cycles after the effective date of this AD, whichever occurs later.

(ii) For Airbus Model A380–861 airplanes, do the actions before the accumulation of 300 flight cycles on the #4 MFTF on an airplane, or within 30 flight cycles after the effective date of this AD, whichever occurs later.

(2) If no crack is found during any inspection required by paragraph (f)(1) of this AD, repeat the inspections at the applicable time specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD; except as provided by paragraph (f)(4) of this AD.

(i) For Model A380–841 and –842 airplanes: At intervals not to exceed 60 flight cycles.

(ii) For Model A380–861 airplanes: At intervals not to exceed 30 flight cycles.

(3) If any crack is found during any inspection required by paragraph (f)(1) of this AD, before further flight, replace the #4 MFTF with a new or serviceable #4 MFTF, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A380–57–8016, dated May 11, 2009. Do the inspections required by paragraph (f)(1) of this AD at the applicable time specified in paragraph (f)(1) of this AD.

(4) Replacing any #4 MFTF extends the interval for the next inspections to the applicable time specified in paragraph (f)(1) of this AD.

(5) After the first #4 MFTF is replaced as required by this AD, submit a one-time report to Wera Dietz, Senior Retrofit Manager, AIRBUS Customer Services—SEOT2, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 561 933 333; Fax +33 561 932 745; e-mail *wera.dietz@airbus.com;* at the applicable times specified in paragraph (f)(5)(i) and (f)(5)(ii) of this AD. The report must include the serial number of the removed #4 MFTF, the associated airplane manufacturer serial number, and the number of flight cycles accumulated by the #4 MFTF at the time of replacement.

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

(ii) If the replacement was done before 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, 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: Todd Thompson, Aerospace Engineer, International Branch,

ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1175; 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 2009–0113, dated May 27, 2009; and Airbus Mandatory Service Bulletin A380–57–8016, dated May 11, 2009; for related information.

Material Incorporated by Reference

(i) You must use Airbus Mandatory Service Bulletin A380–57–8016, dated May 11, 2009, to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Airbus SAS—EANA (Airworthiness Office); 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 562 110 253; Fax +33 562 110 307; e-mail *account.airworth-A380@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 December 16, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–30700 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0412; Directorate Identifier 2009–NM–022–AD; Amendment 39–16154; AD 2009–26–15]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes, and Model ERJ 190–100 LR, –100 IGW, –100 STD, –200 STD, –200 LR, and –200 IGW 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:

It has been found the possibility of some aluminum fasteners having been installed instead of titanium ones at bulkhead 1 of the LH (left-hand) and RH (right-hand) pylons of some [Embraer ERJ 170 and] Embraer ERJ 190 aircraft models. * * *

* * * * *

The unsafe condition for Model 170 airplanes is structural damage in the case of bird impact in the region of bulkhead 1 of the pylons, which could adversely affect continued safe flight and landing. The unsafe condition for Model 190 airplanes is damage to the hydraulic lines and electrical generator power cables in the case of bird impact in the region of bulkhead 1 of the pylons, which might lead to presence of fire without indication to the flightcrew. We are issuing this AD to require actions to correct the unsafe condition on these products.

DATES: This AD becomes effective February 4, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 4, 2010.

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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; 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 May 5, 2009 (74 FR 20659). That NPRM proposed to correct an unsafe condition for the specified products. The mandatory continuing airworthiness information (MCAI) 2008–10–04 states:

It has been found the possibility of some aluminum fasteners having been installed instead of titanium ones at bulkhead 1 of the LH and RH pylons of some Embraer ERJ 170 aircraft models. The structural integrity of the region where these fasteners are installed may be affected in case of bird impact.

* * * * *

MCAI 2008–09–02 states:

It has been found the possibility of some aluminum fasteners having been installed instead of titanium ones at bulkhead 1 of the LH (left-hand) and RH (right-hand) pylons of some Embraer ERJ 190 aircraft models. In the case of a bird strike in the pylon bulkhead 1 equipped with aluminum fasteners there is the possibility where the impact may affect some equipments installed in the region after the bulkhead 1. Damages to the hydraulic lines and electrical generator power cables may lead to presence of fire in the region, without indication to the flight crew.

* * * * *

The unsafe condition for Model 170 airplanes is structural damage in the case of bird impact in the region of bulkhead 1 of the pylons, which could adversely affect continued safe flight and landing. The unsafe condition for Model 190 airplanes is damage to the hydraulic lines and electrical generator power cables in the case of bird impact in the region of bulkhead 1 of the pylons, which might lead to presence of fire without indication to the flightcrew. Corrective actions include inspecting for the presence of aluminum fasteners at pylon bulkhead 1, and replacing all aluminum fasteners with titanium fasteners. You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received from Embraer, the manufacturer.

Support for AD on Model ERJ 190 Airplanes

Embraer supports the AD on Model ERJ 190 airplanes due to the system design characteristics of that model. Embraer states that a bird strike could lead to hydraulic fluid leakage associated with damage to the electrical generator power cables, a situation that would be favorable to fire in a section of the airplane that is not equipped with fire detection or suppression systems.

Request To Exclude Model ERJ 170 Airplanes

Embraer does not agree that an unsafe condition exists for Model ERJ 170 airplanes. Embraer states that, unlike Model ERJ 190 airplanes, Model ERJ 170 airplanes do not have hydraulic system or electrical generator power cables passing through the pylon forward position, where the aluminum fasteners were installed. The fuel system is installed behind two reinforced structural frames. Embraer states that in the event of a bird strike, the fuel system would unlikely be reached by any part of a bird with sufficient energy to cause any damage. Embraer states that this situation is extremely improbable.

From this comment we infer that Embraer is requesting that we remove Model ERJ 170 airplanes from the applicability of the NPRM. We do not agree. The subject unsafe condition exists for the affected Model ERJ 170 airplanes. We consulted with the issuer of the MCAI, Agência Nacional de Aviação Civil (ANAC). ANAC states that the structure in this region does not have sufficient residual strength for continued safe flight in case of bird impact. We concur with ANAC that an unsafe condition exists for the affected ERJ 170 aircraft models due to the aluminum fasteners installed in the subject area. The purpose of this AD is to ensure that the affected structure has sufficient residual strength for continued safe flight and landing of the airplane following a bird strike, which the manufacturer has not demonstrated. We have not changed the AD in this regard. However, we have clarified the unsafe condition for the Model ERJ 170 airplanes in the Summary, Discussion, and paragraph (e) of this AD.

Request To Exclude Model ERJ 190–ECJ Airplanes

Embraer requests that we remove Model ERJ 190–ECJ airplanes from the applicability of the NPRM because the model is not included in the effectivity of Embraer Service Bulletin 190–54–0008, dated December 21, 2007.

We agree to remove Model ERJ 190–ECJ from the applicability of this AD. We have confirmed with the manufacturer that this model does not have aluminum fasteners installed in the subject location. Therefore, we have removed that model from paragraph (c) of this AD.

Conclusion

We 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 determined that this change will not increase the economic burden on any operator or increase the scope of the AD.

Differences Between This AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this AD will affect 20 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $3,200, or $160 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2009–26–15 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–16154. Docket No. FAA–2009–0412; Directorate Identifier 2009–NM–022–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective February 4, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to EMBRAER Model ERJ 170–100 LR, –100 STD, –100 SE, –100 SU, –200 LR, –200 STD, and –200 SU airplanes, certificated in any category, serial numbers 17000156 through 17000169 inclusive; and Model ERJ 190–100 LR, –100 IGW, –100 STD, –200 STD, –200 LR, and –200 IGW airplanes, certificated in any category, serial numbers 19000047 through 19000089 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 54: Nacelles/Pylons.

Reason

(e) Brazilian Airworthiness Directive 2008–09–02, effective September 30, 2008, states:

It has been found the possibility of some aluminum fasteners having been installed instead of titanium ones at bulkhead 1 of the LH (left-hand) and RH (right-hand) pylons of some Embraer ERJ 190 aircraft models. In the case of a bird strike in the pylon bulkhead 1 equipped with aluminum fasteners there is the possibility where the impact may affect some equipments installed in the region after the bulkhead 1. Damages to the hydraulic lines and electrical generator power cables may lead to presence of fire in the region, without indication to the flight crew.

* * * * *

Brazilian Airworthiness Directive 2008–10–04, effective November 10, 2008, states:

It has been found the possibility of some aluminum fasteners having been installed instead of titanium ones at bulkhead 1 of the LH and RH pylons of some Embraer ERJ 170 aircraft models. The structural integrity of the region where these fasteners are installed may be affected in case of bird impact.

* * * * *

The unsafe condition for Model 170 airplanes is structural damage in the case of bird impact in the region of bulkhead 1 of the pylons, which could adversely affect continued safe flight and landing. The unsafe condition for Model 190 airplanes is damage to the hydraulic lines and electrical generator power cables in the case of bird impact in the region of bulkhead 1 of the pylons, which might lead to presence of fire without indication to the flight crew. Corrective actions include inspecting for the presence of aluminum fasteners at pylon bulkhead 1, and replacing all aluminum fasteners with titanium fasteners.

Actions and Compliance

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

(1) Within 5,000 flight cycles after the effective date of this AD: Inspect the fasteners in bulkhead 1 of the left- and right-hand pylons for the presence of aluminum fasteners, in accordance with Part I of the Accomplishment Instructions of Embraer Service Bulletin 170–54–0007 or 190–54–0008, both dated December 21, 2007; as applicable. If no aluminum fastener is found, this AD requires no further action.

(2) If any aluminum fastener is found, before further flight after the inspection required by paragraph (f)(1) of this AD: Replace any aluminum fastener with a titanium fastener in accordance with Part II of the Accomplishment Instructions of Embraer Service Bulletin 170–54–0007 or 190–54–0008, both dated December 21, 2007; as applicable.

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: Kenny Kaulia, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2848; 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.

(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 Brazilian Airworthiness Directive 2008–09–02, effective September 30, 2008; MCAI Brazilian Airworthiness Directive 2008–10–04, effective November 10, 2008; and Embraer Service Bulletins 170–54–0007 and 190–54–0008, both dated December 21, 2007; for related information.

Material Incorporated by Reference

(i) You must use Embraer Service Bulletin 170–54–0007, dated December 21, 2007; or Embraer Service Bulletin 190–54–0008, dated December 21, 2007; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone: +55 12 3927–5852 or +55 12 3309–0732; fax: +55 12 3927–7546; e-mail: *distrib@embraer.com.br;* Internet: *http://www.flyembraer.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 December 16, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–30705 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–1210; Directorate Identifier 2009–NM–165–AD; Amendment 39–16148; AD 2008–10–09 R1]

RIN 2120–AA64

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

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is revising an existing airworthiness directive (AD), which applies to all Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That AD currently requires revising the FAA-approved maintenance program to incorporate new airworthiness limitations (AWLs) for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. That AD also requires an initial inspection to phase in certain repetitive AWL inspections, and repair if necessary. This AD clarifies the intended effect of the AD on spare and

on-airplane fuel tank system components. That AD results from a design review of the fuel tank system. We are issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

DATES: This AD is effective January 15, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 15, 2010.

On June 12, 2008 (73 FR 25970, May 8, 2008), the Director of the Federal Register approved the incorporation by reference of a certain other publication listed in the AD.

We must receive any comments on this AD by February 16, 2010.

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

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

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

Examining the AD Docket

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

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

SUPPLEMENTARY INFORMATION:

Discussion

On April 29, 2008, we issued AD 2008–10–09, Amendment 39–15515 (73 FR 25970, May 8, 2008). That AD applied to all Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That AD required revising the FAA-approved maintenance program to incorporate new airworthiness limitations (AWLs) for fuel tank systems to satisfy Special Federal Aviation Regulation No. 88 requirements. That AD also required an initial inspection to phase in certain repetitive AWL inspections, and repair if necessary. That AD resulted from a design review of the fuel tank system. The actions specified in that AD are intended to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Critical design configuration control limitations (CDCCLs) are limitation requirements to preserve a critical ignition source prevention feature of the fuel tank system design that is necessary to prevent the occurrence of an unsafe condition. The purpose of a CDCCL is to provide instruction to retain the critical ignition source prevention feature during configuration change that may be caused by alterations, repairs, or maintenance actions. A CDCCL is not a periodic inspection.

Actions Since AD Was Issued

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

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

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

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

Relevant Service Information

AD 2008–10–09 cites Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision March 2008. Since we issued that AD, Boeing has revised the referenced service information. We have reviewed Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision May 2009 (hereafter referred to as ''Revision May 2009 of Document D6–38278–CMR''). Among other actions, the revised service information clarifies certain task descriptions and adds some new AWLs for certain airplanes.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to revise AD 2008–10–09. This new AD retains the requirements of the existing AD, and adds a new note to clarify the intended effect of the AD on spare and on-airplane fuel tank system components.

Explanation of Additional Changes to AD

AD 2008–10–09 allowed the use of alternative inspections, inspection intervals, or CDCCLs if they are part of a later revision of Revision March 2008 of Document D6–38278–CMR. AD 2008–10–09 also allowed the use of later revisions of Revision March 2008 of Document D6–38278–CMR. Those provisions have been removed from this AD. Allowing the use of a ''later approved'' or ''later FAA-approved revisions'' of specific service documents violates Office of the Federal Register regulations for approving materials that are incorporated by reference. Affected operators, however, may request approval to use a later revision or an

alternative inspection, inspection interval, or CDCCL that is part of a later revision of the referenced service document, as an alternative method of compliance, under the provisions of paragraph (k) of this AD.

Costs of Compliance

There are about 2,337 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs, at an average labor rate of $80 per work hour, for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Maintenance program revision	8	None	$640	672	$430,080
Inspection	8	None	640	672	430,080

FAA's Justification and Determination of the Effective Date

This revision merely clarifies the intended effect on spare and on-airplane fuel tank system components, and makes no substantive change to the AD's requirements. For this reason, it is found that notice and opportunity for prior public comment for this action are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not provide you with notice and an opportunity to provide your comments before it becomes effective. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–1210; Directorate Identifier 2009–NM–165–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15515 (73 FR 25970, May 8, 2008) and adding the following new AD:

2008–10–09 R1 The Boeing Company: Amendment 39–16148. Docket No. FAA–2009–1210; Directorate Identifier 2009–NM–165–AD.

Effective Date

(a) This airworthiness directive (AD) is effective January 15, 2010.

Affected ADs

(b) This AD revises AD 2008–10–09, Amendment 39–15515.

Applicability

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

Unsafe Condition

(d) This AD results from a design review of the fuel tank systems. We are issuing this AD to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

Compliance

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

Restatement of Requirements of AD 2008–10–09, With Revised Compliance Method

Service Information Reference

(f) The term ''Revision March 2008 of Document D6–38278–CMR,'' as used in this AD, means Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision March

2008. The term ''Revision May 2009 of Document D6–38278–CMR,'' as used in the AD, means Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision May 2009.

Maintenance Program Revision

(g) Before December 16, 2008, revise the FAA-approved maintenance program to incorporate the information specified in paragraph (g)(1) or (g)(2) of this AD, as applicable; except that the initial inspection required by paragraph (h) of this AD must be done at the applicable compliance time specified in that paragraph.

(1) *For Model 737–100, –200, and –200C series airplanes:* Section C, ''FUEL SYSTEMS AIRWORTHINESS LIMITATIONS,'' including AWLs No. 28–AWL–01 through No. 28–AWL–20 inclusive, of Revision March 2008 of Document D6–38278–CMR, or Revision May 2009 of Document D6–38278–CMR. As an optional action, AWLs No. 28–AWL–21 through No. 28–AWL–23 inclusive, as identified in Section C of Revision March 2008 of Document D6–38278–CMR, or Revision May 2009 of Document D6–38278–CMR, also may be incorporated into the FAA-approved maintenance program.

(2) *For Model 737–300, –400, and –500 series airplanes:* Section C, ''FUEL SYSTEMS AIRWORTHINESS LIMITATIONS,'' including AWLs No. 28–AWL–01 through No. 28–AWL–19 inclusive, Revision March 2008 of Document D6–38278–CMR, or Revision May 2009 of Document D6–38278–CMR. As an optional action, AWLs No. 28–AWL–20 through No. 28–AWL–22 inclusive, as identified in Section C of Revision March 2008 of Document D6–38278–CMR, or Revision May 2009 of Document D6–38278–CMR, also may be incorporated into the FAA-approved maintenance program.

Initial Inspection and Repair if Necessary

(h) For the airplanes identified in the ''Applicability'' column of AWL No. 28–AWL–03 of Section C of Revision March 2008 of Document D6–38278–CMR, or Revision May 2009 of Document D6–38278–CMR: At the later of the compliance times specified in paragraphs (h)(1) and (h)(2) of this AD, do a special detailed inspection of the lightning shield to ground termination on the out-of-tank fuel quantity indication system (FQIS) wiring to verify functional integrity, in accordance with AWL No. 28–AWL–03 of Section C of Revision March 2008 of Document D6–38278–CMR, or Revision May 2009 of Document D6–38278–CMR. If any discrepancy is found during the inspection, repair the discrepancy before further flight in accordance with AWL No. 28–AWL–03 of Section C of Revision March 2008 of Document D6–38278–CMR, or Revision May 2009 of Document D6–38278–CMR. Accomplishing AWL No. 28–AWL–03 as part of an FAA-approved maintenance program before the applicable compliance time specified in paragraph (h)(1) or (h)(2) of this AD constitutes compliance with the requirements of this paragraph.

Note 1: For the purposes of this AD, a special detailed inspection is: ''An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. The examination is likely to make extensive use of specialized inspection techniques and/or equipment. Intricate cleaning and substantial access or disassembly procedure may be required.''

(1) Within 120 months since the date of issuance of the original standard airworthiness certification or the date of issuance of the original export certificate of airworthiness.

(2) Within 24 months after June 12, 2008 (the effective date of AD 2008–10–09).

No Alternative Inspections, Inspection Intervals, or Critical Design Configuration Control Limitations (CDCCLs)

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

Credit for Actions Done According to Previous Revisions of the Service Information

(j) Actions done before the effective date of this AD in accordance with the Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision May 2006; Revision September 2006; Revision November 2007; or Revision March 2008; are acceptable for compliance with the corresponding requirements of paragraphs (g) and (h) of this AD.

New Information

Explanation of CDCCL Requirements

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

Alternative Methods of Compliance (AMOCs)

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

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

(3) AMOCs approved previously in accordance with AD 2008–10–09, Amendment 39–15515, are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(l) You must use Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision March 2008; or Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision May 2009; to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision May 2009, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The Director of the Federal Register previously approved the incorporation by reference of Boeing 737–100/200/200C/300/400/500 Airworthiness Limitations (AWLs) and Certification Maintenance Requirements (CMRs), D6–38278–CMR, Revision March 2008, on June 12, 2008 (73 FR 25970, May 8, 2008).

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

(4) 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.

(5) 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 December 16, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–30565 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0186; Directorate Identifier 2007–NM–226–AD; Amendment 39–16156; AD 2009–26–17]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Corporation Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, and MD–10–30F Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD), which applies to certain Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes. That AD currently requires installing or replacing with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane. This new AD revises the applicability by adding and removing certain airplanes. This new AD requires, for certain airplanes, repositioning or replacing two bonding straps, and doing a bonding-resistance check and an inspection to determine correct installation of certain bonding straps, and applicable corrective actions. This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks in the event of a severe lightning strike, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: This AD becomes effective February 4, 2010.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of February 4, 2010.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com*; Internet *https://www.myboeingfleet.comd*.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a second supplemental notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that supersedes AD 2006–16–03, Amendment 39–14703 (71 FR 43962, August 3, 2006). The existing AD applies to certain Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes. The existing AD requires installing or replacing with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane. That second supplemental NPRM was published in the **Federal Register** on September 1, 2009 (74 FR 45135). That second supplemental NPRM proposed to add a requirement to reposition or replace bonding straps for certain airplanes, and for certain airplanes, a bonding-resistance check and an inspection to determine correct installation of certain bonding straps, and applicable corrective actions. The second supplemental NPRM also proposed to revise the applicability by adding and removing certain airplanes.

Comments

We provided the public the opportunity to participate in the development of this AD. We have considered the comments from the sole commenter, FedEx, that have been received on the second supplemental NPRM.

Request for Credit for Actions Previously Accomplished

FedEx requests credit for the actions previously accomplished. FedEx notes that under its alternative method of compliance (AMOC) previously approved by the FAA it has already accomplished resistance checks required by paragraphs (i)(2) and (j)(2) of the second supplemental NPRM on its airplanes. FedEx notes that they performed resistance checks in accordance with the AMOC previously granted by the FAA. FedEx states that it will accomplish a resistance check of any bonding straps replaced.

FedEx also requests credit for correctly installing the braided bonding straps mentioned in paragraph (j)(1) of the second supplemental NPRM, which it accomplished in accordance with the AMOC previously granted.

We agree to provide credit for accomplishing the actions required by paragraphs (i)(2), (j)(1), and (j)(2) of this final rule for the reasons that the commenter provided. Paragraph (l)(3) of the second supplemental NPRM already states that AMOCs approved previously in accordance with AD 2006–16–03 are approved as AMOCs for the corresponding provisions of this AD. Therefore, no change to this final rule is necessary.

Request To Change Applicability of Paragraph (h) of the Second Supplemental NPRM

FedEx requests that we change the identification of airplanes subject to paragraph (h) of the second supplemental NPRM. FedEx notes that paragraph (h) of the second supplemental NPRM specifies ''airplanes with fuselage numbers not identified in Table 2 of this AD except for airplanes identified in paragraph (i) or (j) of this AD.'' FedEx notes that its fuselage 317 does not appear in the effectivity of either Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009; or Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009 (the airplane groups identified in those service bulletins are referenced in paragraphs (i) and (j) of this AD). FedEx assumes that paragraph (h) was added to address this airplane and other airplanes that did not appear in either service bulletin. FedEx notes that the effectivity issues as they pertained to its fleet were sorted out in its AMOC request.

We disagree that it is necessary to address fuselage number 317 and the other airplane fuselage numbers in this final rule because the effectivity has been corrected in the effectivity sections

of the Boeing service bulletins listed in Table 1 of this AD and/or previously approved AMOCs. We have not changed the AD in regard to this issue.

Request To Revise Paragraph (h) of the Second Supplemental NPRM

FedEx requests that we remove the phrase ''and reposition two bonding straps'' from paragraph (h) of the second supplemental NPRM. FedEx states that if airplanes have not been modified to comply with the intent of the applicable service bulletin referenced in paragraph (h) of the second supplemental NPRM, then they would not have any bonding straps that require only repositioning.

We agree to remove the phrase ''and reposition two bonding straps'' from paragraph (h) of the second supplemental NPRM in this final rule for the reason stated by the commenter.

Request To Clarify Paragraph (j)(1) of the Second Supplemental NPRM

FedEx requests that we clarify paragraph (j)(1) of the second supplemental NPRM to help operators determine the correct braided bonding strap. FedEx suggests changing paragraph (j)(1) to state: ''Do a general visual inspection to verify correct installation of two braided bonding straps (one LH wing and one RH wing) as shown [in] Boeing Service Bulletin DC–10–53–111, Revision 6, Figure 3, Sheet 7 of 9.''

We agree that this change provides additional beneficial information to operators. We have revised paragraph (j)(1) of the final AD accordingly.

Request To Clarify Effectivity Sections of the Service Bulletins in Table 2

FedEx requests that we note that the effectivity sections in the service bulletins identified in Table 2 of the second supplemental NPRM have 25 fuselage numbers that appear in both service bulletins. FedEx states that we may wish to address these fuselage numbers in some manner in the proposed rule.

We agree that clarification may be necessary. Boeing has corrected Table 1 in the effectivity sections of the service bulletins referenced in Table 2 of this AD. We have not changed this AD in this regard.

Conclusion

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

Costs of Compliance

There are about 457 airplanes of the affected design in the worldwide fleet. The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
2–17	$80	Up to $4,169	Up to $5,529	281	Up to $1,553,649.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The Federal Aviation Administration (FAA) amends § 39.13 by removing amendment 39–14703 (71 FR 43962, August 3, 2006) and by adding the following new airworthiness directive (AD):

2009–26–17 McDonnell Douglas Corporation: Amendment 39–16156. Docket No. FAA–2007–0186; Directorate Identifier 2007–NM–226–AD.

Effective Date

(a) This AD becomes effective February 4, 2010.

Affected ADs

(b) This AD supersedes AD 2006–16–03, Amendment 39–14703.

Applicability

(c) This AD applies to McDonnell Douglas Corporation Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, and DC–10–40F airplanes, and MD–10–10F and MD–10–30F airplanes that have been converted from Model DC–10 series airplanes; certificated in

any category; with manufacturer's fuselage numbers as identified in the applicable service bulletin listed in Table 1 of this AD.

TABLE 1—APPLICABILITY

Boeing Service Bulletin—	Revision—	Dated—	For airplanes with—
DC10–53–109	7	March 3, 2009	Extended wing-to-fuselage fillets.
DC10–53–111	6	March 3, 2009	Conventional wing-to-fuselage fillets.

Subject

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

Unsafe Condition

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

Compliance

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

Restatement of Requirements of AD 2006–16–03, With New Service Information

Installation or Replacement

(g) For airplanes with manufacturer's fuselage numbers identified in the applicable service bulletin listed in Table 2 of this AD: Within 7,500 flight hours or 60 months after September 7, 2006 (the effective date of AD 2006–16–03), whichever occurs earlier: Install or replace with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in Table 2 of this AD or Table 1 of this AD. After the effective date of this AD, use the applicable service bulletin identified in Table 1 of this AD.

TABLE 2—FUSELAGE NUMBERS AFFECTED BY AD 2006–16–03

McDonnell Douglas DC–10 Service Bulletin—	Revision—	Dated—	For airplanes with—
53–109	4	October 7, 1992	Extended wing-to-fuselage fillets.
53–111	3	August 24, 1992	Conventional wing-to-fuselage fillets.

New Requirements of This AD

Installation or Replacement

(h) For airplanes with fuselage numbers not identified in Table 2 of this AD except for airplanes identified in paragraph (i) or (j) of this AD: Within 7,500 flight hours or 60 months, whichever occurs first after the effective date of this AD, install or replace with improved parts, as applicable, the bonding straps between the metallic frame of the fillet and the wing leading edge ribs, on both the left and right sides of the airplane. Do the actions in accordance with the Accomplishment Instructions of the applicable service bulletin identified in Table 1 of this AD.

Strap Repositioning for Certain Airplanes

(i) For Group 1–4, Configuration 3 airplanes, as identified in Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009: Within 7,500 flight hours or 60 months after the effective date of this AD, whichever occurs first, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) Remove two braided bonding straps and install two longer braided bonding straps between the metallic frame of the fillet and the wing leading edge ribs, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009.

(2) Measure the resistance of the previously installed bonding straps and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009.

Inspection and Corrective Action for Certain Airplanes

(j) For Group 1–2, Configuration 2 airplanes, as identified in Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009: Within 7,500 flight hours or 60 months after the effective date of this AD, whichever occurs first, do the actions specified in paragraphs (j)(1) and (j)(2) of this AD.

(1) Do a general visual inspection to verify correct installation of the braided bonding straps (one left-hand wing and one right-hand wing) as shown in Sheet 7 in Figure 3 of Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009, and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009.

(2) Measure the resistance of the previously installed bonding straps and, before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009.

Credit for Actions Accomplished in Accordance With Previous Service Information

(k) Actions accomplished before the effective date of this AD according to Boeing Service Bulletin DC10–53–111, Revision 5, dated March 19, 2008; and Boeing Service Bulletin DC10–53–109, Revision 6, dated July 10, 2008; are considered acceptable for compliance with the corresponding action specified in this AD.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5262; fax (562) 627–5210.

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

(3) AMOCs approved previously in accordance with AD 2006–16–03 are approved as AMOCs for the corresponding provisions of this AD.

Material Incorporated by Reference

(m) You must use Boeing Service Bulletin DC10–53–109, Revision 7, dated March 3, 2009; and Boeing Service Bulletin DC10–53–111, Revision 6, dated March 3, 2009; as applicable; to do the actions required by this AD, unless the AD specifies otherwise.

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, California 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; e-mail *dse.boecom@boeing.com;* Internet *https://www.myboeingfleet.com.*

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

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

Issued in Renton, Washington, on December 17, 2009.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–30698 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0650; Airspace Docket No. 09–ASO–20]

Amendment of Class E Airspace; Myrtle Beach, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the airport name for the Myrtle Beach, SC, Class E airspace area from Myrtle Beach AFB, to Myrtle Beach International Airport. This action also will update the geographic coordinates of the airports within the controlled airspace.

DATES: Effective 0901 UTC, February 11, 2010. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

SUPPLEMENTARY INFORMATION:

History

The FAA assumed responsibility for the Air Traffic Control Tower at Myrtle Beach AFB from the United States Air Force on December 27, 1992. On February 12, 1997, a final rule published in the **Federal Register** (62 FR 6698) established Class C airspace, revoked Class D airspace, and changed the airport name to Myrtle Beach International Airport, Myrtle Beach, SC. However, the existing Class E airspace area for Myrtle Beach, SC, was not amended to reflect the airport name change. This action will make that change. There are no changes to the boundaries or altitudes within this airspace area. Designations for Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in 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 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 denoting the renaming of the airport from Myrtle Beach AFB, to Myrtle Beach International Airport, Myrtle Beach, SC. This action also adjusts the geographic coordinates of Myrtle Beach International Airport and Grand Strand Airport to coincide with the FAA's National Aeronautical Charting Office. There are no changes to the boundaries or altitudes within this 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. It, therefore, (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the 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 in within the scope of that authority as it amends the airspace description for Myrtle Beach, SC, Class E airspace.

Accordingly, since this action merely involves a change in the legal description of the Myrtle Beach, SC, Class E airspace area, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public comment under 5 U.S.C. 553(b) are unnecessary.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, 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 of the Earth.

* * * * *

ASO SC E5 Myrtle Beach, SC [Amended]

Myrtle Beach International Airport, SC
(Lat. 33°40′47″ N., Long. 78°55′42″ W.)
North Myrtle Beach, Grand Strand Airport, SC
(Lat. 33°48′42″ N., Long. 78°43′26″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Myrtle Beach International Airport and within an 8-mile radius of Grand Strand Airport.

* * * * *

Issued in College Park, Georgia, on December 9, 2009.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. E9–30288 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No.: FAA–2008–1087; Amendment No. 93–95]

RIN 2120–AJ29

Establishment of a Special Air Traffic Rule in the Vicinity of Luke Air Force Base (AFB), AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a Special Air Traffic Rule (SATR) in the vicinity of Luke Air Force Base (Luke) which requires aircraft operating under visual flight rules (VFR) to establish two-way radio communication with the Luke Radar Approach Control (RAPCON) prior to entering the SATR area and maintain communication while operating in the area. The SATR is active during official daylight hours Monday through Friday while Luke pilot flight training is underway, as broadcast on the local Automatic Terminal Information Service (ATIS), and other times by Notice to Airmen (NOTAM). This action is necessary to address reported near midair collisions (NMACs) in the area around Luke and will help reduce the potential for midair collisions in the vicinity of Luke.

DATES: This amendment is effective May 6, 2010.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Group, Office of System Operations Airspace and AIM, AJR–33 Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783. E-mail: *Kenneth.McElroy@faa.gov*. For legal questions concerning this final rule contact the Office of Chief Counsel, Regulations Division, Air Traffic & Certification of Airman Law Branch, AGC–240 Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3073.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, section 106, describes the authority of the FAA Administrator, including the authority to issue, rescind, and revise regulations. 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, chapter 401, section 40103(b), which allows the Administrator to regulate the use of the navigable airspace necessary to ensure the safety of aircraft and the efficient use of airspace. Moreover, subtitle VII, part A, subpart III, chapter 447, section 44701(c) authorizes the Administrator to regulate air commerce in a way that helps to reduce or eliminate the possibility or recurrence of accidents in air transportation. This change is within the scope of our authority and is a reasonable and necessary exercise of our statutory obligations.

Background

Luke Air Force Base (Luke) is home to the 56th Fighter Wing, the United States Air Force's (USAF's) largest fighter wing. Since 1941, Luke has trained pilots and other aircrew members for America's frontline fighter aircraft. Today, over 200 F–16s conduct more than 201,000 annual operations, and most of these operations are for student training.

Situated beneath the Phoenix Class B Airspace Area, the Luke terminal area consists of Class D airspace. The Phoenix Deer Valley Airport (DVT), (the nation's third busiest general aviation (GA) airport in 2004 and second busiest in 2008), is within 5 nautical miles of the Luke terminal airspace. There are two flight schools and two fixed base operators located at DVT, and the flight schools conduct training in the vicinity of Luke.

Alert Area A–231 is located adjacent to, and west of, Luke. Pilots conduct a large volume of jet training operations in Alert Area A–231. The USAF requires military pilots to establish communication with the Luke Radar Approach Control (RAPCON) and to be alert when flying in Alert Area A–231. Pilots of civil aircraft are not required to establish communication with the Luke RAPCON during transit. The USAF Flight Safety Office at Luke points out that reported NMACs are approximately 3 per quarter of a year, and each occurrence affects multiple aircraft in the same formation. The significant number of NMACs between Luke F–16s and VFR aircraft indicates VFR pilots are not avoiding this area of concentrated student jet transition training.

Operational problems affecting safety in the Luke terminal airspace area are acute and include complex and voluminous traffic, aircraft congestion, terrain that constrains aircraft operations, and the uncontrolled mix of instrument flight rules (IFR) and VFR traffic. Luke RAPCON traffic counts show a mix of military F–16 aircraft operations, GA traffic operations, and some civil air carrier operations. F–16 aircraft operate at significantly higher airspeeds than civil GA traffic, normally 200+ knots faster on arrival and 250+ knots faster on departure. This difference in airspeed creates extreme closure rates between converging F–16 and GA aircraft. In addition, complexity is increased because GA pilots often do not detect all the aircraft in a military flight formation. Student pilot training in the F–16 aircraft, combined with student flight training in GA aircraft, also increases the potential for a near midair collision.

The average number of conflicts between controlled and uncontrolled aircraft has increased since 2000. In the five year period from 2000 to 2005, there were 76 NMACs reported. In the two year period from 2006 to 2008, 58 NMACs were reported. Aircraft track data modeling tools indicate a significant volume of GA traffic crossing Luke's primary instrument final approach course. This data indicates a direct correlation between NMAC events and the proximity/flight patterns of GA traffic operating out of DVT. Data track analysis also shows GA traffic from Goodyear Airport (GYR) and Glendale Airport (GEU) crossing the final approach course and departure path for Runway 21 at Luke. For additional information regarding the Luke data track analysis go to: *http://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/systemops/aaim/organizations/airspace_rules/*.

There are a number of prominent landmarks the GA community uses when operating VFR. Two of these landmarks are the Glendale Arrowhead Mall and the Peoria Power Plant/Substation, which are close to the Luke Runway 21 final approach course. Luke F–16s use the Peoria Power plant as a visual aid for turning to the final approach course when conducting formation landings. Also, many of the flight schools use the Proving Grounds, located approximately 5 miles north of the Luke Auxiliary Field, for conducting

practice aircraft operations. Aircraft operations in the vicinity of the Proving Grounds can conflict with the radar pattern for the Luke Auxiliary Field. Use of these prominent VFR landmarks by GA traffic and others results in conflicts with the IFR and VFR patterns of Luke F–16s.

Over the years, the USAF has been educating the local aviation community about serious operational problems, including air traffic congestion, and the uncontrolled mix of IFR and VFR traffic, which impact safety around Luke. At first, the USAF addressed these problems by making pilots at local airports and flight schools aware of the issue and urging aircraft operators to use various traffic services that could make operations in the area safer. Although the ongoing educational efforts had a temporary impact on the number of NMACs and led to a slight reduction of near misses, there continues to be an average of one reported NMAC per month. The USAF finally concluded that safety problems at Luke were so acute they sought a rulemaking solution.

Prior to filing a petition with the FAA, the USAF provided its rulemaking petition to interested airspace user groups, elected officials, and others. The USAF submitted its petition for rulemaking to the FAA on July 21, 2006, along with the comments it received and USAF responses. The USAF petitioned the FAA to establish a SATR in the vicinity of Luke which would require pilots, among other things, to obtain an air traffic clearance to operate in the area (FAA–2006–25459–1). The USAF believed the growing amount of VFR traffic combined with a high volume of military air traffic, as well as the number of NMACs occurring in the Phoenix West Valley, fully justified such an action. Local mayors, Members of Congress, and U.S. Senators, as well as many aviation organizations, such as Pan Am International Flight Academy, Westwind School of Aeronautics, Oxford Airline Training Center, Airline Training Center Arizona, Inc., and WESTMARC (a regional coalition of business, government, education and community organizations), endorsed the petition and strongly supported the action.

The Aircraft Owners and Pilots Association (AOPA) and local pilot associations, including the Deer Valley Pilots Association (DVPA) and the Arizona Pilots Association (APA), responded to the USAF by opposing any action that would require air traffic clearances to operate in the area. The associations maintained the near midair problem could be solved through more education and more robust charting notations about avoiding the Luke area during its peak operational hours.

After analyzing the petition and the initial response of the aviation community it generated, the FAA determined that proposing a SATR in the area had the potential to significantly reduce safety problems in the vicinity of Luke. However, instead of requiring an air traffic clearance to operate in the area, the FAA assessed that a simple two-way radio communication requirement for pilots operating around Luke would reduce the NMAC risk.

Summary of the NPRM

On September 26, 2008, a notice of proposed rulemaking (NPRM) was published (73 FR 55788) which proposed establishment of a Special Air Traffic Rule, in the vicinity of Luke Air Force Base (AFB), AZ. A technical correction was issued (73 FR 60996) October 15, 2008, to correct the docket number and extend the comment period. The FAA proposed that operators conducting VFR operations establish two-way radio communication with the Luke RAPCON prior to entering the Luke SATR area, and maintain communication while operating in the area, at certain times, and otherwise by NOTAM. The FAA sought to address reported NMACs in the area around Luke and to reduce the potential for NMACs. Interested parties were invited to participate in the rulemaking effort by submitting written comments on the proposal, and the comment period closed December 15, 2008. An analysis of the comments and the FAA's response are in the ''Discussion of the Final Rule'' section.

Summary of the Final Rule

This action establishes a Special Air Traffic Rule in the vicinity of Luke mandating a two-way communication requirement for VFR operators effective upon publication of the Phoenix (PHX) Terminal Area Chart and the PHX VFR Sectional Aeronautical Charts scheduled for May 6, 2010. The FAA has determined that additional safeguards for flight operations are necessary in the vicinity of Luke and this rule is necessary to reduce the potential for midair collisions between military and civilian pilots operating under VFR.

The final rule and the proposed rule are similar except the FAA will move the east boundary of the Luke Terminal area approximately one mile to the west in the vicinity of the Arrowhead Mall to accommodate straight in arrivals for runway 19 at GEU. The FAA is clarifying that only operators of aircraft not equipped with an operational radio may make advance transit arrangements with the air traffic control (ATC) facility at Luke AFB, which is consistent with the NPRM. When discussing the ATIS, and in section 93.176 of this final rule, the FAA has substituted the word ''broadcast'' for ''advertised.'' When the Luke NPRM was published (73 FR 55792, September 26, 2008) the FAA proposed to codify it as subpart N to part 93. Subsequently, another final rule was published (73 FR 60544, October 10, 2008) that used Subpart N. Therefore, the Luke subpart is now designated as Subpart O to part 93.

Discussion of the Final Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 93 to establish a SATR in the vicinity of Luke that requires aircraft operating under VFR to establish two-way radio communication with the Luke RAPCON prior to entering the SATR area and maintain communication while operating in the area.

A direct communication requirement is a cost-effective solution and does not impose a significant burden on aircraft operating in, or transiting, the airspace around Luke. It allows the GA community unrestricted access to the area for student pilots enrolled at GA flight schools in the vicinity of Luke. The alternative is to continue to rely on the Air Force's educational and awareness program, which has not resulted in a significant reduction in the number of conflicts and NMACs.

Currently the Luke RAPCON provides radar advisory services to GA aircraft on request, but safety can be significantly heightened with the full participation of all aircraft operating within the vicinity of the Luke terminal area in a communication requirement. A communication requirement provides an additional safety margin and increases the protection of both military and GA operations by providing Luke controllers advance notice of VFR aircraft transiting or operating within the designated area. When pilots operating VFR take advantage of the available advisory services, they are issued timely traffic advisories and assistance while in the area.

Luke will provide continuous information on the status of the SATR for flight crews both in flight and on the ground via landline and ATIS. This rule allows pilots flying VFR to access the active SATR area once communication is established with Luke RAPCON. A clearance is not required. The acceptance of flight following services by VFR aircraft is recommended, but not required. Aircraft not equipped with an

operational radio can make alternate arrangements by contacting the ATC facility at Luke AFB in advance of the proposed operation.

The FAA received 95 comments in response to the NPRM. Of the 95 comments received, 78 did not identify any specific issue, but were critical of the NPRM in general. Some commenters had concerns regarding additional airspace complexity, while others felt the SATR created proficiency-training issues and added frequency change requirements. Seventeen commenters, including Members of Congress and local mayors support the proposal as a necessary tool to reduce the potential for NMACs. Below is a more detailed discussion of the rule broken down into issue areas addressed by commenters. It reflects the comments we received and the FAA's response.

Data and Nonrulemaking Solutions

The Aircraft Owners and Pilot's Association (AOPA) questioned the currency of the USAF NMAC information. AOPA asserted that the ''USAF data was obsolete and stale, and was measured before industry efforts to alleviate the problem.''

The FAA does not agree. Between 2000 and 2005 the aviation community and the USAF were working to alleviate the NMAC problems in the vicinity of Luke and there were 76 reported NMACs. Of these NMACs, 84% of the documented occurrences were between F–16 and GA aircraft and none of the GA aircraft were in communication with the Luke RAPCON. In December 2008, the FAA and the USAF initiated a review of 58 NMAC reports on file at the Luke safety office which occurred during 2006 to 2008. The review disclosed 10 NMACs in 2006, 25 in 2007, and 23 in 2008; 90%, 76% and 86% respectively were between F–16 and GA aircraft. Because of the significant number of NMACs and the high concentration of mixed high performance military and GA aircraft in the same area, the FAA continues to have a safety concern.

AOPA, pilots associations, and others continue to oppose a rulemaking solution and maintain that education, more working groups and additional study should be used. Commenters suggested the FAA form working groups comprised of representatives from government as well as aviation communities, to study problems that the proposed SATR is expected to solve. Most of these commenters believe this group should be actively involved in the development of workable solutions. One aviation organization thought the user forums would pay specific attention to user comments in developing the SATR, better serving the requirements and safety needs of all airspace users.

The FAA does not agree. The FAA reviewed and considered all comments and recommendations in the preparation of the NPRM and this final rule. While developing the proposal, the FAA specifically considered input from AOPA, and other local pilot associations, such as the DVPA and the APA. These organizations stressed pilot education, and more robust charting, with no clearance or flight plan requirements. The FAA agreed that a clearance requirement was too restrictive, and determined that a communication requirement would provide the adequate level of additional safety to increase protection of both military and GA aircraft.

The FAA determined that reliance on nonrulemaking alternatives to provide an acceptable level of safety is no longer appropriate. The FAA does not agree that additional education, outreach, working groups and more robust charting would provide an adequate level of additional safety. As discussed in the NPRM and the background section of this final rule, the USAF has conducted education and outreach activities with the affected aviation users over the years. In the last three years, the USAF has held numerous meetings in the Phoenix Valley informing the public of its growing safety concerns. These concerns center around potential conflicts between military and GA VFR traffic transiting the Luke area and conflicts between aircraft turning on final approach to Runway 21. As discussed previously, the FAA assessed that a rulemaking solution was required to address the number of NMACs, the high volume of military and GA activity in the area, and to reduce the NMAC risk.

Size, Boundaries and Classification

The FAA received comments addressing the Luke SATR area. AOPA and the Aviation Safety Advisory Group of Arizona stated that the Luke SATR closely resembles Class C airspace communication requirements for VFR aircraft entry, but may not meet the established criteria to create Class C airspace. Others stated that the airspace is nonstandard or a new category of airspace. One commenter stated that the FAA was creating, in effect, sterile or restricted airspace.

The FAA does not agree. Luke does not meet the enplaned or instrument approach requirements for Class C airspace. The only similarity between the SATR and Class C airspace is the requirement for operators to establish two-way radio contact with ATC prior to entering the area and to maintain contact while in the area. The SATR offers flight following services to pilots on a strictly voluntary basis. Conversely, Class C services include among other things, separation, traffic advisories and safety alerts between IFR and VFR aircraft, and mandatory traffic advisories and safety alerts between VFR aircraft. Class C services are required for all aircraft operating within Class C airspace. The NPRM did not propose to establish, and this final rule does not establish, Class C airspace at Luke or within the SATR area.

The SATR does not define a new category of airspace, it is a procedural requirement for the management of aircraft by ATC. The Luke SATR requires direct communication with Luke RAPCON before entry and while operating in the designated area. The designated area and procedures will be contained in 14 CFR part 93 which prescribes special air traffic rules necessary for the safe and efficient management of air traffic. The SATR area is in no way similar to restricted airspace as defined in 14 CFR part 73. Restricted airspace is established to confine or segregate activities considered hazardous to nonparticipating aircraft, and within which flight is not prohibited, but is subject to restriction. The SATR is not sterile nor does it prohibit or limit aircraft access, so long as the aircraft operator complies with simple communications requirements of this rule. It was developed to enhance safety and awareness within an area where high volumes of military and GA air traffic exist. Both the NPRM and the final rule continue to allow GA access to the SATR area and the FAA neither proposed, nor implemented, restricted or sterile airspace.

AOPA, the APA, and other commenters stated the proposed SATR would derogate rather than improve safety. Specific concerns were pilots concentrating on their instruments and placing too much reliance upon ATC rather than ''see and avoid,'' and the compression of air traffic into narrow corridors. Commenters claimed that compression may increase the impact of aircraft noise on underlying communities and noise sensitive areas. Commenters stated that the SATR area design is too ''chopped up'' with the floor varying in altitudes across different sub-areas, and at times, increased ''funneling'' of aircraft into small vertical corridors at lower, and less safe, altitudes over populated areas and terrain.

The FAA does not agree. Direct and continuous communication requirements for aircraft operating in the vicinity of the Luke terminal airspace area would reduce the number of conflicts and the NMAC potential. Continuous communication provides controllers with the ability to exchange timely and accurate aircraft position information for both military and civil pilots operating in the area thus enhancing the pilots' see and avoid capability.

The SATR area uses prominent geographical landmarks to define the separate sub-areas that comprise the whole configuration. These sub-area boundaries are depicted on both the PHX Terminal Area Chart and the VFR Sectional Aeronautical Chart to assist the pilot with basic navigation. A uniform floor was considered and rejected because it would have required a larger area than was needed to protect aircraft arriving and departing Luke.

Regarding perceived issues of compression or ''funneling'' of air traffic, pilots have two alternatives. First, pilots may participate in SATR services and thus not be limited to flying below the base of each area. Second, a pilot may deviate 2,000 feet horizontally from the obstacle or populated area. FAA Advisory Circular (AC) 91–36D, Visual Flight Rules (VFR) Flight Near Noise-Sensitive Areas, recommends flights remain above 2,000 feet MSL, but the AC provisions do not apply when they conflict with regulations, ATC instructions, or when a pilot believes operating below 2,000 feet is necessary for the safety of the flight. The SATR area does not require a clearance and was not conceived or designed to force aircraft into circumnavigating the area but pilots can circumnavigate the area if necessary. The area is not restrictive or prohibitive and does not force aircraft into an unsafe operating mode. Pilots who choose not to contact the Luke RAPCON and avoid the SATR area do so voluntarily.

The FAA received comments suggesting changes to the boundaries, floors and ceilings of the Luke SATR. One commenter stated that the northeast corner of the proposed SATR area is likely to cause unintentional incursions by aircraft executing a straight-in approach to Runway 19 at GEU. These approaches typically start over the Arrowhead Mall which is very close to the northeast corner of the proposed SATR area.

The FAA shares this concern and asked the USAF to reevaluate the proposed boundary in the vicinity of the Arrowhead Mall. The USAF and the FAA determined that relocating the boundary would not impact the final approach path to runway 21 at Luke. In this final rule the FAA has moved the SATR boundary approximately 1 mile west of the Arrowhead Mall to protect the straight-in approach to runway 19 at GEU. The FAA will not move the boundary 2 miles to the west, as suggested by the comment, because the airspace is necessary to protect the final approach path to runway 21.

Another commenter suggested eliminating the proposed SATR area and expanding the airport traffic area and control zone to the northwest by 5 miles. The FAA does not agree. In 1993, the FAA reclassified the regulatory structure of the National Airspace System (NAS). This was done primarily to more closely align the airspace in the United States along International Civil Aviation Organization (ICAO) guidelines. The airspace previously identified as Airport Traffic Areas and Control Zones were reclassified at that time to Class D Airspace Areas. FAA Order 7400.2G, Procedures for Handling Airspace Matters, provides guidance on the design of Class D airspace nationally. It states that vertical and lateral limits should be standardized and shall be designed to contain IFR arrival operations. The current Luke Class D airspace area varies from 4.4 miles to a 5.6 mile radius of Luke and is configured in accordance with the above mentioned guidelines. Adding an additional 5 miles to the existing Class D airspace area is not supported by current design criteria, and has no bearing on the scope of issues addressed by the SATR area.

Another commenter stated that the FAA should establish VFR corridors through the SATR area and allow pilots in the VFR corridors to operate without establishing and maintaining two-way radio communication with the Luke RAPCON. The FAA does not agree. The USAF sought an improvement in air safety when it petitioned the FAA to address the problem of NMACs in the proposed SATR area. The suggestion that pilots should be allowed to continue their current practice of not contacting the Luke RAPCON and not exchanging position information would negate the basic purpose of the SATR, which is to require two-way communication with Luke RAPCON to improve safety.

Another commenter believed that the segment of the proposed SATR area west of DVT and north of Luke that has a floor of 3,000′ and a ceiling of 4,000′, will encourage pilots of aircraft departing or arriving GEU and/or DVT to under fly or circumnavigate increasing the concentration of traffic in this area. He suggested raising the floor to 4,000′ and the ceiling to 5,000′ to allow aircraft to avoid the SATR area by operating at 3,500′ and 4,500′ below it.

The FAA does not agree. First, very few aircraft currently circumnavigate the airspace around Luke and a large percentage contact Luke and take part in the flight following services offered by Luke RAPCON. Although there may be an increase in the number of aircraft that would circumnavigate the SATR, the FAA does not expect the increase to be significant or burdensome. Second, aircraft operators can establish communication and operate within the SATR rather than navigate out of their way to avoid it. The SATR area was designed to protect aircraft on an instrument approach to Runway 21L/R. The floor of this area was designated at 3,000′ which provides a 500′ buffer between the lowest altitude in use on the instrument approach and any aircraft transiting or operating just beneath the SATR.

Another commenter suggested modifying or eliminating the segment of the proposed SATR labeled West Sector North which has a floor of 3,000′ and a ceiling of 6,000′. He stated that this area intrudes into rising terrain in the northwest and would force aircraft into the foothills if pilots are trying to under fly this area. The FAA does not agree. This area was designed to protect the Luke auxiliary field traffic pattern for aircraft conducting touch and go landings. The northwest point of this area is the junction of Carefree Highway and US60. The area is remote and there were not many landmarks that could be used as visual references. A small portion of this area on the northern side intrudes into rising terrain. Pilots may avoid the rising terrain by establishing contact with Luke RAPCON and transiting the SATR or circumnavigating the area.

Another commenter stated that the 2,100′ floor of the SATR area just west of GYR does not allow transition for aircraft wishing to overfly GYR Class D or aircraft departing/arriving GYR wishing to avoid the SATR area. The FAA is establishing the 2,100′ floor to protect Luke aircraft departing/arriving runway 03 L/R. Aircraft that do not wish to contact Luke RAPCON for use of the SATR area will have to circumnavigate this area. Letters of Agreement (LOA) will be entered into among Luke RAPCON and GYR, DVT and GEU Towers. The LOA will outline special operating procedures to create a seamless environment for GA operations. Departure and arrival procedures to and from the SATR

boundaries and the airports, will be referenced in the LOA. These procedures will allow GA operators to proceed on course while movement information is passed between ATC facilities. This will negate abrupt frequency changes and not having enough time to establish two-way communication with the RAPCON prior to entering the SATR.

One of the commenters was concerned that the SATR area would infringe on, or virtually eliminate, airspace used today for GA pilot training. That is not the case. The SATR area does not replace, eliminate, or change any of the existing airspace structure or operating rules; it only adds a requirement for two-way radio communication with Luke RAPCON prior to entry and while in the area. The SATR does not prohibit or restrict aircraft access for any purpose including transit and/or training.

RAPCON Staffing and SATR Area Hours of Operation

Several commenters addressed RAPCON staffing, communication coverage and access to the area. The APA and others do not believe that Luke RAPCON can maintain adequate staffing to provide communication coverage and, as a result, GA aircraft will be denied access to the area. AOPA, APA and other commenters were concerned about frequency congestions and one commenter stated that during periods of peak traffic, Luke RAPCON may not be able to immediately respond to aircraft wishing to establish two-way radio contact for entry into the SATR area, thereby denying aircraft access to the area. Another commenter said that Luke radio coverage may not be sufficient for all the airspace encompassed by the SATR area; especially the Luke ATIS.

The FAA does not agree. Staffing and equipment resources are already in place to support the Luke SATR area. Staffing and equipment levels are adequate to provide all services without impacting safety or efficiency and the USAF and the FAA do not expect staffing to be an issue for Luke. LOAs and procedures will be developed to operate the Luke SATR efficiently. However, should circumstances arise that indicate a need for additional resources, action will be taken to obtain them.

The ability to provide any ATC service is limited by many factors, such as the volume of traffic, frequency of congestion, controller workload, or other higher priority duties that may not be apparent to a pilot requesting access to the SATR area. Aircraft attempting to establish two-way radio contact with ATC for entry into the SATR area will be handled on a first-come, first-serve basis and as quickly as the controller can safely provide the service. Currently a large percentage of VFR operators contact Luke and exchange position information. Though there may be an increase in the number of aircraft establishing communication, the FAA does not expect the increase to be significant.

FAA's ATC experience has been that frequency congestion does occur at peak demand periods at most major airports. When such congestion occurs, resource adjustments are made on-site. Such adjustments include resectoring and assigning selected personnel. The USAF recognizes the potential exists for a need to establish additional controller positions if delays during peak demand become a problem, and will respond accordingly.

Luke's existing radio coverage is sufficient to cover the area defined in the SATR including the ATIS. The USAF has installed additional transceivers on the White Tank Mountains radio relay site that enhance the current radio coverage on the existing frequencies due to the height and placement of the new transceivers.

Some commenters stated that the operating rules for the SATR were not clearly defined in the NPRM. They requested clarification about whether a clearance from Luke was required, and if separation services, including assigned headings, would be provided to GA aircraft. Further, they asked if routine traffic advisories would be given, and if a transponder was required.

As stated in the NPRM and final rule, an air traffic clearance is not required to operate in the SATR area. The final rule requires pilots to establish two-way radio communication with Luke RAPCON prior to entering the SATR area, and to maintain communication while operating in the area. Once two-way communication is established, flight following service is available upon request from Luke RAPCON. Pilots of those aircraft not equipped with radios, or with inoperable radios, can make advance arrangements with the Luke RAPCON to coordinate transit through the area. The USAF requires use of flight following service for military aircraft. The FAA recommends use of flight following services by GA. Those aircraft participating in flight following services are provided traffic advisory service as they transition the area. Separation services and headings will not be provided, and this rule does not change the current transponder requirements in 14 CFR 91.215.

Commenters had concerns about the Luke SATR's hours of operation. One stated that the proposed hours of operation were not clear. Another observed that the Luke RAPCON could open and close for just one flight and asked whether the SATR would be activated for that situation. Another noticed that the SATR was not active at night. Others were concerned about access to the SATR area when the Luke RAPCON is not open.

The NPRM and the final rule both state the Luke SATR is designated during official daylight hours Monday through Friday, during flight training operations. The area may be activated at other times by NOTAM when necessary to support Luke flight training. Status of Luke flight training activities will be broadcast on Luke, DVT, GYR, and GEU local ATIS frequencies. The Luke ATIS also can be contacted via a local telephone call. Luke does occasionally open outside of normal hours to handle VIP or other transient aircraft movement, but the SATR area will not be activated routinely for those limited situations.

The SATR area is not necessary during nighttime operations primarily for three reasons. First, Luke's primary auxiliary airfield is closed at night which significantly reduces the number of F–16 aircraft transitioning between the auxiliary field and Luke. Second, aircraft are more easily visible at greater distances at night, thereby allowing pilots more reasonable reaction time for conflict avoidance with high performance aircraft. Third, the SATR area would be extremely difficult to navigate at night when visual landmarks are either not visible or not easily distinguishable. Therefore, when limited Luke flight training activities are conducted at night the SATR will not be active and GA pilots will have access to the area without a requirement to communicate with the Luke RAPCON.

Gliders

Pilots from the glider community expressed concern that their operations would be unfairly impacted. They stated that it was not clear that sailplanes without transponders would be able to operate within the SATR area.

The FAA agrees that clarification about glider operations is needed. In that regard, the USAF has worked with the glider community to address their operational concerns. The USAF met with the Pleasant Valley Sailplane Association (PVSA) personnel to discuss the glider community concerns. The USAF and the PVSA agreed to enter into an LOA covering glider operation to allow glider operations to continue. The

Luke RAPCON plans to designate an assigned beacon code for the tow planes. When the first tow plane of the morning goes up on the discrete code, the Luke RAPCON will show the glider area active and provide general traffic advisories throughout the course of the day while the area is in use. The glider operators will call the Luke RAPCON at the termination of the day's glider activity.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires the FAA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined there is no current or new requirement for information collection associated with this amendment.

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 determined that there are no ICAO Standards and Recommended Practices that correspond to 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).

This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this final rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Costs and Benefits of the Rule

The FAA believes that this rule will impose minimal costs on VFR pilots of GA aircraft, Luke AFB RAPCON and negligible cost on the FAA. The rule will enhance aviation safety by reducing the risk of a midair collision in the SATR area. As a result, the FAA believes this rule is cost-beneficial.

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 ensure 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.

This final rule will impose only negligible costs on individuals operating GA aircraft in the Luke AFB vicinity under VFR. Most operators of GA aircraft are individuals, not small business entities, and are not included when performing a regulatory flexibility analysis. However, flight schools, as well as GA operators flying for business reasons, are considered small business entities. The FAA assumes affected instructors and operators use aircraft equipped with two-way radios, and therefore will not incur any extra costs.

Therefore, as the FAA Administrator, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

International Trade Analysis

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 as 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 final rule and determined that it will have only a domestic impact and therefore will not create unnecessary obstacles to the foreign commerce of the United States.

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 level equivalent of $100 million in CY 1995, adjusted for inflation to CY 2007 levels by the

Consumer Price Index for all Urban Consumers (CPI–U) as published by the Bureau of Labor Statistics, is $136.1 million. This final rule does not contain such a mandate. The requirements of Title II do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final 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, or the relationship between the Federal 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.

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 (NEPA) in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule 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 it is not a ''significant regulatory action'' and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

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.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://DocketsInfo.dot.gov.*

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/.*

List of Subjects in 14 CFR Part 93

Air Traffic Control, Airports, Alaska, Navigation, Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 93—SPECIAL AIR TRAFFIC RULES

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

■ 2. Add Subpart O to part 93 to read as follows:

Subpart O—Special Flight Rules in the Vicinity of Luke AFB, AZ

Sec.
93.175 Applicability.
93.176 Description of area.
93.177 Operations in the Special Air Traffic Rule Area.

Subpart O—Special Flight Rules in the Vicinity of Luke AFB, AZ

§ 93.175 Applicability.

This subpart prescribes a Special Air Traffic Rule for aircraft conducting VFR operations in the vicinity of Luke Air Force Base, AZ.

§ 93.176 Description of area.

The Luke Air Force Base, Arizona Terminal Area is designated during official daylight hours Monday through Friday while Luke pilot flight training is underway, as broadcast on the local Automatic Terminal Information Service (ATIS), and other times by Notice to Airmen (NOTAM), as follows:

(a) East Sector:

(1) South section includes airspace extending from 3,000 feet MSL to the base of the overlaying Phoenix Class B airspace bounded by a line beginning at: Lat. 33°23′56″ N; Long. 112°28′37″ W; to Lat. 33°22′32″ N; Long. 112°37′14″ W; to Lat. 33°25′39″ N; Long. 112°37′29″ W; to Lat. 33°31′55″ N; Long. 112°30′32″ W; to Lat. 33°28′00″ N; Long. 112°28′41″ W; to point of beginning.

(2) South section lower includes airspace extending from 2,100 feet MSL to the base of the overlaying Phoenix Class B airspace, excluding the Luke Class D airspace area bounded by a line beginning at: Lat. 33°28′00″ N; Long. 112°28′41″ W; to Lat. 33°23′56″ N; Long. 112°28′37″ W; to Lat. 33°27′53″ N; Long. 112°24′12″ W; to point of beginning.

(3) Center section includes airspace extending from surface to the base of the overlaying Phoenix Class B airspace, excluding the Luke Class D airspace area bounded by a line beginning at: Lat. 33°42′22″ N; Long. 112°19′16″ W; to Lat. 33°38′40″ N; Long. 112°14′03″ W; to Lat. 33°27′53″ N; Long. 112°24′12″ W; to Lat. 33°28′00″ N; Long. 112°28′41″ W; to Lat. 33°31′55″ N; Long. 112°30′32″ W; to point of beginning.

(4) The north section includes that airspace extending upward from 3,000 feet MSL to 4,000 feet MSL, bounded by a line beginning at: Lat. 33°42′22″ N; Long. 112°19′16″ W; to Lat. 33°46′58″ N; Long. 112°16′41″ W; to Lat. 33°44′48″ N; Long. 112°10′59″ W; to Lat. 33°38′40″ N; Long. 112°14′03″ W; to point of beginning.

(b) West Sector:

(1) The north section includes that airspace extending upward from 3,000 feet MSL to 6,000 feet MSL, bounded by a line beginning at: Lat. 33°51′52″ N; Long. 112°37′54″ W; to Lat. 33°49′34″ N; Long. 112°23′34″ W; to Lat. 33°46′58″ N; Long. 112°16′41″ W; to Lat. 33°42′22″ N; Long. 112°19′16″ W; to Lat. 33°39′27″ N; Long. 112°22′27″ W; to point of beginning.

(2) The south section includes that airspace extending upward from the surface to 6,000 feet MSL, bounded by a line beginning at: Lat. 33°39′27″ N; Long. 112°22′27″ W; to Lat. 33°38′06″ N; Long. 112°23′51″ W; to Lat. 33°38′07″ N; Long. 112°28′50″ W; to Lat. 33°39′34″ N; Long. 112°31′39″ W; to Lat. 33°39′32″ N; Long. 112°37′36″ W; to Lat. 33°51′52″ N;

Long. 112°37′54″ W; to point of beginning.

§ 93.177 Operations in the Special Air Traffic Rule Area.

(a) Unless otherwise authorized by Air Traffic Control (ATC), no person may operate an aircraft in flight within the Luke Terminal Area designated in § 93.176 unless—

(1) Before operating within the Luke Terminal area, that person establishes radio contact with the Luke RAPCON; and

(2) That person maintains two-way radio communication with the Luke RAPCON or an appropriate ATC facility while within the designated area.

(b) Requests for deviation from the provisions of this section apply only to aircraft not equipped with an operational radio. The request must be submitted at least 24 hours before the proposed operation to Luke RAPCON.

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

J. Randolph Babbitt,

Administrator.

[FR Doc. E9–30938 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AC66

Revised Adjusted Net Capital Requirements for Futures Commission Merchants and Introducing Brokers

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') is amending its regulations that prescribe minimum adjusted net capital requirements for futures commission merchants (''FCMs'') and introducing brokers (''IBs''). The amendments: increase the required minimum dollar amount of adjusted net capital that an IB must maintain from $30,000 to $45,000; increase the required minimum dollar amount of adjusted net capital that an FCM must maintain from $250,000 to $1,000,000; amend the computation of an FCM's margin-based minimum adjusted net capital requirement to incorporate into the calculation customer and noncustomer positions in over-the-counter derivative instruments that are submitted for clearing by the FCM to derivatives clearing organizations (''DCOs'') or other clearing organizations (''cleared OTC derivative positions''); specify capital deductions for FCM proprietary cleared OTC derivative positions based on the deductions required by the Commission's regulations for FCM proprietary positions in exchange-traded futures contracts and options contracts; and amend the FCM capital computation to increase the applicable percentage of the total margin-based requirement for futures, options and cleared OTC derivative positions in noncustomer accounts to eight percent.

DATES: Effective March 31, 2010.

FOR FURTHER INFORMATION CONTACT: Thelma Diaz, Associate Director, Division of Clearing and Intermediary Oversight, 1155 21st Street, NW., Washington, DC 20581. Telephone number: 202–418–5137; facsimile number: 202–418–5547; and electronic mail: *tdiaz@cftc.gov* or Mark Bretscher, Attorney-Advisor, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, 525 W. Monroe, Suite 1100, Chicago, Illinois 60661. Telephone number: 312–596–0529; facsimile number: 312–596–0714; and electronic mail: *mbretscher@cftc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 7, 2009, the Commission published in the **Federal Register** for public comment proposed amendments to the minimum financial requirements applicable to FCMs and IBs (''Proposing Release).[1] As noted in the Proposing Release, Section 4f(b) of the Commodity Exchange Act (''Act'') provides that FCMs and IBs must meet such minimum financial requirements as the Commission may prescribe to insure that FCMs and IBs meet their obligations as registrants.[2] FCMs are subject to greater capital requirements than IBs because the Act permits FCMs, but not IBs, to hold funds of customers trading on designated contract markets and to clear such customer positions with a DCO. CFTC Regulation 1.17 currently requires IBs and FCMs to maintain adjusted net capital of $30,000 and $250,000 respectively, or to maintain some greater amount as determined under other calculations required by the regulation.[3]

Specifically, Commission Regulation 1.17(a)(1)(iii) requires that IBs maintain adjusted net capital in an amount that equals or exceeds the greatest of: $30,000; the amount of adjusted net capital required by a registered futures association of which the IB is a member; or, if the FCM is also a securities broker and dealer registered with the U.S. Securities and Exchange Commission (''SEC''), the amount of net capital required by SEC Rule 15c3–1(a), 17 CFR § 240.15c3–1(a). Regulation 1.17(a)(1)(i) requires FCMs to maintain adjusted net capital equal to or in excess of the greatest of: $250,000; the FCM's margin-based or ''risk-based'' capital requirement, which is determined by adding together eight percent of the total risk margin requirement for positions in customer accounts, plus four percent of the total risk margin requirement for positions carried in noncustomer accounts; the amount of adjusted net capital required by a registered futures association of which the FCM is a member; or, for an FCM also registered with the SEC as securities broker and dealer, the amount of net capital required by SEC Rule 15c3–1(a).

As described in the Proposing Release, the Commission proposed several amendments to Regulation 1.17(a) that generally would increase the adjusted net capital requirements of FCMs and IBs. The comment period closed 60 days after publication in the **Federal Register** of the Proposing Release, during which nine comment letters were received. Responses were submitted by Mindy Yost (''Yost''), an individual non-registrant; Newedge USA, LLC (''Newedge''), an FCM/broker-dealer; MF Global, Inc. (''MF Global''), an FCM; R.J. O'Brien & Associates, LLC (''RJO''), an FCM; FCStone, LLC (''FC Stone''), an FCM; the Securities Industry and Financial Markets Association (''SIFMA''); CME Group, Inc. (''CME''); the Futures Industry Association (''FIA''); and the National Futures Association (''NFA''). The concerns and suggestions of each of the commenters are addressed below, in connection with the description of the amendments being adopted by the Commission.[4]

[1] 74 FR 21290 (May 7, 2009). Copies of the Proposing Release and the comment letters received by the Commission are also available on the Commission's Web site at *http://www.cftc.gov*.

[2] The Act is codified at 7 U.S.C. 1 *et seq.*

[3] The Commission regulations cited herein may be found at 17 CFR Ch. I (2009).

[4] The Proposing Release also included a query soliciting comment on a topic for which no amendments to Commission regulations have yet been proposed. Specifically, the Commission asked for comment on the advisability of expanding ANC requirements for FCMs that are also securities brokers and dealers, by increasing their ANC by the amount of net capital required by SEC Rule 15c3–1(a). No commenter supported this potential revision of FCM/BD capital requirements.

II. Required Minimum Dollar Amount of Adjusted Net Capital for IBs and FCMs

As noted above, Regulation 1.17(a) includes the capital requirements established by registered futures associations when determining the level of adjusted net capital that FCM and IBs must maintain. On July 31, 2006, the NFA, the sole registered futures association, adopted minimum dollar amount requirements of $45,000 for IBs and $500,000 for FCMs. These same amounts therefore were effectively applied in 2006 as adjusted net capital requirements for IBs and FCMs under CFTC Regulation 1.17(a).

The Proposing Release proposed amending Regulation 1.17(a)(1) to revise the specified dollar amounts in CFTC Regulation 1.17(a)(1) from $30,000 to $45,000 for IBs and from $250,000 to $1 million for FCMs. In light of existing NFA requirements, only the proposal to increase the minimum dollar amount requirement for FCMs would result in an actual change in adjusted net capital requirements. The effect of such a change also would be minimized because, as of September 30, 2009, all but two FCMs holding customer funds already maintain adjusted net capital of $1 million or more.

As noted in the Proposing Release, the adjusted net capital requirements adopted in 1996 of $30,000 for IBs and $250,000 for FCMs do not reflect inflation and generally are no longer consistent with the regulatory objective of requiring registrants to maintain a minimum base of liquid capital from which to meet their financial obligations, including their obligations to customers. Comparing certain aspects of the industry then and now, the Commission noted that as of August 31, 1995, there were 255 FCMs, which in total were required to hold approximately $30 billion of segregated and secured amount funds for their customers. By June 30, 2009, the total amount of such funds had escalated to approximately $175 billion, which 132 FCMs were required to hold for their customers. Thus, not only has there been a dramatic increase in the amounts that FCMs must hold for their customers, but those funds have become concentrated among far fewer FCMs. As an additional measure to ensure the sound financial strength of FCMs and IBs, the Commission therefore proposed revising the minimum dollar amount requirements for FCMs and IBs in CFTC Regulation 1.17(a).

The comments received by the Commission generally supported the revised minimum dollar amounts or offered no comment regarding such amounts.[5] RJO, CME and the NFA expressly supported the proposal to increase the minimum dollar amount capital requirement for FCMs and IBs. FIA also supported the increase in the minimum dollar amount for FCM capital requirements, and noted that IBs were already required by the NFA to maintain adjusted net capital of at least $45,000. SIFMA's comment was that it lacked sufficient information, either from the CFTC or derived on its own, on which to base a comment, while the letters from FC Stone and Newedge were silent on the proposed amendments to revise the specified dollar amounts in CFTC Regulation 1.17(a)(1). For the reasons described above, the Commission has determined to adopt the revised minimum dollar amounts as proposed in the Proposing Release.

III. Cleared OTC Positions in FCM Capital Calculations

In 2004, the Commission amended Regulation 1.17(a)(1)(i)(B) to include a ''risk-based'' capital computation based on margin, or performance bond, requirements applicable to positions carried by the FCM for its customers and noncustomers.[6] Specifically, Commission Regulation 1.17(a)(1)(i)(B) was amended to require an FCM to compute its risk-based capital requirement as the sum of: (1) Eight percent of the total risk margin[7] requirement for positions carried by the FCM in customer accounts and (2) four percent of the total risk margin requirement for positions carried by the FCM in noncustomer accounts. The Commission did not revise its regulations with respect to proprietary futures and granted options positions of FCMs, as such positions were already subject to capital deductions under Commission Regulation 1.17(c)(5)(x).[8]

The Proposing Release noted that the risk-based calculations of FCMs include margin requirements for positions in cleared OTC derivative instruments[9] held in customer segregated accounts governed by Section 4d of the Act and Commission regulations. Various DCOs, as part of their increasing efforts to clear OTC derivative instruments, have requested Commission orders authorizing their clearing FCMs to commingle customers' money, securities, and other property margining OTC-cleared derivative positions with the money, securities, and other property deposited by said customers to margin futures and options positions in segregated accounts established pursuant to Section 4d of the Act.[10] Therefore, the risk exposure of clearing OTC derivative instruments extends not only to the FCM, but also to the segregated funds of its OTC, futures and options customers. Where OTC customer funds are commingled with the funds of futures and options customers, the Commission has deemed it necessary to include OTC customer positions in the definition of ''customer

[5] The objections in Yost's letter were directed primarily to the requirement for her to register as an IB.

[6] The term noncustomer refers generally to affiliated persons of the FCM, including certain officers and other employees.

[7] The term ''risk margin'' is defined at Commission Regulation 1.17(b)(8).

[8] In general, an FCM's proprietary futures and granted options positions are subject to a deduction equal to 100 percent of the maintenance margin requirement for positions that are cleared by clearing organizations of which the FCM is a clearing member, and 150 percent of the maintenance margin requirement for positions that are cleared by clearing organizations of which the FCM is not a clearing member.

[9] OTC derivative instrument is defined by Section 408(2) of the Federal Deposit Insurance Corporation Improvement Act, 12 U.S.C.A. § 4421. As defined there, the term ''over-the-counter derivative instrument'' includes ''(A) any agreement, contract, or transaction, including the terms and conditions incorporated by reference in any such agreement, contract, or transaction, which is an interest rate swap, option, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, basis swap, and forward rate agreement; a same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, or forward agreement; an equity index or equity swap, option, or forward agreement; a debt index or debt swap, option, or forward agreement; a credit spread or credit swap, option, or forward agreement; a commodity index or commodity swap, option, or forward agreement; and a weather swap, weather derivative, or weather option; (B) any agreement, contract or transaction similar to any other agreement, contract, or transaction referred to in this clause that is presently, or in the future becomes, regularly entered into by parties that participate in swap transactions (including terms and conditions incorporated by reference in the agreement) and that is a forward, swap, or option on one or more occurrences of any event, rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic or other indices or measures of economic or other risk or value; (C) any agreement, contract, or transaction excluded from the Commodity Exchange Act under section 2(c), 2(d), 2(f), or 2(g) of such Act, or exempted under section 2(h) or 4(c) of such Act; and (D) any option to enter into any, or any combination of, agreements, contracts or transactions referred to in this subparagraph.''

[10] Examples of Commission orders under Section 4d of the Act related to OTC clearing by DCOs include an Order dated May 30, 2002 regarding Treatment of Funds Held in Connection with the Clearing of Over-the-Counter Products by the New York Mercantile Exchange, and also Orders dated March 3, 2006 and September 26, 2008 regarding Treatment of Funds Held in Connection with the Clearing of Over-the-Counter Products by Chicago Mercantile Exchange, Inc.

accounts'' for purposes of computing an FCM's risk-based capital requirement.

FCMs may also, however, clear OTC derivative instruments for which the margin received from customers is not held in segregated accounts under Section 4d of the Act. The Proposing Release therefore included amendments to enhance and update the provisions of Regulation 1.17 to reflect the increase in clearing by FCMs of OTC derivative instruments. Under the proposed amendments to paragraphs (b) and (c) of Regulation 1.17, the capital treatment for all cleared OTC derivative instrument positions would be similar to the capital treatment applicable to exchange-traded futures and options positions that are carried by the FCM for itself, its customers, or its noncustomers.

Five commenters (RJO, MF Global, CME, FIA and the NFA) supported the Commission's proposal to require FCMs to account for all cleared OTC derivative positions carried for customers and noncustomers in their risk-based capital calculations. They also supported the Commission's proposal to require FCMs to take proprietary capital deductions for their cleared OTC derivative positions similar to the capital deductions required for their proprietary futures and options positions. Yost, FC Stone and Newedge made no comments regarding either proposal, and SIFMA stated that it was unable to offer a definitive view on the appropriateness of the proposed changes and suggested that the Commission refrain from taking action pending further analysis of the issue. SIFMA also expressed concern that the capital requirements for cleared OTC positions be coordinated among regulators to prevent regulatory arbitrage or capital disincentives to clear such transactions.

The adoption of the proposed amendments will neither prohibit nor inhibit the existing interaction among Commission staff and the staff members of other regulators of financial institutions regarding matters of common interest and concern. To the extent that new developments related to clearing suggest that further modification of the Commission's capital regulations may be appropriate, the Commission may proceed, as applicable, by issuing appropriate interpretive guidance to FCMs or by requesting notice and comment on other proposed amendments to its regulations.[11]

The Commission has therefore adopted the amendments to 1.17(b) and (c) as proposed in the Proposing Release. As hereby amended, the terms proprietary account, noncustomer account, and customer account, as defined in Regulations 1.17(b)(3), (b)(4), and (b)(7), are expanded to include ''cleared OTC derivative positions'', which are defined in Regulation 1.17(b)(9) as the over the counter derivative instrument positions of any person[12] in accounts carried on the books of the FCM and cleared by any organization permitted to clear such instruments under the laws of the relevant jurisdiction. Additionally, the term ''cleared OTC customers'' is defined in paragraph (b)(10), and such customers have been included among the FCM customers listed in paragraph (b)(2) of Regulation 1.17. Finally, the Commission has amended Regulation 1.17(c)(5)(x) to require FCMs to take proprietary capital deductions for their cleared OTC derivative positions similar to the capital deductions required for their proprietary futures and options positions.

III. Increasing Risk Margin Percentage for Noncustomer Positions

The Commission also proposed amending Regulation 1.17 so that an FCM's risk-based capital requirement would be ten percent of the total risk margin requirement for positions carried by the FCM in both customer accounts and noncustomer accounts. The proposed increase represented a more significant increase with respect to noncustomer accounts, as the FCM's risk-based capital calculations currently includes a lower required percentage of risk maintenance margin for noncustomer positions (four percent) than the required percentage for the same positions in customer accounts (eight percent).

The Commission received no comments supporting the general increase for all margin-based capital calculations to ten percent. The reasons cited for this lack of support varied among the commenters, but the Commission is mindful that a common underlying theme was that such an indiscriminate, broad-brush approach may be inconsistent with the current financial environment's continuing shifts and alterations. In contrast, the majority of commenters (RJO, MF Global, CME, FIA and the NFA) endorsed the Commission's proposed amendment to increase from four percent to eight percent the required percentage applicable to noncustomer accounts in the risk-based capital calculations of FCMs. In proposing this amendment, the Commission had noted that when the lower risk margin percentage for noncustomer positions had been adopted in 2004, the Commission and the self-regulatory organizations believed that noncustomers' accounts reflected less credit risk to FCMs and the clearing system because they were guaranteed by a parent organization or other affiliated entity. However, the majority of the commenters agreed with the Commission's conclusion in the Proposing Release that recent events had demonstrated that the risk associated with noncustomer accounts may not necessarily be less than the risk associated with customer accounts. The Commission has therefore adopted as proposed the amendment to Regulation 1.17(a) that requires the application of the same percentage with respect to the noncustomer and customer risk margin requirements, thus requiring the FCM's total risk margin requirement to be multiplied by eight percent.

IV. Effective Date

The Commission stated in the Proposing Release that it was contemplating an effective date of sixty days after publication in the **Federal Register** of any of the amendments adopted as final by the Commission. The Commission received comments from both the FIA and NFA on this topic, each of whom urged a longer period of time before the effective date, in order to avoid a potential undue burden as a result of the increased capital requirements being adopted for FCMs. FIA suggested a period of 120 days after publication before the effective date, while NFA stated only that the period should be longer than 60 days. Taking into consideration these comments and the purposes of the capital requirements adopted by this final rulemaking, the amendments adopted herein will be effective as of the date 90 days after their publication in the **Federal Register**.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.,* requires

[11] Included in such continued review and analysis is the possible revision of the definition of ''cover'' in 1.17(j) with respect to cleared OTC derivative instruments, for which the Commission requested comment but did not propose any specific amendments in the Proposing Release. Only the CME and NFA commented on this question, and both agreed with the general proposition that the definition should be revised to reflect that proprietary positions in cleared OTC derivatives instruments may be covered by positions that would qualify as cover for proprietary futures and option positions.

[12] The term ''person'' is defined in CFTC Regulation 1.3(u).

that agencies, in amending their rules, consider the impact of those amendments on small businesses. The Commission has previously determined that, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.[13] With respect to IBs, the amendment to the minimum adjusted net capital requirement for an IB merely conforms the Commission's requirement to that of the NFA and, therefore, should have no impact on an IB's financial operations. Thus, the proposal has no significant economic impact on IBs. Accordingly, the Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. § 605(b), that the action it is taking herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, (''PRA'') 44 U.S.C. 3501 et seq., imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. This rulemaking does not include any increase in information collection requirements. The increase in the percentage requirements applicable to risk margin requirements for customer and noncustomer positions included in risk-based capital calculation constitutes a minor change to line item 22 of the Form 1–FR–FCM, as does the minor change to Line 16 to include OTC-cleared products, but neither change would alter the related reporting burden. The above analysis was included in the proposing release, and as required by the PRA, the Commission submitted a copy of this section to the Office of Management and Budget (''OMB'') for its review. No comments were received in response to the Commission's invitation in the notice of proposed rulemaking[14] to comment on any change in the potential paperwork burden associated with these rule amendments.

C. Cost-Benefit Analysis

Section 15(a) of the Act, as amended by Section 119 of the Commodity Futures Modernization Act,[15] requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) as amended does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. The Commission, in its discretion, can choose to give greater weight to any one of the five enumerated areas and determine that, notwithstanding its costs, a particular regulation is necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The Commission has considered the costs and benefits of the proposed amendments and determined that the amendments will result in additional protection of market participants and the public, enhancements to sound risk management practices, enhanced financial integrity of futures markets and other public interest considerations and should have minimal or no effect on the following areas: efficiency, competitiveness or price discovery. After considering these factors, the Commission has determined to adopt the amendments to Regulation 1.17 as discussed herein.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures, Minimum financial requirements, Reporting and recordkeeping requirements.

■ Accordingly, 17 CFR Chapter I is amended as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24, as amended by the Commodity Futures Modernization Act of 2000, appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

■ 2. Section 1.17 is amended by:

■ a. Revising paragraphs (a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(iii)(A);

■ b. Revising paragraphs (b)(2), (b)(3), introductory text of (b)(4), introductory text of (b)(7) and introductory text of (b)(8);

■ c. Adding new paragraphs (b)(9) and (b)(10); and

■ d. Revising the introductory text of paragraph (c)(5)(x) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

(a)(1)(i) * * *

(A) $1,000,000;

(B) The futures commission merchant's risk-based capital requirement, computed as eight percent of the total risk margin requirement for positions carried by the futures commission merchant in customer accounts and noncustomer accounts.

* * * * *

(iii) * * *

(A) $45,000;

* * * * *

(b) * * *

(1) * * *

(2) *Customer* means customer (as defined in § 1.3(k)), option customer (as defined in § 1.3(jj) and in § 32.1(c) of this chapter), cleared over the counter customer (as defined in § 1.17(b)(10)), and includes a foreign futures, foreign options customer (as defined in § 30.1(c) of this chapter).

(3) *Proprietary account* means an account in which commodity futures, options or cleared over the counter derivative positions are carried on the books of the applicant or registrant for the applicant or registrant itself, or for general partners in the applicant or registrant.

(4) *Noncustomer account* means an account in which commodity futures, options or cleared over the counter derivative positions are carried on the books of the applicant or registrant which is either:

* * * * *

(7) *Customer account* means an account in which commodity futures, options or cleared over the counter derivative positions are carried on the books of the applicant or registrant which is either:

* * * * *

(8) *Risk margin* for an account means the level of maintenance margin or performance bond required for the customer or noncustomer positions by the applicable exchanges or clearing organizations, and, where margin or performance bond is required only for accounts at the clearing organization, for purposes of the FCM's risk-based capital calculations applying the same margin or performance bond requirements to

[13] See 47 FR 18618, 18619 (Apr. 30, 1982).

[14] 74 FR 21293 (May 7, 2009).

[15] 7 U.S.C. 19(a).

customer and noncustomer positions in accounts carried by the FCM, subject to the following.

* * * * *

(9) *Cleared over the counter derivative positions* means ''over the counter derivative instrument'' (as defined in 12 U.S.C. 4421) positions of any person in accounts carried on the books of the futures commission merchant and cleared by any organization permitted to clear such instruments under the laws of the relevant jurisdiction.

(10) *Cleared over the counter customer* means any person that is not a proprietary person as defined in § 1.3(y) and for whom the futures commission merchant carries on its books one or more accounts for the over the counter-cleared derivative positions of such person.

(c) * * *

(5) * * *

(x) In the case of open futures contracts or cleared OTC derivative positions and granted (sold) commodity options held in proprietary accounts carried by the applicant or registrant which are not covered by a position held by the applicant or registrant or which are not the result of a ''changer trade'' made in accordance with the rules of a contract market:

* * * * *

Issued in Washington, DC, on December 24, 2009, by the Commission.

David A. Stawick,

Secretary of the Commission.

[FR Doc. E9–31058 Filed 12–30–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AN50

Copayments for Medications

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: The Department of Veterans Affairs (VA) is taking action to amend its medical regulations concerning the copayment required for certain medications. Under current regulations, the copayment amount must be increased based on the prescription drug component of the Medical Consumer Price Index, and the maximum annual copayment amount must be increased when the copayment is increased. Under the amendments in this document, we will freeze copayments at the current rate for the next 6 months, and thereafter resume increasing copayments in accordance with any change in the prescription drug component of the Medical Consumer Price Index.

DATES: This rule is effective on December 31, 2009. Comments must be received on or before February 1, 2010.

ADDRESSES: Written comments may be submitted by e-mail through *http://www.regulations.gov;* by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AN50 Copayments for Medications.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Roscoe Butler, Acting Director, Business Policy, Chief Business Office, 810 Vermont Ave., Washington, DC 20420, 202–461–1586. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Under 38 U.S.C. 1722A(a), VA must require veterans to pay a $2 copayment for each 30-day supply of medication furnished on an outpatient basis for the treatment of a nonservice-connected disability or condition. Under 38 U.S.C. 1722A(b), VA ''may'' by regulation increase that copayment and establish a maximum annual copayment (a ''cap''). We interpret section 1722A(b) to mean that VA has discretion to determine the appropriate copayment amount and annual cap amount for medication furnished on an outpatient basis for covered treatment, provided that any decision by VA to increase the copayment amount or annual cap amount is the subject of a rulemaking proceeding. We have implemented this statute in 38 CFR 17.110.

Under current 38 CFR 17.110(b)(1), veterans are ''obligated to pay VA a copayment for each 30-day or less supply of medication provided by VA on an outpatient basis (other than medication administered during treatment).'' The regulation ties any increase in that copayment amount to the prescription drug component of the Medical Consumer Price Index (CPI–P). The current regulation includes an escalator provision for the copayment amount. The regulation states that the copayment amount for each calendar year after 2002 is established using the CPI–P as follows: For each calendar year beginning after December 31, 2002, the Index as of the previous September 30 will be divided by the Index as of September 30, 2001. The ratio so obtained will be multiplied by the original copayment amount of $7. The copayment amount for the new year will be this result, rounded down to the whole dollar amount.

Current § 17.110(b)(2), also includes a cap on the total amount of copayments in a calendar year for a veteran enrolled in one of the priority categories 2 through 6. The amount of the cap was $840 for the year 2002. The current regulation also requires that ''[i]f the copayment amount increases * * * the cap of $840 shall be increased by $120 for each $1 increase in the copayment amount.'' 38 CFR 17.110(b)(2).

In January 2006, based on this regulation, the copayment amount increased to $8 and the cap on priority categories 2 through 6 increased to $960. This change was announced in 70 FR 72329 (December 2, 2005). These are the current copayment requirements. Based on our analysis of the average rate of growth of the CPI–P, the current regulatory methodology, calculated according to the CPI–P as of September 30, 2009, would automatically escalate the copayment amount from $8 to $9 in January 2010. Current § 17.110(b) does not afford the Secretary any discretion on increasing the copayment amount as calculated by the CPI–P.

Although we continue to believe that the CPI–P is a relevant indicator of the costs of prescriptions nationwide, we need time to determine whether an increase might pose a significant financial hardship for certain veterans and if so, what alternative approach would provide appropriate relief for these veterans. In light of this anticipated review, we are delaying implementation of the $1 increase in the copayment amount (and the corresponding $120 increase in the cap) until the completion of our review. Maintaining the current copayment and cap amounts will give us time to determine whether the current methodology for establishing copayment amounts, consistent with our responsibility under 38 U.S.C. 1722A to require a copayment in order to control health-care costs, is appropriate for all veterans.

Therefore, we are, for the next 6 months (*i.e.,* through June 30, 2010), freezing the copayment amount at the

current rate ($8) in order to complete the analysis regarding veterans for whom the copayment increase might pose a significant financial hardship. We are also freezing the cap at the current level ($960).

This rule maintains the current escalator clause. Depending on the results of the analysis described above, the Secretary may initiate new rulemaking on this subject rather than continue to rely on the CPI–P escalator provision to determine the copayment amount. Any change in the copayment amount and cap, along with the associated calculations explaining the basis for the increase, would be published in a **Federal Register** notice.

At the end of June 30, 2010, unless additional rulemaking is initiated, VA would once again utilize the CPI–P methodology in § 17.110(b)(1) to determine whether to increase copayments and calculate any mandated increase in the copayment amount. At that time the CPI–P as of June 30, 2010, would be divided by the index as of September 30, 2001. The ratio would then be multiplied by the original copayment amount of $7. The copayment amount of the new calendar year would be rounded down to the whole dollar amount. As mandated by the § 17.110(b)(2), the annual cap would be calculated by increasing the cap by $120 for each $1 increase in the copayment amount. Any change in the copayment amount and cap, along with the associated calculations explaining the basis for the increase, would be published in a **Federal Register** notice. Thus, the intended effect of this rule is to temporarily freeze copayments and the copayment cap, following which copayments and the copayment cap would increase as prescribed in § 17.110(b).

The current regulation includes a note to paragraph (b)(1) that provides an example of how the CPI–P calculation is made. We are updating this note to provide a recent example of how these amounts are calculated. This example reflects the calculation that was made on December 2, 2005, when VA published notice of the increase in copayments from $7 to $8. This note reflects the last calculation made under this regulation.

We are also adding a new paragraph (b)(3), which informs the public where it can find information on the current copayment and cap amounts.

Administrative Procedure Act

In accordance with 5 U.S.C. 553(b)(3)(B) and (d)(3), the Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for advance notice and opportunity for public comment and good cause to publish this rule with an immediate effective date. As stated above, this rule freezes at current rates the prescription drug copayment that VA charges veterans. The Secretary finds that it is impracticable and contrary to the public interest to delay this regulation for the purpose of soliciting advance public comment, or to have a delayed effective date, because increasing the copayment on January 1, 2010, might cause significant financial hardship on certain veterans.

For these reasons, the Secretary of Veterans Affairs is issuing this rule as an interim final rule. The Secretary of Veterans Affairs will consider and address comments that are received within 30 days of the date this interim final rule is published in the **Federal Register**.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

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

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will freeze the copayments that certain veterans are required to pay for prescription drugs furnished by VA. The rule affects individuals and has no impact on any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism; Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines,

Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich approved this document for publication on December 28, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons set forth in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, 1721, and as noted in specific sections.

■ 2. In § 17.110, paragraph (b) is revised to read as follows:

§ 17.110 Copayments for medication.

* * * * *

(b) *Copayments*—(1) *Copayment amount.* Unless exempted under paragraph (c) of this section, a veteran is obligated to pay VA a copayment for each 30-day or less supply of medication provided by VA on an outpatient basis (other than medication administered during treatment). For the period from January 1, 2010 through June 30, 2010, the copayment amount is $8. Thereafter, the copayment amount for each calendar year or other period as determined by the Secretary will be established by using the prescription drug component of the Medical Consumer Price Index as follows: The Index as of the previous September 30 will be divided by the Index as of September 30, 2001. The ratio so obtained will be multiplied by the original copayment amount of $7. The new copayment amount will be this result, rounded down to the whole dollar amount.

Note to paragraph (b)(1): Example for determining copayment amount.

The ratio of the prescription drug component of the Medical Consumer Price Index for September 30, 2005, to the corresponding Index for September 30, 2001, was 1.1542. This ratio, when multiplied by the original copayment amount of $7 equals $8.08, and the copayment amount beginning in calendar year 2006, rounded down to the whole dollar amount, was set at $8.

(2) The total amount of copayments in a calendar year for a veteran enrolled in one of the priority categories 2 through 6 of VA's health care system (see § 17.36) shall not exceed the cap established for the calendar year. During the period from January 1, 2010 through June 30, 2010, the cap will be $960. If the copayment amount increases after June 30, 2010, the cap of $960 shall be increased by $120 for each $1 increase in the copayment amount.

(3) *Information on copayment/cap amounts.* Current copayment and cap amounts are available at any VA Medical Center and on our Web site, *http://www.va.gov*. Notice of any increases to the copayment and corresponding increases to annual cap amount will be published in the **Federal Register**.

* * * * *

[FR Doc. E9–31124 Filed 12–30–09; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[FCC 09–113]

Implementation of Section 1003(b) of the Department of Defense Appropriations Act, 2010

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes a new sunset date for certain Commission's rules applicable to retransmission consent in accordance with Section 1003(b) of the Department of Defense Appropriations Act, 2010, Public Law No. 111–118.

DATES: Effective December 31, 2009.

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

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact David Konczal, *David.Konczal@fcc.gov*, of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the *Order,* FCC 09–113, adopted and released on December 28, 2009. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary of the Order

I. Introduction

1. In this *Order*, we amend §§ 76.64(l) and 76.65(f) of the Commission's rules in accordance with Section 1003(b) of the Department of Defense Appropriations Act, 2010, Public Law No. 111–118, Sec. 1003(b) (2009), which was enacted on December 19, 2009. Section 325(b)(3)(C)(ii) of the Communications Act of 1934, as amended (the ''Act''), required the Commission to adopt regulations that, until January 1, 2010, prohibit a television broadcast station that provides retransmission consent from engaging in exclusive contracts for carriage or failing to negotiate in good faith. 47 U.S.C. 325(b)(3)(C)(ii). Section 325(b)(3)(C)(iii) required the Commission to adopt regulations that, until January 1, 2010, prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent. 47 U.S.C. 325(b)(3)(C)(iii). The Commission has previously adopted rules to implement these provisions, including §§ 76.64(l) and 76.65(f) to reflect the sunset date of January 1, 2010. *See* 47 CFR 76.64(l) (''Exclusive retransmission consent agreements are prohibited. No television broadcast station shall make or negotiate any agreement with one multichannel video programming distributor for carriage to the exclusion of other multichannel video programming distributors. This paragraph shall terminate at midnight on December 31, 2009.''); 47 CFR 76.65(f) (''Termination of rules. This section shall terminate at midnight on December 31, 2009.'').

2. In Section 1003(b) of the Department of Defense Appropriations Act, 2010, Congress amended Sections 325(b)(3)(C)(ii) and (iii) to replace the previous sunset date of January 1, 2010 with a new sunset date of March 1, 2010. *See* Department of Defense Appropriations Act, 2010, Public Law No. 111–118, Sec. 1003(b). Accordingly, we are amending our rules to reflect the

new sunset date, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires. We are amending these rules without providing prior public notice and comment because prior notice and comment would be impracticable in this case. *See* 5 U.S.C. 553(b)(3)(B). Section 1003(b) of the Department of Defense Appropriations Act, 2010 was enacted on December 19, 2009, less than two weeks before the sunset date of January 1, 2010. This provides the Commission with an insufficient amount of time to publish a Notice of Proposed Rulemaking in the **Federal Register**, to allow time for meaningful comment, and to consider those comments before taking the necessary actions prior to the sunset date of January 1, 2010. *See Petry* v. *Block*, 737 F.2d 1193, 1201 (D.C. Circ. 1984) (holding that the ''extremely limited time given by Congress'' established ''good cause'' for not seeking prior notice and comment). Moreover, our action here is largely ministerial, because it simply implements a new sunset date established by Congress. *See* 5 U.S.C. 553(b)(3)(B). *See, e.g., Metzenbaum* v. *Federal Energy Regulatory Commission*, 675 F.2d 1282, 1291 (DC Cir. 1982) (agency order, issued pursuant to congressional waiver of certain provisions of federal law that would otherwise have governed construction and operation of Alaskan natural gas pipeline, was appropriately issued without notice and comment as a nondiscretionary ministerial action); *Implementation of Section 505 of the Telecommunications Act of 1996 (Scrambling of Sexually Explicit Adult Video Service Programming)*, 11 FCC Rcd 5386, 5387 (1996); *Implementation of Sections 204(A) and 204(C) of the Telecommunications Act of 1996 (Broadcast License Renewal Procedures)*, 11 FCC Rcd 6363, 6364 (1996); *Implementation of Sections 202(A) and 202(B)(1) of the Telecommunications Act of 1996 (Broadcast Radio Ownership)*, 11 FCC Rcd 12368, 12371 (1996); *Implementation of Sections 202(c)(1) and 202(e) of the Telecommunications Act of 1996 (National Broadcast Television Ownership and Dual Network Operations)*, 11 FCC Rcd 12374, 12377 (1996). Accordingly, we find that this action falls within the ''good cause'' exception to the notice and comment requirements of the Administrative Procedure Act (''APA''). Because we have found good cause for not seeking prior notice and comment, the Regulatory Flexibility Act and the Congressional Review Act do not apply to our action here. *See* 5 U.S.C. 603(a); 5 U.S.C. 808. For similar reasons, we find good cause to make these amendments to our rules effective upon publication in the **Federal Register**. Because the legislation establishing the new sunset date was enacted less than two weeks prior to the previous sunset date of January 1, 2010, we are unable to provide for a 30-day period before the new sunset date in these rules takes effect. *See* 5 U.S.C. 553(d)(3) (''The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule.''); *see also* 47 CFR 1.427(b).

II. Procedural Matters

3. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified 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).

III. Ordering Clauses

4. *It is ordered* that pursuant to the authority found in Section 325 of the Communications Act of 1934, as amended, 47 U.S.C. 325, and Section 1003(b) of the Department of Defense Appropriations Act, 2010, Public Law No. 111–118, Sec. 1003(b) (2009), §§ 76.64(l) and 76.65(f) of the Commission's rules *are hereby amended* as set forth in the rule changes below and are effective December 31, 2009.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

■ For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

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

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572 and 573.

■ 2. Section 76.64 is amended by revising the last sentence of paragraph (l) to read as follows:

§ 76.64 Retransmission consent.

* * * * *

(l) * * * This paragraph shall terminate at midnight on February 28, 2010, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.

* * * * *

■ 3. Section 76.65 is amended by revising paragraph (f) to read as follows:

§ 76.65 Good faith and exclusive retransmission consent complaints.

* * * * *

(f) Termination of rules. This section shall terminate at midnight on February 28, 2010, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.

[FR Doc. E9–31095 Filed 12–30–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–RSPA–2004–19854; Amdt. 192–113]

RIN 2137–AE15

Pipeline Safety: Integrity Management Program for Gas Distribution Pipelines

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

ACTION: Final rule; extension of comment period.

SUMMARY: PHMSA is extending for 30 days, until February 4, 2010, the period for filing comments to the requirement adopted in the final rule, ''Pipeline Safety: Integrity Management Program for Gas Distribution Pipelines'' to require the reporting of failures of compression couplings used in metal pipe. PHMSA had invited public comment on the extension of this requirement to include reporting of failure of compression couplings used in metal pipe until January 4, 2010. The American Gas Association (AGA) requested that PHMSA extend the comment period for thirty days.

DATES: *Comment Date:* Interested persons are invited to submit comments on the provisions for reporting failures of compression couplings by February 4,

2010. At the end of the comment period, we will publish a document modifying these provisions or a document stating that the provisions will remain unchanged.

ADDRESSES: Comments limited to the provisions on reporting failures of mechanical couplings should reference Docket No. PHMSA–RSPA–2004–19854 and may be submitted in the following ways:

- *E-Gov Web Site: http://www.regulations.gov*. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* DOT Docket Operations Facility (M–30), U.S. Department of Transportation, West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* DOT Docket Operations Facility, U.S. Department of Transportation, West Building, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: In the E-Gov Web site: *http://www.regulations.gov*, under ''Search Documents'' select ''Pipeline and Hazardous Materials Safety Administration.'' Next, select ''Notices,'' and then click ''Submit.'' Select this rulemaking by clicking on the docket number listed above. Submit your comment by clicking the yellow bubble in the right column then following the instructions.

Identify docket number PHMSA–RSPA–2004–19854 at the beginning of your comments. For comments by mail, please provide two copies. To receive PHMSA's confirmation receipt, include a self-addressed stamped postcard. Internet users may access all comments at *http://www.regulations.gov*, by following the steps above.

Note: PHMSA will post all comments without changes or edits to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mike Israni by phone at (202) 366–4571 or by e-mail at *Mike.Israni@dot.gov*.

SUPPLEMENTARY INFORMATION: On December 4, 2009, PHMSA published a final rule (74 FR 63905) under Docket No. PHMSA–RSPA–2004–19854 amending the Pipeline Safety Regulations (49 CFR Parts 190–199) to require operators of gas distribution pipelines to develop and implement integrity management programs. In that final rule, PHMSA adopted a requirement that operators report failures of all compression couplings, both plastic and metallic. PHMSA also invited public comment on the requirement to report failure of compression couplings used in metal pipe. Public comments were due by January 4, 2010.

On December 18, 2009, AGA petitioned PHMSA to extend the comment period by thirty days. AGA stated that it is in the public interest to extend the comment period so that gas utilities have the opportunity to thoroughly review the regulation and draft annual report. AGA went on to say that extending the comment period is the only way to provide PHMSA with the necessary information to establish clear and consistent data. PHMSA agrees that additional time should be allowed and is extending the comment period from January 4, 2010 to February 4, 2010.

Issued in Washington, DC, on December 28, 2009.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E9–31078 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0809251266–81485–02]

RIN 0648–XT39

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; inseason quota transfers.

SUMMARY: NMFS announces that the State of Maine is transferring a portion of its 2009 commercial summer flounder quota to the Commonwealth of Massachusetts. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective December 30, 2009 through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Sarah Heil, Fishery Management Specialist, 978–281–9257.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer flounder commercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

Maine has agreed to transfer 3,790 lb (1,719.1 kg) of its 2009 commercial quota to Massachusetts to cover the summer flounder landings of one vessel granted safe harbor in Massachusetts due to mechanical issues on December 15, 2009. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised quotas for calendar year 2009 are: Maine, 1,317 lb (597.4 kg); and Massachusetts, 706,404 lb (320.4 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: December 28, 2009.

William D. Chappell,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–31064 Filed 12–30–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 250
Thursday, December 31, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206–AG63

Federal Employees' Group Life Insurance Program: Miscellaneous Changes, Clarifications, and Corrections

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is proposing changes to the Federal Employees' Group Life Insurance (FEGLI) Program regulations to provide for the new election opportunities for certain civilian and Defense Department employees deployed in support of a contingency operation required by Public Law 110–417; to provide for the continuation of coverage opportunities for Federal employees called to active duty required by Public Law 110–181; and to update the regulations with other changes, clarifications, and corrections.

DATES: OPM must receive comments on or before March 1, 2010.

ADDRESSES: Send written comments to Ingrid Burford, Senior Policy Analyst, Strategic Human Resources Policy, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415–9700; or deliver to OPM, Room 3415, 1900 E Street, NW., Washington, DC; or FAX to (202) 606–0636. Comments may also be sent through the Federal eRulemaking Portal at *http://www.regulations.gov*. All submissions received through the Portal must include the agency name and docket number or the Regulation Identifier Number (RIN) for this rulemaking. Please specify the subpart and section number for each comment.

FOR FURTHER INFORMATION CONTACT: Ingrid Burford, (202) 606–0004.

SUPPLEMENTARY INFORMATION: On October 27, 2000, OPM published proposed regulations (65 FR 64530) with miscellaneous changes, clarifications, and corrections. We have identified additional changes, clarifications, and corrections. Therefore, we are withdrawing the October 27, 2000, proposed regulations and issuing new proposed regulations. We will respond to any comments received on these proposed regulations when we publish final regulations.

The proposed changes, clarifications, and corrections are:

Changes

(1) Public Law 106–398 amended 5 U.S.C. 8702 to allow Department of Defense (DoD) employees who are designated as ''emergency essential'' under 10 U.S.C. 1580 to elect Basic insurance within 60 days of being so designated. Section 1103 of Public Law 110–417, the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, which became effective on October 14, 2008, further amended chapter 87 of title 5, U.S. Code, to allow ''emergency essential'' DoD employees, as well as civilian employees deployed in support of a contingency operation, to elect Basic Insurance, Option A (Standard) coverage and Option B (Additional) coverage up to a maximum of five (5) multiples. We are amending the regulations to include these election opportunities. These changes can be found in § 870.503(e) and (f) and § 870.506(f) and (g).

(2) Public Law 110–279, enacted July 17, 2008, provides for certain Federal employee benefits to be continued for certain employees of the Senate Restaurants after the operations of the Senate Restaurants are contracted to be performed by a private business concern. The law provides that a Senate Restaurants employee, who is an employee of the Architect of the Capitol on the date of enactment and who accepts employment by the private business concern as part of the transition, may elect to continue coverage under certain Federal employee benefits programs during continuous employment with the business concern. Former Senate Restaurant employees who have FEGLI coverage as of the date of transfer may continue their coverage, if they also elected to continue their retirement coverage under either chapter 83 or 84 of title 5, U.S. Code. These individuals will continue to be eligible for FEGLI during continuous employment with the private contractor unless the employees opt out of the FEGLI program. We are revising the FEGLI regulations to address coverage for these individuals. These changes can be found in § 870.601(a) and § 870.602(b).

(3) Section 1102 of Public Law 110–181, the National Defense Authorization Act for Fiscal Year 2008, enacted January 28, 2008, amended 5 U.S.C. 8706 to authorize the continuation of FEGLI coverage for up to 24 months for Federal employees called to active duty. FEGLI coverage is free for the first 12 months, but employees must pay the full cost (Government and employee share) of the premiums for the additional 12 months. We are amending the regulations to include this election opportunity. These changes can be found in § 870.601(d)(3)(iii).

(4) Public Law 110–177, the Court Security Improvement Act of 2007, enacted January 7, 2008, deems certain categories of judicial officers to be considered as judges of the United States under section 8701 of title 5, United States Code. The law requires magistrate judges retired under section 377 of title 28, United States Code, to be considered Federal judges under the Federal Employees' Group Life Insurance (FEGLI) law. Public Law 111–8, the Omnibus Appropriations Act of 2009, enacted March 9, 2009, further amended the FEGLI law, by identifying additional judges who should continue to be treated as employees following retirement. This law requires bankruptcy judges and magistrate judges retired under section 377 of title 28, U.S. Code, and judges retired under section 373 of title 28, to be considered Federal judges under the FEGLI law. In addition, a 1955 OPM General Counsel's opinion identified additional judges who also should continue to be treated as employees following retirement (DC judges and Tax Court judges). We are changing the regulations to add these judges. These changes can be found in § 870.703(e)(1).

(5) Currently, with a change in family circumstances an employee must already have Basic insurance and may elect only Option B and Option C. The number of multiples of Option B that such an employee may elect with a change in family circumstances is limited. We are proposing to eliminate the limitations on the coverage an

employee may elect, so that an employee making an election based on a change in family circumstances, may elect Basic insurance and any and all Optional insurance, including up to the maximum number of multiples available of Option B and Option C. These changes can be found in § 870.503(b)(3) and § 870.506(a).

(6) Newly eligible employees must be in pay and duty status before Optional insurance can become effective. The six-month belated election opportunity allows Optional insurance to become effective retroactive to the pay period following the one in which the employee became eligible, but it does not require the employee to be in pay and duty status at that time. We are proposing a change to the regulations to apply the same pay and duty status requirements for belated elections that are required for elections made on a timely basis. These changes can be found in § 870.503 and § 870.506.

(7) We are proposing a change to provide that no one but the insured individual has the right to convert coverage when insurance terminates, unless the insured individual has assigned his or her insurance, with the exception that an individual having power of attorney may convert on behalf of the insured. In addition, a family member may convert Option C coverage. These changes can be found in § 870.603(a)(1).

(8) We are proposing to change the time frame for making an initial election of Optional insurance from 31 days to 60 calendar days after the employee becomes eligible. We are also proposing to extend the time frame for electing coverage by providing satisfactory medical information from 31 days to 60 calendar days after OFEGLI's (Office of Federal Employees' Group Life Insurance) approval. These changes will make these election time frames consistent with other election opportunities for Federal benefits. These changes can be found in § 870.504 (a)(1) and § 870.506(c).

(9) When an employee who elected a partial living benefit dies, the post-election BIA (Basic Insurance Amount) is multiplied by the extra benefit age factor in effect at the time that OFEGLI received the living benefit application. We are proposing to change this computation to use the age factor in effect nine months from the date OFEGLI received the living benefit application, to be consistent with the age factor used to compute the amount of the living benefit. These changes can be found in § 870.203.

(10) Public Law 108–445, The Department of Veterans Affairs (VA) Health Care Personnel Enhancement Act of 2004, provided for the payment of market pay, in addition to base pay, for physicians and dentists employed by the VA. Accordingly, in addition to base pay, market pay must be used to determine the annual rate of pay described in § 870.204 for these individuals. Public Law 96–330, currently cited in § 870.204(a)(2)(x), relating to the treatment of bonuses for physicians and dentists employed by the VA, is no longer in effect. We are revising § 870.204 to include market pay in the determination of annual pay for these individuals.

(11) In situations of concurrent employment, the amount of Basic insurance and Option B insurance is based on the combined salaries. However, if an employee accepts a temporary position while in nonpay status from a covered position, the amount of insurance is based on whichever salary is higher. We are proposing to eliminate this exception, so that this situation will be treated the same as other instances of concurrent employment. These changes can be found in § 870.204(g).

(12) Currently, the earliest that coverage elected as a result of providing satisfactory medical information can become effective is the day after the date OFEGLI approves the employee's request for coverage. We are changing the regulations to allow Basic insurance to become effective on the date of OFEGLI's approval if the employee is in pay and duty status. We are also allowing Option A and Option B coverage to become effective on the date of OFEGLI's approval if the employing office receives the employee's election on or before that date and the employee is in pay and duty status. These changes can be found in § 870.503 and § 870.506.

(13) We are proposing to treat reemployed compensationers the same as reemployed annuitants. When a compensationer returns to work under conditions that allow him or her to continue receiving compensation, Basic insurance (and Options A and C) held as a compensationer are suspended and the insured obtains coverage as an employee. If the reemployed compensationer dies in service, OFEGLI would pay Basic insurance benefits based on whichever amount is higher: The suspended compensationer coverage or the coverage through reemployment. As with reemployed annuitants, Option B would remain with the individual's compensation, unless the employee elects to have it through reemployment. If a reemployed compensationer stops working and continues to receive compensation, he or she could continue the FEGLI acquired through reemployment if the individual meets the 5-year/all-opportunity requirement and has been reemployed for the length of time required for a reemployed annuitant to earn a supplemental annuity (1 year for full-time employment). These changes can be found in § 870.707.

(14) Public Law 106–522, 114 Stat. 2440, enacted November 22, 2000, changed the entitlement to Federal employee benefits for the District of Columbia (DC) Offender Supervision Trustee and employees of the Trustee. Previously these employees were treated as Federal employees for purposes of Federal employee retirement and insurance programs only if they transferred to the DC government within three days of separating from Federal service. Public Law 106–522 gave these employees retroactive entitlement to be treated as Federal employees on the date of their appointment or the date their sub-organizations transferred to the Trustee's office, whichever is later. We are reflecting this change in the regulations. These changes can be found in § 870.302(a)(3).

(15) Public Law 105–311, the Federal Employees Life Insurance Improvement Act, 112 Stat. 2950, enacted October 30, 1998, amended chapter 87 of title 5, U.S. Code, to allow retiring employees to elect either No Reduction or Full Reduction for their Option B and Option C coverage. This election was to be made at the time of retirement, the same as the election for Basic insurance. Implementing this provision required programming changes to the electronic records system for annuitants to allow for ''mixed'' elections, *i.e.*, electing reductions for some coverage, but not for other coverage. While these system changes were being made, annuitants were required to elect either No Reduction or Full Reduction for Option B and Option C coverage at the time of retirement. Then, shortly before the annuitant's 65th birthday, the insured was given a second opportunity to make another election, this time being allowed to choose No Reduction for some multiples and Full Reduction for others. We are proposing to eliminate the opportunity for a second election at age 65. There are several reasons for this proposed change: (i) The law states the election must be made at the time of retirement; (ii) administering the second election opportunity at age 65 is an ongoing cost to the Program; (iii) the 2nd election may be confusing to some annuitants, since the election for the Basic insurance reduction is made at the time of retirement without a second opportunity at age 65; and (iv) the

mailing itself is problematic with regard to individuals who are paying their premiums directly, as described in § 870.405, and individuals who have assigned their coverage. Individuals who have retired since this statutory provision became effective (April 24, 1999) and who have not yet turned 65 will be given the opportunity to make their ''final'' election. These changes can be found in § 870.705(d).

(16) We are proposing to eliminate the requirement for designated beneficiaries of assignees to notify the appropriate employing office of any change in address, since we do not require any other designated beneficiaries to make such a notification. The requirement will still apply to assignees themselves. These changes can be found in § 870.910.

(17) The current regulations regarding reconsiderations require the insured individual to provide his or her Social Security Number when filing a request for reconsideration. We are proposing to eliminate this requirement. Annuitants and compensationers may be identified by their retirement or compensation claim numbers. Agencies are able to identify employees by their names, addresses, and dates of birth. These changes can be found in § 870.105.

(18) Beginning April 24, 1999 and continuing until April 24, 2002, eligible employees could elect portability for Option B coverage that would otherwise terminate. The 3-year portability demonstration project has expired and employees are no longer able to elect portability. We are removing subpart L and all references to portability from the regulations, including the definitions of ''Portability Office'' and ''ported coverage'' from § 870.101.

(19) The current regulations specify that only the insured individual may elect a living benefit and no one can elect a living benefit on his or her behalf. We are proposing to change the regulations to allow another person with a power of attorney to apply for a living benefit on the insured individual's behalf. These changes can be found in § 870.1103.

Clarifications

(1) The regulations state that when incontestability (allowing erroneous coverage to remain in effect under certain conditions) applies, if the individual does not want the erroneous coverage, he or she may cancel the coverage on a prospective basis; there is no refund of premiums. We are clarifying the regulations to state that if the erroneous coverage is Option C, and there are no eligible family members, the cancellation is retroactive to the end of the pay period in which the individual last had any eligible family members. In this case, our proposed revision also would provide for a refund of the Option C premiums for this period of erroneous coverage. We are also clarifying the regulations to provide that an annuitant or compensationer cannot enroll for life insurance coverage after retirement and any erroneous enrollments must be corrected. These changes can be found in § 870.104.

(2) We are clarifying the regulations to better describe the ''on or after'' provision for the effective date of coverage. Most elections require that the employee be in pay and duty status before coverage can become effective. In these instances, the coverage becomes effective the day the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the date the employing office receives the election, the coverage becomes effective the next date that the employee is in pay and duty status. These changes are found throughout the regulations where effective dates are discussed.

(3) We are clarifying the computation of premium pay and availability pay to state that the employee's annual rate of basic pay is multiplied by the applicable percentage factor to determine pay for FEGLI purposes. These changes can be found in § 870.204(g).

(4) We are adding some definitions for clarity, including definitions of ''covered position,'' ''beneficiary,'' ''acquisition of an eligible child,'' and ''accidental death and dismemberment.'' We are also clarifying the definition of ''court order.'' These changes can be found in § 870.101.

(5) We are clarifying the requirements for continuing FEGLI during an extended period of non-pay for the special non-pay situations discussed in § 870.508 to require that all such elections for continuing coverage must be made in writing.

Corrections

(1) We are correcting the regulations to state that premiums are based on the amount of insurance last in force on an individual in the pay period, rather than the amount in force on the last day of the pay period. In most instances this is the same thing; however, if an individual dies or separates during a pay period, the amount of insurance in force on the last day of the pay period is $0. In these instances, the amount of withholding from the final pay must be based on the amount of insurance on the date of death or separation. This change can be found in § 870.401(b).

(2) In § 870.701(c), Eligibility for life insurance, there is an incorrect reference at the end to § 870.702(a)(2). That reference should be to § 870.703(a)(2). The regulations have been changed to reflect this correction.

(3) In § 870.707(e)(2), Reemployed annuitants and compensationers, there is an incorrect reference at the end to § 870.702. That reference should be to § 870.703. The regulations have been changed to reflect this correction.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects life insurance benefits of Federal employees and retirees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

John Berry,

Director, U.S. Office of Personnel Management.

Accordingly, OPM is proposing to amend 5 CFR part 870 as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

1. The authority citation for 5 CFR part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, and section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106–522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604; Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110–177, 121 Stat. 2542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104–106, 110 Stat. 521.

Subpart A—Administration and General Provisions

2. Section 870.101 is amended as follows:

a. Remove the definitions of ''Portability Office'' and ''ported coverage''.

b. Add the following definitions of ''accidental death and dismemberment'', ''acquisition of an eligible child'', ''beneficiary'', and ''covered position'', and revise the definition of ''court order'' as follows:

§ 870.101 Definitions.

Accidental death and dismemberment refers to the insured's death or loss of a hand, a foot, or vision in one eye that results directly from, and occurs within one year of, a bodily injury caused solely through violent, external, and accidental means.

Acquisition of an eligible child occurs when:

(1) A child is born to the insured;

(2) The insured adopts a child;

(3) The insured acquires a foster child;

(4) The insured's stepchild or recognized natural child moves in with the insured;

(5) An otherwise eligible child's marriage is dissolved by divorce or annulment, or his or her spouse dies;

(6) The insured gains custody of an eligible child.

* * * * *

Beneficiary means the individual, corporation, trust, or other entity that receives FEGLI benefits when an insured individual dies.

* * * * *

Court order means:

(1) A court decree of divorce, annulment, or legal separation; or

(2) A court-approved property settlement agreement relating to a court decree of divorce, annulment, or legal separation—that requires benefits to be paid to a specific person or persons and is received in the employing office before the insured dies.

Covered position means a position in which an employee is not excluded from FEGLI eligibility by law or regulation.

* * * * *

3. Sections 870.104 and 870.105 are revised to read as follows:

§ 870.104 Incontestability.

(a) If an individual erroneously becomes insured, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the individual has paid applicable premiums during that time. This applies to errors discovered on or after October 30, 1998, and applies only to employees, not retirees or compensationers.

(b) If an employee is erroneously allowed to continue insurance into retirement or while receiving compensation, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the annuitant or compensationer has paid applicable premiums during that time. This applies to such errors discovered on or after October 30, 1998.

(c) If an individual is erroneously enrolled in life insurance on or after the date he or she retires or begins receiving compensation, the coverage cannot remain in effect even if 2 years pass and the individual paid applicable premiums.

(d) If an individual who is allowed to continue erroneous coverage under this section does not want the coverage, he or she may cancel the coverage on a prospective basis, effective at the end of the pay period in which the waiver is properly filed. There is no refund of premiums. *Exception:* If an employee obtained Option C erroneously and did not have any eligible family members, that coverage may be cancelled retroactively and the insured will obtain a refund of the erroneous Option C premiums.

§ 870.105 Initial decision and reconsideration.

(a) An individual may ask his or her agency or retirement system to reconsider its initial decision denying:

(1) Life insurance coverage;

(2) The opportunity to change coverage;

(3) The opportunity to designate a beneficiary; or

(4) The opportunity to assign insurance.

(b) An employing office's decision is an initial decision when the employing office gives it in writing and informs the individual of the right to an independent level of review (reconsideration) by the appropriate agency or retirement system.

(c) A request for reconsideration must be made in writing and must include the following:

(1) The employee's (or annuitant's) name, address, date of birth;

(2) The reason(s) for the request; and

(3) The retirement claim number (Civil Service Annuity Claim Number) or compensation number, if applicable.

(d) A request for reconsideration must be made within 31 calendar days from the date of the initial decision (60 calendar days if overseas). This time limit may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it or that he or she was unable, due to reasons beyond the individual's control, to make the request within the time limit.

(e) The reconsideration must take place at or above the level at which the initial decision was made.

(f) After reconsideration, the agency or retirement system must issue a final decision to the insured individual. This decision must be in writing and must fully state the findings.

Subpart B—Types and Amounts of Insurance

4. In § 870.202, paragraph (a)(1) is revised to read as follows:

§ 870.202 Basic insurance amount (BIA).

(a)(1) An employee's Basic insurance amount (BIA) is either:

(i) The employee's annual rate of basic pay, rounded to the next higher thousand, plus $2,000; or

(ii) $10,000; whichever is higher, unless the employee has elected a Living Benefit under subpart K of this part. Effective for pay periods beginning on or after October 30, 1998, there is no maximum BIA.

Note: If an employee's pay is ''capped'' by law, the amount of the Basic insurance is based on the capped amount, which is the amount the employee is actually being paid. It is not based on the amount the employee's pay would have been without the pay cap.

* * * * *

5. Section 870.203 is revised to read as follows:

§ 870.203 Post-election BIA.

(a) The BIA of an individual who elects a Living Benefit under subpart K of this part is the amount of insurance left after the effective date of the Living Benefit election. This amount is the individual's post-election BIA.

(1) The post-election BIA of an individual who elects a full Living Benefit is 0.

(2) If an employee elects a partial Living Benefit, the employee still has some Basic insurance. OFEGLI determines this amount by computing the BIA as of the date it receives the completed Living Benefit application and reducing the amount by a percentage. This percentage represents the amount of the employee's partial Living Benefit payment, compared to the amount the employee could have received if he or she had elected a full Living Benefit. The amount that is left is rounded up or down to the nearest multiple of $1,000. (If the amount is midway between multiples, it is rounded up to the next higher multiple.)

(b) The post-election BIA cannot change after the effective date of the Living Benefit election.

(c) If an employee elected a partial Living Benefit and that employee is

under age 45 at the time of death, OFEGLI will multiply the post-election BIA by the appropriate factor, as specified in § 870.202(c), in effect on the date 9 months after the date OFEGLI received the completed Living Benefit application.

6. In § 870.204, paragraphs (a)(2)(x) and (g) are revised to read as follows:

§ 870.204 Annual rates of pay.

(a) * * *

(2) * * *

(x) Market pay for physicians and dentists of the Department of Veterans Affairs under 38 U.S.C. 7431; and

* * * * *

(g)(1) Except as provided in paragraphs (g)(2) and (3) of this section, if an employee legally serves in more than one position at the same time, and at least one of those positions entitles the employee to life insurance coverage, the annual pay for life insurance purposes is the sum of the annual rate of basic pay fixed by law or regulation for each position.

(2) Paragraph (g)(1) does not apply to—

(i) An employee of the Postal Service who works on a part-time flexible schedule; or

(ii) A temporary, intermittent decennial census worker.

(3) If an employee's annual pay includes premium pay or availability pay under § 870.204(e), (f), or (g), the annual pay is determined by multiplying the employee's annual rate of basic pay by the applicable percentage factor.

7. In § 870.205, paragraph (b)(1) is revised to read as follows:

§ 870.205 Amount of Optional insurance.

* * * * *

(b)(1) Option B coverage comes in 1, 2, 3, 4, or 5 multiples of an employee's annual pay (after the pay has been rounded to the next higher thousand, if not already an even thousand). Effective for pay periods beginning on or after October 30, 1998, there is no maximum amount for each multiple.

Note: If an employee's pay is ''capped'' by law, the amount of the Option B insurance is based on the capped amount, which is the amount the employee is actually being paid. It is not based on the amount the employee's pay would have been without the pay cap.

* * * * *

8. Section 870.206 is revised to read as follows:

§ 870.206 Accidental death and dismemberment.

(a)(1) Accidental death and dismemberment coverage is an automatic part of Basic and Option A insurance for employees.

(2) There is no accidental death and dismemberment coverage with Option B or Option C.

(3) Individuals who are insured as annuitants or compensationers do not have accidental death and dismemberment coverage.

(b)(1) Under Basic insurance, accidental death benefits are equal to the BIA, but without the age factor described in § 870.202(c).

(2) Under Option A, accidental death benefits are equal to the amount of Option A.

(c)(1) Under Basic insurance, accidental dismemberment benefits for the loss of a hand, foot, or the vision in one eye are equal to one-half the BIA. For loss of 2 or more of these in a single accident, benefits are equal to the BIA.

(2) Under Option A, accidental dismemberment benefits for the loss of a hand, foot, or the vision in one eye are equal to one-half the amount of Option A. For loss of 2 or more of these in a single accident, benefits are equal to the amount of Option A.

(3) Accidental dismemberment benefits are paid to the employee.

(4) Accidental death benefits are paid to the employee's beneficiaries.

Subpart C—Eligibility

9. Section 870.302 is revised to read as follows:

§ 870.302 Exclusions.

(a) The following individuals are excluded from life insurance coverage by law:

(1) An employee of a corporation supervised by the Farm Credit Administration, if private interests elect or appoint a member of the board of directors.

(2) An individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States. *Exception:* an individual who met the definition of *employee* on September 30, 1979, by service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone.

(3) An individual first employed by the government of the District of Columbia on or after October 1, 1987. *Exceptions:*

(i) An employee of St. Elizabeths Hospital, who accepts employment with the District of Columbia government following Federal employment without a break in service, as provided in section 6 of Public Law 98–621 (98 Stat. 3379);

(ii) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority (Authority), who makes an election under the Technical Corrections to Financial Responsibility and Management Assistance Act (section 153 of Pub. L. 104–134 (110 Stat. 1321)) to be considered a Federal employee for life insurance and other benefits purposes; employees of the Authority who are former Federal employees are subject to the provisions of §§ 870.503(d) and 870.705 of this part;

(iii) The Corrections Trustee or an employee of that Trustee who accepts employment with the District of Columbia government within 3 days after separating from the Federal Government.

(iv) The Pretrial Services, Parole, Adult Probation and Offender Supervision Trustee or an employee of that Trustee;

(v) Effective October 1, 1997, a judicial or nonjudicial employee of the District of Columbia Courts, as provided by Public Law 105–33 (111 Stat. 251); and

(vi) Effective April 1, 1999, an employee of the Public Defender Service of the District of Columbia, as provided by Public Law 105–274 (112 Stat. 2419).

(4) A teacher in a Department of Defense dependents school overseas, if employed by the Federal Government in a nonteaching position during the recess period between school years.

(b) The following employees are also excluded from life insurance coverage:

(1) An employee serving under an appointment limited to 1 year or less. *Exceptions:*

(i) An employee whose full-time or part-time temporary appointment has a regular tour of duty and follows employment in a position in which the employee was insured, with no break in service or with a break in service of no more than 3 days;

(ii) An acting postmaster;

(iii) A Presidential appointee appointed to fill an unexpired term; and

(iv) Certain employees who receive provisional appointments as defined in § 316.403 of this chapter.

(2) An employee who is employed for an uncertain or purely temporary period, who is employed for brief periods at intervals, or who is expected to work less than 6 months in each year. *Exception:* an employee who is employed under an OPM-approved career-related work-study program under Schedule B lasting at least 1 year and who is expected to be in pay status for at least one-third of the total period of time from the date of the first

appointment to the completion of the work-study program.

(3) An intermittent employee (a non-full-time employee without a regularly-scheduled tour of duty). *Exception:* an employee whose intermittent appointment follows, with no break in service or with a break in service of no more than 3 days, employment in a position in which he or she was insured and to which he or she is expected to return.

(4) An employee whose pay, on an annual basis, is $12 a year or less.

(5) A beneficiary or patient employee in a Government hospital or home.

(6) An employee paid on a contract or fee basis. *Exception:* an employee who is a United States citizen, who is appointed by a contract between the employee and the Federal employing authority which requires his or her personal service, and who is paid on the basis of units of time.

(7) An employee paid on a piecework basis. *Exception:* an employee whose work schedule provides for full-time or part-time service with a regularly-scheduled tour of duty.

(8) A Senate restaurant employee, except a former Senate restaurant employee who had life insurance coverage on the date of transfer to a private contractor on or after July 17, 2008, and who elected to continue such coverage and to continue coverage under either chapter 83 or 84 of title 5, United States Code.

(c) OPM makes the final determination regarding the applicability of the provisions of this section to a specific employee or group of employees.

Subpart D—Cost of Insurance

10. In § 870.401, paragraph (b)(3) is revised to read as follows:

§ 870.401 Withholdings and contributions for Basic insurance.

* * * * *

(b) * * *

(3) The amount withheld from the pay of an insured employee whose BIA changes during a pay period is based on the BIA last in force during the pay period

* * * * *

11. In § 870.404, paragraph (a) is revised to read as follows:

§ 870.404 Withholdings and contributions provisions that apply to both Basic and Optional insurance.

(a) Withholdings (and Government contributions, when applicable) are based on the amount of insurance last in force on an employee during the pay period.

* * * * *

12. In § 870.405, paragraphs (c)(2), (g)(1), and (g)(5) are revised to read as follows:

§ 870.405 Direct premium payments.

* * * * *

(c) * * *

(2) Within 31 calendar days of receiving the notice (60 days for individuals living overseas), the insured individual (or assignee) must return the notice to the employing office or retirement system, choosing either to terminate some or all of the insurance or to make direct premium payments. An employee, annuitant, or compensationer is considered to receive a mailed notice 15 days after the date of the notice.

* * * * *

(g)(1) If an individual on direct pay fails to make the required premium payment on time, the employing office or retirement system must notify the individual. The individual must make the payment within 31 calendar days after receiving the notice (60 days if living overseas). An individual is considered to have received a mailed notice 15 days after the date of the notice, 30 days if living overseas.

* * * * *

(5) If, for reasons beyond his or her control, an insured individual is unable to pay within 30 days of receiving the past due notice (45 days if living overseas), he or she may request reinstatement of coverage by writing to the employing office or retirement system within 60 days from the date of cancellation. The individual must provide proof that the inability to pay within the time limit was for reasons beyond his or her control. The employing office or retirement system will decide if the individual is eligible for reinstatement of coverage. If the employing office or retirement system approves the request, the coverage is reinstated back to the date of cancellation, and the individual must pay the back premiums.

Subpart E—Coverage

13. Sections 870.503 and 870.504 are revised to read as follows:

§ 870.503 Basic insurance: Canceling a waiver.

(a) An annuitant or compensationer who has filed a waiver of Basic insurance cannot cancel the waiver.

(b) An employee who has filed a waiver of Basic insurance may cancel the waiver and become insured if:

(1) The employee makes an election during an open enrollment period as described in § 870.507;

(2) At least 1 year has passed since the effective date of the waiver, and the employee provides satisfactory medical evidence of insurability; or

(3) The employee has a change in family circumstances (marriage or divorce, a spouse's death, or acquisition of an eligible child) and files an election as provided in paragraph (b)(3(i), (b)(3)(ii), or (b)(3)(iii) of this section. Except as provided in paragraph (b)(3)(iii) of this section, the effective date of Basic insurance elected under this paragraph (b)(3) is the 1st day the employee actually enters on duty in a pay status on or after the day the employing office receives the election.

(i) An employee must file an election under this paragraph with the employing office, in a manner designated by OPM, along with proof of the event, no later than 60 calendar days following the date of the change in family circumstances that permits the election; the employee may also file the election before the event and provide proof no later than 60 calendar days following the event.

(ii) An employee making an election under this paragraph based on acquisition of an eligible foster child must file the election with the employing office no later than 60 calendar days after completing the required certification.

(iii) Within 6 months after an employee becomes eligible to make an election of Basic insurance due to a change in family circumstances, an employing office may determine that the employee was unable, for reasons beyond his or her control, to elect Basic insurance within the time limit. In this case, the employee must elect Basic insurance within 60 calendar days after he or she is notified of the determination. The insurance is retroactive to the 1st day of the first pay period beginning after the date the individual became eligible, if the employee was in pay and duty status that day. If the employee was not in pay and duty status that day, the coverage becomes effective the 1st day after the date the employee returned to pay and duty status. The individual must pay the full cost of the Basic insurance from that date for the time that he or she is in pay status.

(c) OFEGLI reviews the employee's request and determines whether the employee complied with paragraph (b)(2) of this section. If the employee complied, then OFEGLI approves the Request for Insurance. The Basic insurance is effective on the date of

OFEGLI's approval if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the date of OFEGLI's approval, the Basic insurance is effective the first day the employee returns to pay and duty status, as long as it is within 60 calendar days after OFEGLI's approval. If the employee is not in pay and duty status within 60 calendar days after OFEGLI's approval, the approval is revoked automatically.

(d) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of Basic insurance is automatically cancelled. Unless the employee files a new waiver, Basic insurance becomes effective on the 1st day he or she actually enters on duty in pay status in a position in which he or she is eligible for coverage. *Exception:* For employees who waived Basic insurance after February 28, 1981, separated, and returned to Federal service before December 9, 1983, the waiver remained in effect; these employees were permitted to elect Basic insurance by applying to their employing office before March 7, 1984.

(e)(1) An employee of the Department of Defense who is designated as an ''emergency essential employee'' under section 1580 of title 10, United States Code, may cancel a waiver of Basic insurance without providing satisfactory medical information.

(2) An election of Basic insurance under paragraph (e)(1) of this section must be made within 60 days of being designated ''emergency essential.'' Basic insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the election, the coverage becomes effective on the date the employee returns to pay and duty status.

(f)(1) A civilian employee who is eligible for Basic insurance coverage and is deployed in support of a contingency operation as defined by section 101(a)(13) of title 10, United States Code, may cancel a waiver of Basic Insurance without providing satisfactory medical information.

(2) An election of Basic insurance under paragraph (f)(1) of this section must be made within 60 days after the date of notification of deployment in support of a contingency operation. Basic insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the election, the coverage becomes effective on the date the employee returns to pay and duty status.

§ 870.504 Optional insurance: Election.

(a)(1) Each employee must elect or waive Option A, Option B, and Option C coverage, in a manner designated by OPM, within 60 days after becoming eligible unless, during earlier employment, he or she filed an election or waiver that remains in effect. The 60-day time limit for Option B or Option C begins on the 1st day after February 28, 1981, on which an individual is an *employee* as defined in § 870.101.

(2) An employee of the District of Columbia Financial Responsibility and Management Assistance Authority who elects to be considered a Federal employee under section 153 of Public Law 104–134 (110 Stat. 1321) must elect or waive Option A, Option B, and Option C coverage within 31 days after the later of:

(i) The date his or her employment with the Authority begins, or

(ii) The date the Authority receives his or her election to be considered a Federal employee.

(3) Within 6 months after an employee becomes eligible, an employing office may determine that the employee was unable, for reasons beyond his or her control, to elect any type of Optional insurance within the time limit. In this case, the employee must elect or waive that type of Optional insurance within 60 days after being notified of the determination. The insurance is retroactive to the 1st day of the 1st pay period beginning after the date the individual became eligible (or after April 1, 1981, whichever is later), if the employee was in pay and duty status that day. If the employee was not in pay and duty status that day, the coverage becomes effective the 1st day after the date the employee returned to pay and duty status. The individual must pay the full cost of the Optional insurance from that date for the time that he or she is in pay status (or retired or receiving compensation with unreduced Optional insurance).

(b) Any employee who does not file a Life Insurance Election with his or her employing office, in a manner designated by OPM, specifically electing any type of Optional insurance, is considered to have waived it and does not have that type of Optional insurance.

(c) For the purpose of having Option A as an employee, an election of this insurance filed on or before February 28, 1981, is considered to have been cancelled effective at the end of the pay period which included March 31, 1981, unless the employee did not actually enter on duty in pay status during the 1st pay period that began on or after April 1, 1981. In that case, the election is considered to have been cancelled on the 1st day after the end of the next pay period in which the employee actually entered on duty in pay status. In order to have Option A as an employee after the date of this cancellation, an employee must specifically elect the coverage by filing the Life Insurance Election with his or her employing office, subject to § 870.504(a) or 870.506(b).

(d) Optional insurance is effective the 1st day an employee actually enters on duty in pay status on or after the day the employing office receives the election. If the employee is not in pay and duty status on the date the employing office receives the election, the coverage becomes effective the next date that the employee is in pay and duty status.

(e) For an employee whose Optional insurance stopped for a reason other than a waiver, the insurance is reinstated on the 1st day he or she actually enters on duty in pay status in a position in which he or she again becomes eligible.

14. Sections 870.506, 870.507, and 870.508 are revised to read as follows:

§ 870.506 Optional insurance: Canceling a waiver.

(a) *When there is a change in family circumstances* (*see* § 870.503(b)(3)). (1) An employee may cancel a waiver of Options A, B, and C due to a change in family circumstances as provided in paragraphs (a)(2) through (a)(6) of this section.

(2) An employee who has waived Options A and B coverage may elect coverage, and an employee who has fewer than 5 multiples of Option B may increase the number of multiples, upon his or her marriage or divorce, upon a spouse's death, or upon acquisition of an eligible child.

(3) An employee electing or increasing Option B coverage may elect any number of multiples, as long as the total number of multiples does not exceed 5.

(4)(i) An employee who has waived Option C coverage may elect it, and an employee who has fewer than 5 multiples of Option C may increase the number of multiples, upon his or her marriage or acquisition of an eligible child. An employee may also elect or increase Option C coverage upon divorce or death of a spouse, if the employee has any eligible children.

(ii) An employee electing or increasing Option C coverage may elect any number of multiples, as long as the

total number of multiples does not exceed 5.

(5)(i) Except as stated in paragraph (a)(5)(iii) of this section, the employee must file an election under paragraph (a)(2) or (a)(4) of this section with the employing office, in a manner designated by OPM, along with proof of the event, no later than 60 calendar days following the date of the event that permits the election; the employee may also file the election before the event and provide proof no later than 60 calendar days following the event.

(ii) An employee making an election under paragraph (a)(4)(i) of this section following the acquisition of an eligible foster child must file the election with the employing office no later than 60 calendar days after completing the required certification.

(iii) In the case of an employee who had a change in family circumstances between October 30, 1998, and April 23, 1999, an election under this section must have been made on or before June 23, 1999.

(iv) Within 6 months after an employee becomes eligible to make an election due to a change in family circumstances, an employing office may determine that the employee was unable, for reasons beyond his or her control, to elect or increase Optional insurance within the time limit. In this case, the employee must elect or increase Optional insurance within 60 calendar days after he or she is notified of the determination. The insurance is retroactive to the 1st day of the first pay period beginning after the date the individual became eligible if the employee was in pay and duty status that day. If the employee was not in pay and duty status that day, the coverage becomes effective the 1st day after that date the employee returned to pay and duty status. The individual must pay the full cost of the Optional insurance from that date for the time that he or she is in pay status.

(6)(i) The effective date of Options A and B insurance elected under paragraph (a)(1) of this section is the 1st day the employee actually enters on duty in pay status on or after the day the employing office receives the election.

(ii) Except as provided in paragraphs (a)(5)(iii) and (a)(6)(iv) of this section, the effective date of Option C coverage elected because of marriage, divorce, death of a spouse, or acquisition of an eligible child is the day the employing office receives the election, or the date of the event, whichever is later. *Exception:* Coverage elected under paragraph (a)(5)(iii) of this section was effective April 24, 1999.

(iii) The effective date of Option C coverage elected because of the acquisition of a foster child is the date the employing office receives the election or the date the employee completes the certification, whichever is later.

(iv) If the employee does not elect Basic insurance and Option C together (and did not have Basic insurance before), then Option C becomes effective the same day as his or her Basic insurance becomes effective.

(b) *When there is no change in family circumstances.* (1) An employee who has waived Option A or Option B coverage may cancel the waiver and elect coverage if:

(i) The employee makes an election during an open enrollment period; or

(ii) At least 1 year has passed since the effective date of the waiver, and the employee provides satisfactory medical evidence of insurability.

(2) An employee who has Option B coverage of fewer than five multiples of annual pay may increase the number of multiples if at least 1 year has passed since the effective date of his or her last election of fewer than five multiples (including a reduction in the number of multiples), and the employee provides satisfactory medical evidence of insurability.

(3) A waiver of Option C may be cancelled only if there is a change in family circumstances or during an open enrollment period.

(c) OFEGLI reviews the employee's request and determines whether the employee complied with paragraphs (b)(1)(ii) and (b)(2) of this section. If the employee complied, then OFEGLI approves the Request for Insurance. The Option A and B insurance is effective on the date of OFEGLI's approval, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the date of OFEGLI's approval, the insurance is effective the first day the employee returns to pay and duty status, as long as it is within 60 calendar days of OFEGLI's approval. If the employee is not in pay and duty status within 60 calendar days after OFEGLI's approval, the approval is revoked automatically.

(d) If an employee waived Option A insurance on or before February 28, 1981, the waiver was automatically cancelled effective on the 1st day the employee entered on duty in pay status on or after April 1, 1981. Option A coverage was effective on the date of the waiver's cancellation, if the employee filed an election of Option A during the March 1, 1981, through March 31, 1981, open enrollment period. If the employee did not file the election with his or her employing office during the March 1981 open enrollment period, the employee is considered to have waived Option A on March 31, 1981.

(e) When an employee who has been separated from service for at least 180 days is reinstated on or after April 1, 1981, a previous waiver of Optional insurance is automatically cancelled, as follows:

(1) An employee who returned to service between April 1, 1981, and December 8, 1983, after a 180-day break in service was permitted to elect any form of Optional insurance by applying to his or her employing office before March 7, 1984.

(2) An employee who returns to service after December 8, 1983, following a 180-day break in service may elect any form of Optional insurance by applying to his or her employing office within 60 calendar days after reinstatement. Coverage is effective on the 1st day the employee actually enters on duty in pay status in a position in which he or she is eligible for insurance on or after the date the employing office receives the election. If the employee does not file a Life Insurance Election in a manner designated by OPM within the 60-day period, the employee has whatever Optional insurance coverage he or she had immediately before separating from Federal service and is considered to have waived any other Optional insurance. However, an employee who fails to file an election during the 60-day period due to reasons beyond his or her control may enroll belatedly under the conditions stated in § 870.504(a)(3).

(f)(1) An employee of the Department of Defense who is designated as ''emergency essential'' under section 1580 of title 10, United States Code, may cancel a waiver of Option A and Option B insurance.

(2) An election of Option A or Option B insurance under paragraph (f)(1) must be made within 60 days of being designated ''emergency essential.'' Optional insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the election, the coverage becomes effective on the date the employee returns to pay and duty status.

(g)(1) A civilian employee who is eligible for life insurance coverage and who is deployed in support of a contingency operation as defined by section 101(a)(13) of title 10, United States Code, may cancel a waiver of Option A and/or Option B insurance.

(2) An election of Optional elect insurance under paragraph (g)(1) must be made within 60 days after the date of notification of deployment in support of a contingency operation. Optional insurance is effective on the date the employing office receives the election, if the employee is in pay and duty status on that date. If the employee is not in pay and duty status on the day the employing office receives the election, the coverage becomes effective on the date the employee returns to pay and duty status.

(h) An annuitant or compensationer is not eligible to cancel a waiver of any type of Optional insurance or to increase multiples of Option B under this section.

§ 870.507 Open enrollment periods.

(a) There are no regularly scheduled open enrollment periods for life insurance. Open enrollment periods are held only when specifically scheduled by OPM.

(b) During an open enrollment period, unless OPM announces otherwise, eligible employees may cancel their existing waivers of Basic and/or Optional insurance by electing the insurance in a manner designated by OPM.

(c)(1) OPM sets the effective date for all insurance elected during an open enrollment period. The newly elected insurance is effective on the 1st day of the 1st pay period that begins on or after the OPM-established date and that follows a pay period during which the employee was in pay and duty status for at least 32 hours, unless OPM announces otherwise.

(2) A part-time employee must be in pay and duty status for one-half the regularly-scheduled tour of duty shown on his or her current Standard Form 50 for newly-elected coverage to become effective, unless OPM announces otherwise.

(3) An employee who has no regularly-scheduled tour of duty or who is employed on an intermittent basis must be in pay and duty status for one-half the hours customarily worked before newly-elected coverage can become effective, unless OPM announces otherwise. For the purpose of this paragraph, an employing office may determine the number of hours customarily worked by averaging the number of hours worked in the most recent calendar year quarter prior to the start of the open enrollment period.

(d) Within 6 months after an open enrollment period ends, an employing office may determine that an employee was unable, for reasons beyond his or her control, to cancel an existing waiver by electing to be insured during the open enrollment period. An election under this paragraph must be submitted within 60 days after being notified of the determination. Coverage is retroactive to the first pay period that begins on or after the effective date set by OPM and that follows a pay period during which the employee was in pay and duty status for at least 32 hours, unless OPM announces otherwise. If the employee does not file an election within this 60-day time limit, he or she will be considered to have waived coverage.

§ 870.508 Nonpay status.

(a) An employee who is in nonpay status is entitled to continue life insurance for up to 12 months. No premium payments are required, unless the employee is receiving compensation.

(b) If an insured employee who is entitled to free insurance while in nonpay status accepts a temporary appointment to a position in which he or she would normally be excluded from insurance coverage, the insurance continues. The amount of Basic insurance (and Option B coverage if the employee has it) is based on the combined salaries of the two positions. Withholdings are made from the employee's pay in the temporary position.

(c) If an insured employee goes on leave without pay (LWOP) to serve as a full-time officer or employee of an employee organization, he or she may elect in writing to continue life insurance within 60 days after the beginning of the LWOP. The insurance continues for the length of the appointment, even if the LWOP lasts longer than 12 months. The employee must pay to the employing office the full cost of Basic and Optional insurance starting with the beginning of the nonpay status; the employee is not entitled to 12 months of free coverage. There is no Government contribution for these employees.

(d) If an insured employee goes on LWOP while assigned to a State government, local government, or institution of higher education, the employee may elect in writing to continue the life insurance for the length of the assignment, even if the LWOP lasts longer than 12 months. The employee must pay his or her premiums to the Federal agency on a current basis starting with the beginning of the nonpay status; the employee is not entitled to 12 months of free coverage. The agency must continue to pay its contribution as long as the employee makes his or her payments.

Subpart F—Termination and Conversion

15. Sections 870.601, 870.602, and 870.603 are revised to read as follows:

§ 870.601 Termination of Basic insurance.

(a) Except as otherwise provided in this section or § 870.701 of this part, the Basic insurance of an insured employee stops on the date the employee separates from service, subject to a 31-day extension of coverage. *Exception:* If the employee was employed by the Architect of the Capitol as a Senate Restaurants employee the day before the food services operations of the Senate Restaurants were transferred to a private business concern and the employee accepted employment by the business concern and elected to continue his or her Federal retirement benefits and FEGLI coverage, the employee continues to be eligible for FEGLI coverage as long as he or she remains employed by the business concern or its successor.

(b) The Basic insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this chapter and who postpones receiving the annuity, as provided by § 842.204(c) of this chapter (an MRA+10 annuity), stops on the date he or she separates from service, subject to a 31-day extension of coverage.

(c) The Basic insurance of an insured employee who moves without a break in service to a position in which he or she is excluded from life insurance stops on the last day of employment in the former position, subject to a 31-day extension of coverage. *Exception:* If the position is excluded by regulation (not by law), and the employee does not have a break in service of more than three days, the Basic insurance continues.

(d)(1) Except as provided in § 870.701, the Basic insurance of an insured employee who is in nonpay status stops on the date the employee completes 12 months in nonpay status, subject to a 31-day extension of coverage. The 12 months' nonpay status may be broken by periods of less than 4 consecutive months in pay status. If an employee has at least 4 consecutive months in pay status after a period of nonpay status, he or she is entitled to begin the 12 months' continuation of Basic insurance again. If an employee has used up his or her 12 months' continuation in nonpay status and returns to duty for less than 4 consecutive months, his or her Basic insurance stops on the 32nd day after the last day of the last pay period in pay status.

(2) For the purpose of paragraph (d)(1) of this section, 4 consecutive months in pay status means any 4-month period during which the employee is in pay status for at least part of each pay period.

(3)(i) For the purpose of paragraph (d)(1) of this section, an individual who is entitled to benefits under part 353 of this chapter (USERRA—Uniformed Services Employment and Reemployment Act of 1994), who separates to go on military duty instead of going into a nonpay status, is treated as an employee in nonpay status for life insurance purposes.

(ii) Basic insurance continues free for 12 months or until 90 days after military service ends, whichever comes first.

(iii) Effective January 28, 2008, an employee who enters on active duty, or active duty for training in one of the uniformed services for more than 30 days, may continue enrollment for an additional 12 months, for a total of up to 24 months.

(A) Each agency must notify its employees of the opportunity to elect to continue coverage for the additional 12 months.

(B) An employee wanting coverage for the additional 12 months must elect it prior to the end of the first 12 months in nonpay status, in a manner designated by the employing agency.

(C) Insurance continues free for the first 12 months; however, an employee must pay both the employee and agency share of premiums to the agency on a current basis for Basic coverage, and must pay the entire cost (there is no agency share) for any Optional insurance for the additional 12 months of coverage elected.

(D) For an employee who does not elect to continue coverage for an additional 12 months, coverage terminates at the end of the first 12 months in nonpay status subject to the 31-day extension of coverage and conversion rights as provided in § 870.603 of this part.

(e) Except for employees, annuitants, and compensationers who elect direct payment as provided in § 870.405 of this part, Basic insurance stops, subject to a 31-day extension of coverage, at the end of the pay period in which the employing office or retirement system determines that an individual's periodic pay, annuity, or compensation, after all other deductions, is not enough to cover the full cost of Basic insurance.

§ 870.602 Termination of Optional insurance.

(a) The Optional insurance of an insured employee stops when his or her Basic insurance stops, subject to the same 31-day extension of coverage.

(b) The Optional insurance of an employee who separates from service after meeting the requirement for an immediate annuity under § 842.204(a)(1) of this chapter and who postpones receiving the annuity, as provided by § 842.204(c) of this chapter (an MRA+10 annuity), stops on the date he or she separates from service, subject to a 31-day extension of coverage. *Exception:* If the employee was employed by the Architect of the Capitol as a Senate Restaurants employee the day before the food services operations of the Senate Restaurants were transferred to a private business concern and the employee accepted employment with the business concern and elected to continue his or her Federal retirement benefits and FEGLI coverage, the employee continues to be eligible for FEGLI coverage as long as he or she remains employed by the business concern or its successor.

(c)(1) If an insured employee is not eligible to continue Optional coverage as an annuitant or compensationer as provided by § 870.701, the Optional insurance stops on the date that his or her Basic insurance is continued or reinstated under § 870.701, subject to a 31-day extension of coverage.

(d) If, at the time of an individual's election of Basic insurance during receipt of annuity or compensation, he or she elects no Basic life insurance as provided by § 870.702(a)(1), the Optional insurance stops at the end of the month in which the election is received in OPM, subject to a 31-day extension of coverage.

(e) Except for employees, annuitants, and compensationers who elect direct payment as provided in § 870.405, Optional insurance stops, subject to a 31-day extension of coverage, at the end of the pay period in which the employing office or retirement system determines that an individual's periodic pay, annuity, or compensation, after all other deductions, is not enough to cover the full cost of the Optional insurance. If an individual has more than one type of Optional insurance and his or her pay, annuity, or compensation is sufficient to cover some but not all of the insurance, the multiples of Option C terminate first, followed by Option A, and then the multiples of Option B.

§ 870.603 Conversion of Basic and Optional insurance.

(a)(1) When group coverage terminates for any reason other than voluntary cancellation, an employee may apply to convert all or any part of his or her Basic and Optional insurance to an individual policy; no medical examination is required. The premiums for the individual policy are based on the employee's age and class of risk. An employee is eligible to convert the policy only if he or she does not return, within 3 calendar days from the terminating event, to a position covered under the group plan. *Exception:* If an employee is unable to convert, a person having power of attorney for that employee may convert on his or her behalf. If insurance has been assigned under subpart I of this part, it is the assignee(s), not the employee, who has (have) the right to convert.

(2) The employing agency must notify the employee/assignee(s) of the loss of coverage and the right to convert to an individual policy either before or immediately after the event causing the loss of coverage.

(3) The employee/assignee(s) must submit the request for conversion information to OFEGLI. OFEGLI must receive the request for conversion within 31 calendar days of the date on the conversion notification the employee receives from the employing agency (60 days if overseas) or within 60 calendar days after the date of the terminating event (90 days, if overseas), whichever is earlier.

(4) If the employee does not request conversion information within the specified time period as described in paragraph (a)(3) of this section, the employee is considered to have refused coverage unless OFEGLI determines the failure was for reasons beyond the employee's control, as described in paragraph (a)(5) of this section.

(5) When an agency fails to provide the notification required in paragraph (a)(2) of this section, or the employee/assignee fails to request conversion information within the time limit set in paragraph (a)(3) of this section for reasons beyond his or her control, the employee may make a belated request by writing to OFEGLI. The employee/assignee must make the request within 6 months after becoming eligible to convert the insurance. The employee/assignee must show that he or she was not notified of the loss of coverage and the right to convert and was not otherwise aware of it or that he or she was unable to convert to an individual policy for reasons beyond his or her control. OFEGLI will determine if the employee/assignee is eligible to convert. If the request is approved, the employee must convert within 31 calendar days of that determination.

(b) The individual conversion policy is effective the day after the group coverage ends. The employee/assignee

must pay the premiums for any period retroactive to that date.

(c) The 31-day extension of coverage provided under this subpart does not depend upon timely notification of the right to convert to an individual policy. The extension cannot be continued beyond 31 days.

(d) Family members may convert Option C coverage (and name beneficiaries of their choice) if:

(1) The employee dies; or

(2) The insurance stops under circumstances that allow the employee to convert Option C coverage but the employee does not convert.

(e) If an employee with Option C coverage dies, the employing office must send a conversion notice to the family members at the employee's last address on file.

(f) Family members must submit the request for conversion information to OFEGLI. OFEGLI must receive the request for conversion within 31 calendar days of the date on the conversion notification the employee receives from his or her employing agency (60 days if overseas) or within 60 calendar days after the date of the terminating event (90 days, if overseas), whichever is earlier. There is no extension to these time limits. Family members are considered to have refused coverage if they do not request conversion within these time limits.

(g) The family members' conversion policy is effective at the end of the employee's 31-day extension of coverage.

Subpart G—Annuitants and Compensationers

16. Section 870.701(c) is revised to read as follows:

§ 870.701 Eligibility for life insurance.

* * * * *

(c) An individual who meets the requirements of paragraph (a) or (b) of this section or § 870.706 for continuation or reinstatement of life insurance must complete an election, in a manner designated by OPM, at the time entitlement is established. For the election to be valid, OPM must receive the election before OPM has made a final decision on the individual's application for annuity or supplemental annuity or an individual's request to continue life insurance as a compensationer. If there is no valid election, OPM considers the individual to have chosen the option described in paragraph (a)(2) of § 870.703.

* * * * *

17. Section 870.702(b)(2) is revised to read as follows:

§ 870.702 Amount of Basic insurance.

* * * * *

(b) * * *

(2)(i) For an annuitant or compensationer who elected a partial Living Benefit as an employee, the amount of Basic insurance he or she can continue is the post-election BIA, as described in § 870.203(a)(2).

(ii) If an employee elected a partial Living Benefit and that employee is under age 45 at the time of death, OFEGLI will multiply the post-election BIA by the appropriate factor, as specified in § 870.202(c), that was in effect on the date that is nine months after the date OFEGLI received the completed Living Benefit application.

18. Section 870.703 is revised to read as follows:

§ 870.703 Election of Basic insurance.

(a) An individual who makes an election under § 870.701(c) and who has not elected a Living Benefit must select one of the options in paragraphs (a)(1) through (4) of this section. No one else can make this election on the individual's behalf.

(1) Termination of the insurance. The individual's insurance stops upon conversion to an individual policy as provided under § 870.603. If the individual does not convert to an individual policy, insurance stops at the end of the month in which OPM or the employing office receives the election;

(2) Continuation or reinstatement of Basic insurance with a maximum reduction of 75 percent during retirement. Premiums are withheld from annuity or compensation (except as provided under § 870.401(d)(1)). The amount of Basic Life insurance in force reduces by 2 percent of the BIA each month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later;

(3) Continuation or reinstatement of Basic insurance with a maximum reduction of 50 percent during retirement. Premiums are withheld from annuity or compensation. The amount of Basic insurance in force reduces by 1 percent of the BIA each month until the maximum reduction is reached. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later; or

(4) Continuation or reinstatement of Basic insurance with no reduction after age 65. Premiums are withheld from annuity or compensation.

(b)(1) Unless an employee has elected a partial Living Benefit under subpart K of this part or an individual has assigned the insurance under subpart I of this part, an insured individual may cancel an election under paragraph (a)(3) or (a)(4) of this section at any time. The amount of Basic insurance automatically switches to the amount that would have been in force if the individual had originally elected the 75 percent reduction. This revised amount is effective at the end of the month in which OPM receives the request to cancel the previous election. There is no refund of premiums.

(2) If an individual files a waiver of insurance, the coverage stops without a 31-day extension of coverage or conversion right. Coverage ceases at the end of the month in which OPM received the waiver.

(c) Unless he/she chooses to terminate his/her insurance, an employee who has elected a partial Living Benefit must choose the no reduction election under paragraph (a)(4) of this section. The employee cannot later change to the 75 percent reduction.

(d) If an employee has assigned his or her insurance, he/she cannot cancel an election under paragraph (a)(3) or (a)(4) of this section. Only the assignee(s) may cancel this election. Exception: If the employee elected a partial Living Benefit before assigning the remainder of his or her insurance, the assignee(s) cannot cancel the election under paragraph (a)(4) of this section.

(e)(1) For purposes of this part, a judge who retires under one of the following provisions is considered to be an employee after retirement:

(i) 28 U.S.C. 371(a) or (b);

(ii) 28 U.S.C. 372(a);

(iii) 28 U.S.C. 377;

(iv) 26 U.S.C. 7447;

(v) 11 DC Code 776;

(vi) Section 7447 of the Internal Revenue Code;

(2) The insurance of a judge described in paragraph (e)(1) of this section does not reduce after age 65. Basic insurance continues without interruption or reduction. *Exception:* If the insured is a judge eligible for compensation, and chooses to receive compensation instead of annuity, he or she must select an option described in paragraph (a) of this section.

19. Sections 870.704 and 870.705 are revised to read as follows:

§ 870.704 Amount of Option A.

(a) The amount of Option A coverage an annuitant or compensationer can continue is $10,000.

(b) An annuitant's or compensationer's Option A coverage

reduces by 2 percent of the original amount each month up to a maximum reduction of 75 percent. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the beginning of the 2nd month after the date of the insured's 65th birthday, whichever is later.

(c) Paragraph (b) of this section does not apply to a judge who retires under one of the provisions listed in § 870.703(e)(1). For purposes of this part, such a judge is considered to be an employee after retirement, and Option A insurance continues without interruption or reduction. *Exception:* If the judge is eligible for compensation and chooses to receive compensation instead of annuity, paragraph (b) of this section applies.

§ 870.705 Amount and election of Option B and Option C.

(a) The number of multiples of Option B and Option C coverage an annuitant or compensationer can continue is the highest number of multiples in force during the applicable period of service required to continue Option B and Option C.

(b)(1)(i) At the time an employee retires or becomes insured as a compensationer, he or she must elect the number of allowable multiples he or she wishes to continue during retirement or while receiving compensation.

(ii) An employee who elects to continue fewer multiples than the number for which he or she is eligible is considered to have cancelled the multiples that are not continued.

(iii) An employee separating for retirement and an employee becoming insured as a compensationer on or after April 24, 1999, must choose the level of post-age-65 reduction he or she wants. There are two choices: Full Reduction and No Reduction. The election may be made only by the employee and must be made in the manner that OPM designates. The employee may make different elections for Option B and for Option C. He or she may choose Full Reduction for some multiples of an Option and No Reduction for other multiples of the same Option. Failure to make an election for Option B or for Option C will be considered to be an election of Full Reduction for all multiples of that Option.

(iv) For purposes of this part, a judge who retires under one of the provisions listed in § 870.703(e)(1) is considered to be an employee after retirement. The insurance of such a judge does not reduce after age 65. *Exception:* If the judge is eligible for compensation and chooses to receive compensation instead of annuity, the post-65 reductions and elections apply.

(2) Prior to reaching age 65, an annuitant or compensationer can change from No Reduction to Full Reduction at any time. *Exception:* If the individual has assigned his or her insurance as provided in subpart I of this part, only the assignee can change from No Reduction to Full Reduction for the Option B coverage.

(3)(i) After reaching age 65, an annuitant or compensationer can change from No Reduction to Full Reduction at any time. *Exception:* If the individual has assigned his or her insurance as provided in subpart I of this part, only the assignee can change from No Reduction to Full Reduction for the Option B coverage. If an individual age 65 or over changes to Full Reduction, the amount of insurance in force is computed as if he or she had elected Full Reduction initially. There is no refund of premiums.

(ii) After reaching age 65, an annuitant or compensationer cannot change from Full Reduction to No Reduction.

(c)(1) For each multiple of Option B and/or Option C for which an individual elects Full Reduction, the coverage reduces by 2 percent of the original amount each month. This reduction starts at the beginning of the 2nd month after the date the insurance would otherwise have stopped or the beginning of the 2nd month after the insured's 65th birthday, whichever is later. At 12:00 noon on the day before the 50th reduction, the insurance stops, with no extension of coverage or conversion right.

(2) For each multiple of Option B and/or Option C for which an individual elects No Reduction, the coverage in force does not reduce. After age 65 the annuitant or compensationer continues to pay premiums appropriate to his or her age.

(d)(1) An employee who was already retired or insured as a compensationer on April 24, 1999, and who had Option B, was given an opportunity to make an election for Option B.

(i) Each such annuitant or compensationer who was under age 65 on April 24, 1999, was notified of the option to elect No Reduction. The retirement system will send the individual an election notice before his or her 65th birthday.

(ii) Each such annuitant or compensationer who was age 65 or older on April 24, 1999, and who still had some Option B coverage remaining, was given the opportunity to stop further reductions. The individual had until October 24, 1999, to make the No Reduction election. The amount of Option B coverage retained was the amount in effect on April 24, 1999. Each annuitant or compensationer who elected No Reduction was required to pay premiums retroactive to April 24, 1999.

(2) An employee who was already retired or insured as a compensationer on April 24, 1999, could not elect No Reduction for Option C.

20. Section 870.707 is revised to read as follows:

§ 870.707 Reemployed annuitants and compensationers.

(a)(1) If an insured annuitant or compensationer is appointed to a position in which he or she is eligible for insurance, the amount of his or her Basic life insurance as a annuitant or compensationer (and any applicable withholdings) is suspended on the day before the 1st day in pay status under the appointment, unless the reemployed annuitant or compensationer waives all insurance coverage as an employee. The Basic insurance benefit payable upon the death of a reemployed annuitant or compensationer who has Basic insurance in force as an employee, cannot be less than the benefit that would have been payable if the individual had not been reemployed.

(2) Except as provided in paragraph (b) of this section, the Basic insurance obtained as an employee stops with no 31-day extension of coverage or conversion right, on the date reemployment terminates. Any suspended Basic insurance (and any applicable withholdings) is reinstated on the day following termination of the reemployment.

(b) Basic insurance obtained during reemployment can be continued after the reemployment terminates if the individual:

(1) Qualifies for a supplemental annuity or receives a new retirement right (or if a compensationer, he or she worked an amount of time equivalent to that required for an annuitant to qualify for a supplemental annuity);

(2) Has had Basic insurance as an employee for at least 5 years of service immediately before separation from reemployment or for the full period(s) during which such coverage was available to the individual, whichever is less; and

(3) Does not convert to nongroup insurance when Basic insurance as an employee would otherwise terminate.

(c) If the Basic insurance obtained during reemployment is continued as provided in paragraph (b) of this section, any suspended Basic life

insurance stops, with no 31-day extension of coverage or conversion right.

(d)(1) An annuitant or compensationer appointed to a position in which he or she is eligible for Basic insurance is also eligible for Optional insurance as an employee, unless he or she has on file an uncancelled waiver of Basic or Optional insurance.

(2) If the individual has Option A or C as an annuitant, that insurance (and applicable withholdings) is suspended on the day before his or her 1st day in pay status under the appointment. Unless he or she waives Option A or C (or waives Basic insurance), the individual obtains Option A or C as an employee.

(3) If the individual has Option B as an annuitant or compensationer, that insurance (and applicable withholdings) continues as if the individual were not reemployed, unless:

(i) The individual files with his/her employing office an election of Option B, in a manner designated by OPM, within 60 calendar days after the date of reemployment. In this case Option B (and applicable withholdings) as an annuitant or compensationer is suspended on the date that Option B as an employee becomes effective; or

(ii) The individual waives Basic insurance.

(4) The Option B benefit payable upon the death of a reemployed annuitant or compensationer is the amount in effect as an annuitant or compensationer, unless the individual elected to have Option B as an employee.

(5) Except as provided in paragraph (e) of this section, the Optional insurance obtained as an employee stops, with no 31-day extension or conversion right, on the date reemployment terminates. The amount of suspended Optional insurance that remains in force after applicable monthly reductions after age 65 (and corresponding withholdings) is reinstated on the day after reemployment terminates.

(e) Optional life insurance obtained during reemployment may be continued after the reemployment terminates if the annuitant:

(1) Qualifies for a supplemental annuity or receives a new retirement right (or if a compensationer, he or she worked an amount of time equivalent to that required for an annuitant to qualify for a supplemental annuity);

(2) Continues Basic life insurance under paragraph (a)(2), (3), or (4) of § 870.703; and

(3) Has had Optional insurance as an employee for at least the 5 years of service immediately before separation from reemployment or for the full period(s) of service during which it was available to him or her, whichever is less.

(f) If Optional insurance obtained during reemployment is continued as provided in paragraph (e) of this section, any suspended Optional insurance stops, with no 31-day extension of coverage or conversion right.

(g) If a reemployed annuitant or compensationer waives life insurance as an employee, the waiver also cancels his or her life insurance as an annuitant or compensationer.

Subpart H—Order of Precedence and Designation of Beneficiary

21. Section 870.801(a) and (d) are revised to read as follows:

§ 870.801 Order of precedence and payment of benefits.

(a) Except as provided in paragraph (d) of this section and paragraph (g)(2) of § 870.802, benefits are paid according to the order of precedence stated in 5 U.S.C. 8705(a), as follows:

(1) To the designated beneficiary (or beneficiaries);

(2) If none, to the widow(er);

(3) If none, to the child, or children in equal shares, with the share of any deceased child going to his or her children;

(4) If none, to the parents in equal shares or the entire amount to the surviving parent;

(5) If none, to the executor or administrator of the estate;

(6) If none, to the next of kin according to the laws of the State in which the insured individual legally resided.

* * * * *

(d)(1) If there is a court order in effect naming a specific person or persons to receive life insurance benefits upon the death of an insured individual, Basic insurance and Option A and Option B insurance will be paid to the person or persons named in the court order, instead of according to the order of precedence.

(2) To qualify a person for such payment, a certified copy of the court order must be received by the appropriate office on or after July 22, 1998, and before the death of the insured.

(3)(i) For an employee, the appropriate office is the employing agency.

(ii) For an annuitant, the appropriate office is OPM.

(iii) For a compensationer during the first 12 months of nonpay status, the appropriate office is the employing agency.

(iv) For a compensationer after separation or the completion of 12 months in nonpay status, the appropriate office is OPM.

(4) If, within the applicable time frames, the appropriate office receives conflicting court orders entitling different persons to the same insurance, benefits will be paid based on whichever court order was issued first.

* * * * *

22. Section 870.802(b) and (g)(1) are revised to read as follows:

§ 870.802 Designation of beneficiary.

* * * * *

(b) A designation of beneficiary must be in writing, signed by the insured individual, and witnessed and signed by 2 people. The completed designation of beneficiary form may be submitted to the appropriate office via appropriate methods approved by the employing office. The appropriate office must receive the designation before the death of the insured.

(1) For an employee, the appropriate office is the employing office.

(2) For an annuitant or compensationer, the appropriate office is OPM.

* * * * *

(g)(1) A designation of beneficiary is automatically cancelled 31 days after the individual stops being insured.

* * * * *

Subpart I—Assignments of Life Insurance

23. Section 870.902 is revised to read as follows:

§ 870.902 Making an assignment.

(a) To assign insurance, an insured individual must complete an approved assignment form. Only the insured individual may make an assignment; no one may assign insurance on behalf of an insured individual.

(b) The assignment form must be in writing, signed by the insured individual, and witnessed and signed by 2 people. The completed assignment form, indicating the intent to irrevocably assign all ownership of the insurance, must be received by the appropriate office.

(1) For an employee, the appropriate office is the employing office.

(2) For an annuitant or compensationer, the appropriate office is OPM.

24. Section 870.907(c) is revised to read as follows:

§ 870.907 Termination and conversion.

* * * * *

(c) An assignment terminates 31 days after the insurance terminates, unless the insured individual is reemployed in or returns to a position in which he or she is entitled to coverage under this part within 31 days after the insurance terminates. If the individual returns to Federal service, Basic insurance and any Option A and/or Option B insurance acquired through returning to service is subject to the existing assignment.

25. Section 870.910 is revised to read as follows:

§ 870.910 Notification of current addresses.

Each assignee must keep the office where the assignment is filed informed of his/her current address.

Subpart K—Living Benefits

26. Section 870.1103 is revised to read as follows:

§ 870.1103 Election procedures.

(a) The insured individual must request information on Living Benefits and an application form directly from OFEGLI.

(b)(1) The insured individual must complete the first part of the application and have his or her physician complete the second part. The completed application must be submitted directly to OFEGLI.

(2) Another person may apply for a Living Benefit on the insured individual's behalf if all of the following conditions are met:

(i) The insured's physician must certify that the insured individual is physically or mentally incapable of making an election;

(ii) The applicant must have power of attorney or a court order authorizing him or her to elect a Living Benefit on the insured individual's behalf;

(iii) The applicant must place his or her own signature on the application and attach it to a true and correct copy of the power of attorney or court order authorizing the applicant to make the election on the insured individual's behalf; and

(iv) The applicant must either be the insured individual's sole beneficiary or attach a true and correct copy of each beneficiary's written and signed consent.

(c)(1) OFEGLI reviews the application, obtains certification from the insured's employing office regarding the amount of insurance and the absence of an assignment, and determines whether the individual meets the requirements to elect a Living Benefit.

(2) If OFEGLI needs additional information, it will contact the insured or the insured's physician.

(3) Under certain circumstances, OFEGLI may require a medical examination before making a decision. In these cases, OFEGLI is financially responsible for the cost of the medical examination.

(d)(1) If the application is approved, OFEGLI sends the insured a check or makes an electronic funds transfer to the insured's account for the Living Benefit payment and an explanation of benefits.

(i) Until the check has been cashed or deposited, or before the electronic funds transfer has been received, the individual may change his or her mind about electing a Living Benefit; if this happens, the individual must mark the check ''void'' and return it to OFEGLI.

(ii) Once the insured individual has cashed or deposited the payment, the Living Benefit election becomes effective and cannot be revoked; OFEGLI then sends explanations of benefits to the insured's employing office, so it can make the necessary changes in withholdings and deductions.

(2) If the application is not approved, OFEGLI will notify the insured individual and the employing office. The decision is not subject to administrative review; however, the individual may submit additional medical information or reapply at a later date if future circumstances warrant.

Subpart L—[Removed]

27. Subpart L, consisting of §§ 870.1201 through 807.1208, is removed and reserved.

[FR Doc. E9–31023 Filed 12–30–09; 8:45 am]

BILLING CODE 6325–39–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–1381]

Reserve Requirements of Depository Institutions Policy on Payment System Risk

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Board is requesting public comment on proposed amendments to Regulation D, Reserve Requirements of Depository Institutions, to authorize the establishment of term deposits. Term deposits are intended to facilitate the conduct of monetary policy by providing a tool for managing the aggregate quantity of reserve balances. Institutions eligible to receive earnings on their balances in accounts at Federal Reserve Banks (''eligible institutions'') could hold term deposits and receive earnings at a rate that would not exceed the general level of short-term interest rates. Term deposits would be separate and distinct from those maintained in an institution's master account at a Reserve Bank (''master account'') as well as from those maintained in an excess balance account. Term deposits would not satisfy required reserve balances or contractual clearing balances and would not be available to clear payments or to cover daylight or overnight overdrafts. The proposal also would make minor amendments to the posting rules for intraday debits and credits to master accounts as set forth in the Board's Policy on Payment System Risk to address transactions associated with term deposits.

DATES: Comments must be submitted by February 1, 2010.

ADDRESSES: You may submit comments, identified by Docket No. R–1381, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov*. Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include the docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information.

Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Counsel (202/452–3565), or Dena L. Milligan, Staff Attorney (202/452–3900), Legal Division, or Seth Carpenter, Associate Director (202/452–2385), or Margaret Gillis DeBoer, Section Chief (202/452–3139), Division of Monetary Affairs; for users of Telecommunications Device for

the Deaf (TDD) only, contact (202/263–4869); Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Interest on Balances of Eligible Institutions at Reserve Banks

Section 19(b)(12) of the Federal Reserve Act (the ''Act'') (12 U.S.C. 461(b)(2)) authorizes ''eligible institutions'' [1] to receive earnings on balances maintained at Reserve Banks, to be paid at least once each quarter at a rate or rates not to exceed the general level of short-term interest rates. The same section of the Act authorizes the Board to prescribe regulations concerning the payment of such earnings. Effective October 9, 2008, the Board amended Regulation D to direct the Reserve Banks to pay earnings on balances of eligible institutions held at Reserve Banks to satisfy reserve requirements (''required reserve balances'') [2] and on balances held in excess of required reserve balances and clearing balance requirements [3] (''excess balances'').[4] (73 FR 59482) (Oct. 9, 2008). Regulation D currently provides that the rate of interest on both required reserve balances and on excess balances is equal to ¼ percent. The Board may from time to time determine any other rate or rates for such balances subject to the limitation that such rates may not exceed the general level of short-term interest rates.

II. Term Deposit Proposal

Introduction and Basic Structure. The Federal Reserve has addressed the financial market turmoil of the past two years in part by greatly expanding its balance sheet and by supplying an unprecedented volume of reserves to the banking system. Term deposits could be part of the Federal Reserve's tool kit to drain reserves, if necessary, and thus support the implementation of monetary policy.

Term deposits would be distinct from balances held by eligible institutions in their master accounts. Term deposits could not be withdrawn prior to maturity, would not satisfy required reserve balances or contractual clearing balances, and would not be available to clear payments or cover daylight or overnight overdrafts. Term deposits would, however, be eligible to collateralize discount window advances.

Term deposits could be structured in many different ways. For example, term deposits could be offered at one maturity or several maturities. Moreover, the interest rate or rates paid on term deposits could be set through an auction mechanism or, alternatively, could be set administratively or by a formula. A basic proposal in which term deposits are offered through an auction process is described below.

Term Deposit Auctions. The Federal Reserve could hold regular auctions of term deposits, offering a fixed quantity of term deposits with relatively short maturities. Auctions could be held shortly before the end of each two-week reserve maintenance period, with settlement occurring on the first day of the subsequent maintenance period. The Federal Reserve would announce each auction in advance and would specify both the quantity of term deposits offered and their maturity. Term deposits of more than one maturity could be outstanding simultaneously.[5] Terms and conditions for each auction could specify various parameters, such as minimum and maximum bid amounts and a maximum-allowable bid rate.

Eligible institutions that wished to hold term deposits would bid in a competitive auction, indicating both the interest rate at which they are willing to hold term deposits and the quantity they wish to hold at that rate. At the submission deadline, all bids received would be considered final and could not be modified or withdrawn. Starting with the lowest interest rate and working up, the Federal Reserve would accept as many bids as necessary to reach the announced quantity of term deposits, but would not accept bids at an interest rate that exceeds the stated maximum rate. All winning bidders would receive the highest accepted rate; bids at lower rates would be accepted in full while bids at the highest accepted rate would be prorated as necessary. The auction would settle at least one day after winning bidders are notified of their awards.

To settle the auction, the Federal Reserve would transfer balances from the master account of each institution that submits a winning bid (or, if a winning bidder does not maintain such an account, from the master account of its correspondent) to a term deposit. Winning bidders would maintain their term deposits at the Reserve Bank in whose District the winning bidder is located.[6] When the term deposit matures, the Federal Reserve would transfer the term deposit principal plus accrued interest into the institution's master account (or the master account of its correspondent).

The maximum-allowable rate for each auction of term deposits would be no higher than the general level of short-term interest rates. For these purposes, ''short-term interest rates'' would be defined as the primary credit rate and rates on obligations with maturities of up to one year in which eligible institutions may invest, such as rates on term Federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar rates.

Participation Eligibility. Any ''eligible institution'' could hold term deposits.[7] Branches and agencies of foreign banks are included within the definition of ''eligible institution'' and could therefore hold term deposits. Unlike branches of domestic banks, branches and agencies of the same foreign bank that are located in different Reserve Bank Districts may have separate master accounts at the corresponding Reserve Banks. The proposal anticipates that each affiliated branch of a foreign bank would be eligible to bid separately at term deposit auctions and maintain separate term deposits at that branch's Reserve Bank unless the Board determines otherwise.

[1] ''Eligible institution'' includes the depository institutions defined in section 19(b)(1)(A) of the Act, including banks, savings associations, savings banks and credit unions that are Federally insured or eligible to apply for Federal insurance. 12 CFR 204.2(y). ''Eligible institution'' also includes trust companies, Edge and agreement corporations, and U.S. agencies and branches of foreign banks. *Id.* The definition does not include all entities for which the Reserve Banks hold accounts, such as entities for which the Reserve Banks act as fiscal agents, including Federal Home Loan Banks, Fannie Mae, and Freddie Mac.

[2] 12 CFR 204.2(bb) (definition of ''required reserve balance'').

[3] 12 CFR 204.2(v) (definition of ''clearing balance'').

[4] 12 CFR 204.2(z) (definition of ''excess balance''). Excess balances may be maintained in the institution's own account at a Reserve Bank, in the account of the institution's correspondent, or in a limited-purpose ''excess balance account.'' Cf. 12 CFR 204.2(aa) (definition of ''excess balance account''); 12 CFR 204.10(d) (regarding excess balance accounts).

[5] Auctions of multiple tenors could be staggered. For example, an auction of 28-day term deposits could be held at the end of one maintenance period, and an auction of 84-day term deposits could be held at the end of the next maintenance period. Alternatively, auctions of multiple tenors could be conducted simultaneously, with, for example, auctions of 14-day and 28-day term deposits held every second week.

[6] For an account-holding eligible institution, term deposits would be placed at the Reserve Bank that maintains the institution's master account (as defined in Reserve Bank Operating Circular 1, ''Account Relationships,'' *http://www.frbservices.org/files/regulations/pdf/operating_circular_1.pdf*). For non-account-holding eligible institutions, term deposits would be placed at the Reserve Bank in whose District the institution is located for purposes of Section 3(g) of Regulation D, 12 CFR 204.3(g).

[7] *See* footnote 1, *supra.*

Administration of Term Deposit Offerings. The Board would designate a single Reserve Bank as the ''Term Deposit Offering Administrator'' on behalf of all twelve Reserve Banks. The Term Deposit Administrator would be responsible for posting announcements and results of auctions. The Term Deposit Offering Administrator would also post the results for each auction to a public Web site. If the Board were to set the rate paid on term deposits administratively or by formula, the Term Deposit Offering Administrator would be responsible for posting announcements of available rates and maturities.

Term Deposit Maturities. Term deposit maturities would not exceed one year and the Board anticipates that term deposits would likely have maturities ranging between one and six months. Maturities might be aligned with the first day of each 14-day reserve maintenance periods.

No Early Withdrawal. In order to ensure that term deposits will be an effective reserve management tool, early withdrawals of term deposits will not be permitted.

Mergers. If an institution with outstanding term deposits were to be merged into another institution, the surviving institution would assume the term deposits of the acquired institution.

Discount Window Collateral. The ability of a participating institution to pledge its term deposits as collateral for the discount window could provide a means for an institution to address a pressing need for immediate funds. The Board contemplates that term deposits would be available as collateral for any discount window advances that the participating institution might request.[8] [9]

Settlement and Posting Rules. Settlement for auctions of term deposits (the transfer of funds from participating institutions' master accounts or correspondents' master accounts) would occur on the announced settlement date. Principal plus interest would be returned to participating institutions' master accounts (or correspondents' master accounts) on the stated maturity date.

Reserve Banks measure depository institutions' intraday account balances according to a set of posting rules outlined in the Board's Policy on Payment System Risk [10] (''PSR Policy''). The PSR Policy posting rules set forth a schedule for the posting of debits and credits to an institution's master account for different types of payments. The Board expects that, on the announced settlement date for a particular offering, the Reserve Bank would fund the term deposits of the winning bidders by transferring funds from the master accounts of the winning bidders (or the master accounts of their correspondents) into term deposits at the Reserve Bank in whose District the winning bidder is located. Specifically, the transfer from a master account to fund a term deposit would post after the close of Fedwire Funds service on the settlement date. On the date that a term deposit matures, principal and interest would be returned to the master account of the participating institution (or its correspondent). The return of the funds representing the matured term deposit, together with accrued interest, would post to the participating institution's master account on the maturity date at 8:30 a.m.

Capital Treatment. Term deposits would receive a zero risk-weight for risk-based capital purposes, similar to other claims on the Federal Reserve.

III. Comments

The Board seeks comments on all aspects of the proposal. In addition, the Board specifically requests comment on the following:

1. Is it necessary to place any limitations on the maximum amount of term deposits that an institution may hold or on the maximum portion of a single offering that an institution may win at auction?

2. What maturity or maturities would eligible institutions recommend as appropriate for term deposits, and should more than one maturity be offered?

3. Are there basic terms and structures for term deposits other than those described in this notice that should be considered?

IV. Section-By-Section Analysis

A. Proposed Amendments to Regulation D

Section 204.2(dd)

Proposed section 204.2(dd) would add a definition of ''term deposit'' to the regulation.

Section 204.10(b)(3)

Proposed section 204.10(b)(3) would add a reference to ''term deposits'' to the provisions regarding the payment of interest on balances at any other rate or rates as determined by the Board from time to time and clarify that those rates may not exceed the general level of short-term interest rates. For purposes of this subsection, the proposal would define ''short-term interest rates'' as the primary credit rate and rates on obligations with maturities of up to one year in which eligible institutions may invest, such as rates on term Federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar rates.

Section 204.10(e)

Proposed section 204.10(e) would add a new subsection, ''Term Deposits,'' to section 204.10, ''Payment of interest on balances.''

Section 204.10(e)(1)

Proposed section 204.10(e)(1) would authorize Reserve Banks to establish term deposits for eligible institutions under the provisions of 204.10(e), subject to such terms and conditions as the Board may establish from time to time, including but not limited to conditions regarding the maturity of the term deposits being offered, maximum and minimum amounts that may be maintained by an eligible institution in a term deposit, the interest rate or rates offered and, if term deposits are offered through an auction mechanism, the size of the offering, and maximum and minimum bid amounts.

Section 204.10(e)(2)

Proposed section 204.10(e)(2) would provide that term deposits will not satisfy any institution's required reserve balance or contractual clearing balance.

Section 204.10(e)(3)

Proposed section 204.10(e)(3) would provide that a term deposit may not be used for general payments or other activities.

B. Proposed Amendments to Policy on Payment System Risk

The Board proposes to amend section II.A. of the PSR Policy under the heading ''Procedures for Measuring Daylight Overdrafts'' as follows (changes identified by *italics*):

Procedures for Measuring Daylight Overdrafts

Opening Balance (Previous Day's Closing Balance)

Post at 8:30 a.m. Eastern Time:

+ *Term deposit maturities and accrued interest*

Post After the Close of Fedwire Funds Service:

[8] Term deposits would also serve as collateral for daylight overdraft purposes. Collateral takes on additional importance upon implementation of the revised PSR in late 2010 or early 2011.

[9] The Board anticipates that no haircut would be applied to term deposits used as collateral.

[10] *http://www.federalreserve.gov/paymentsystems/psr_policy.htm.*

+/− All other transactions. These transactions include the following: local Federal Reserve Bank checks presented after 3 p.m. Eastern Time but before 3:00 p.m. local time; noncash collection; currency and coin shipments; small-dollar credit adjustments; *term deposit settlements*; and all debit adjustments.

V. Form of Comment Letters

Comment letters should refer to Docket No. R–1381 and, when possible, should use a standard typeface with a font size of 10 or 12; this will enable the Board to convert text submitted in paper form to machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Comments may be mailed electronically to *regs.comments@federalreserve.gov*.

VI. Solicitation of Comments Regarding Use of ''Plain Language''

Section 722 of the Gramm-Leach-Bliley Act of 1999 (12 U.S.C. 4809) requires the Board to use ''plain language'' in all proposed and final rules published after January 1, 2000. The Board invites comments on whether the interim final rule is clearly stated and effectively organized, and how the Board might make the text of the rule easier to understand.

VII. Regulatory Flexibility Act

In accordance with Section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), the Board has reviewed the proposed amendments to Regulation D. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

1. *Statement of the objectives of the proposal.* The Board is proposing to amend Regulation D to authorize Reserve Banks to offer deposits of specified maturities to eligible institutions. Term deposits are intended to facilitate the conduct of monetary policy by providing a tool that could be used to drain excess reserves, if necessary, to adjust the stance of monetary policy.

2. *Small entities affected by the proposal.* The number of small entities affected by this proposal is unknown. The proposal would only affect those entities, regardless of size, that choose to hold term deposits at Reserve Banks. The impact on institutions choosing to hold term deposits at Reserve Banks would be positive and not adverse, because term deposits would expand the range of investment opportunities available to eligible institutions.

3. *Other Federal rules.* The Board believes that no Federal rules duplicate, overlap, or conflict with the proposed amendments to Regulation D.

4. *Significant alternatives to the proposed revisions.* The Board welcomes comment on any significant alternatives that would minimize the impact of the proposal on small entities.

VIII. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget (OMB). The proposed rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board is proposing to amend 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

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

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 6105.

2. Amend § 204.2 by adding paragraph (dd) to read as follows:

§ 204.2 Definitions.

* * * * *

(dd) *Term deposit* means those funds of an eligible institution that are maintained by that institution for a specified maturity at a Federal Reserve Bank pursuant to § 204.10(e) of this part.

3. Section 204.10 is amended by revising paragraph (b)(3) and by adding a new paragraph (e) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(3) For required reserve balances, excess balances, and term deposits, at any other rate or rates as determined by the Board from time to time, not to exceed the general level of short-term interest rates. For purposes of this subsection, ''short-term interest rates'' means the primary credit rate and rates on obligations with maturities of up to one year in which eligible institutions may invest, such as rates on term Federal funds, term repurchase agreements, commercial paper, term Eurodollar deposits, and other similar rates.

* * * * *

(e) *Term deposits.* (1) A Federal Reserve Bank may accept term deposits from eligible institutions under the provisions of this paragraph (e) subject to such terms and conditions as the Board may establish from time to time, including but not limited to conditions regarding the maturity of the term deposits being offered, maximum and minimum amounts that may be maintained by an eligible institution in a term deposit, the interest rate or rates offered and, if term deposits are offered through an auction mechanism, the size of the offering, maximum and minimum bid amounts, and other relevant terms.

(2) A term deposit will not satisfy any institution's required reserve balance or contractual clearing balance.

(3) A term deposit may not be used for general payments or other activities.

By order of the Board of Governors of the Federal Reserve System, December 23, 2009.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E9–31040 Filed 12–30–09; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 39

RIN 2900–AM96

State Cemetery Grants

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its regulations governing grants to States for the establishment, expansion, and improvement of State veterans cemeteries (Establishment, Expansion, and Improvement Projects). We propose to implement through regulation new statutory authority to provide grants for the operation and maintenance of State veterans cemeteries (Operation and Maintenance Projects), as authorized by the Dr. James Allen Veteran Vision Equity Act of 2007 (the Act), enacted on December 26, 2007. The Act expands VA authority to provide grants to States for operating and maintaining State veterans cemeteries and limits to $5 million the aggregate amount of such grants VA may award in any fiscal year. The Act requires that VA prescribe regulations implementing the new authority within 180 days of enactment. VA proposes to amend its regulations to outline the process, the criteria, and the priorities relating to the award of these Operation and Maintenance Project grants. The proposed rule would also revise part 39 by changing the arrangement and numbering of the

current regulatory sections, updating the references to various codes, incorporating some non-substantive changes to the regulations, and removing specific forms from this part that are available at *http://www.cem.va.gov/cem/scg_grants.asp*.

DATES: Comments must be received by VA on or before March 1, 2010.

ADDRESSES: Written comments may be submitted through *http://www.Regulations.gov;* by mail or hand-delivery to: Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AM96—State Cemetery Grants.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4923 for an appointment (this is not a toll-free number). In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov. See* the material headed ''Paperwork Reduction Act'' under **SUPPLEMENTARY INFORMATION** regarding submission of comments on collections of information proposed in this proposed rule.

FOR FURTHER INFORMATION CONTACT: Frank Salvas, Director of State Cemetery Grants Service, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 461–8947 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The goal of the National Cemetery Administration (NCA) is to ensure that the burial needs of veterans and eligible family members are met by providing a burial opportunity in national and State veterans cemeteries. State veterans cemeteries complement VA national cemeteries and are critical to meeting VA's goal of providing burial access to 90 percent of veterans and their families. Research indicates that veterans and their families use veterans cemeteries when the cemeteries are located within a reasonable distance from their residence. The State Cemetery Grants Service (SCGS) encourages States to provide burial service to our Nation's veterans by operating veterans cemeteries in a manner consistent with national cemeteries in areas where the most number of veterans would benefit as determined by VA. Under the State Cemetery Grant Program (SCGP), the Federal government will provide up to 100 percent of the cost of development associated with the establishment, expansion, and improvement of a State veterans cemetery, as well as the cost of initial operating equipment.

Section 202(b) of the Dr. James Allen Veteran Vision Equity Act of 2007 (Pub. L. 110–157) authorizes VA under the SCGP to provide additional Federal assistance to States for the operation and maintenance of State veterans cemeteries. Prior to passage of this law, VA could only provide Federal funds for the establishment, expansion, and improvement of State veterans cemeteries. VA could not fund the operation or maintenance of State veterans cemeteries. The new authority granted by the Act authorizes VA to fund Operation and Maintenance Projects at State veterans cemeteries to assist States in achieving the same high standards of appearance for State veterans cemeteries as VA achieves for national cemeteries. Specifically, the new operation and maintenance grants will be targeted to help States meet VA's national shrine standards with respect to cleanliness, height and alignment of headstones and markers, leveling of gravesites, and turf conditions. The Act authorizes VA to award up to a total of $5 million for such purposes each fiscal year to ensure State veterans cemeteries meet the highest standards of appearance and serve as national shrines to honor the Nation's military service members with a final resting place.

The proposed rule would revise 38 CFR part 39 and express in regulation the statutory authority of VA to grant awards for Operation and Maintenance Projects up to a total of $5 million per year. The proposed rule would not change any of the grant procedures or requirements for Establishment, Expansion, and Improvement Projects. It would establish a new grant preapplication and application process and requirements for Operation and Maintenance Projects only. Many requirements of the grant application process for Establishment, Expansion, and Improvement Projects would be incorporated into the grant-application process for Operation and Maintenance Projects and would apply to both types of grants. The preapplication process serves as a means for validating the need for the project and opening lines of communication between NCA and potential participating States for SCGP grants. In the preapplication process, States certify that they will be able to adhere to the requirements of the grant. The application process then becomes a certification of actual adherence to the requirements of the grant.

The proposed rule would amend the existing grant prioritization process. The proposed rule would retain the same priority categories as those in current part 39, but would amend one of the categories to address Operation and Maintenance Projects.

Once an Establishment, Expansion, and Improvement Project is approved for funding, VA may award a grant up to 100 percent of the amount requested, provided that sufficient funds are available. Currently, the entire SCGP annual budget is allocated to grants for Establishment, Expansion, and Improvement Projects. Any funds remaining at the end of a fiscal year are carried into the next year and allocated to grants for Establishment, Expansion, and Improvement Projects the following year. With passage of the Act, the SCGS can now fund two types of grants: (1) Establishment, Expansion, and Improvement Project grants and (2) Operation and Maintenance Project grants.

There are currently four Priority Groups. These are:

Priority 1—Projects for gravesite expansion or improvements that are needed to continue service at an existing veterans cemetery. This includes phased development of currently undeveloped land.

Priority 2—Projects for the establishment of new cemeteries.

Priority 3—Planned phased gravesite developments prior to need.

Priority 4—Other improvements to cemetery infrastructure, such as building expansion and upgrades to roads and irrigation systems, that are not directly related to the development of new gravesites. We propose to expand Priority 4 to include Operation and Maintenance Projects that assist a State to achieve the national shrine standards of appearance at an existing State veterans cemetery.

Within Priority Groups 1, 2, and 3, individual projects are ranked based on the greatest number of veterans who benefit from the project as determined by VA. This prioritization system, based on veteran population data, assists VA in maintaining and improving access for burial to more veterans and their eligible family members in a veterans cemetery, and achieves the goal of providing the greatest number of veterans with a burial option at either a Federal or State veterans cemetery located within a reasonable distance from their residence.

Priority Group 4 grants are and will continue to be awarded only when there

are funds available and when there are no remaining Priority Group 1, 2, or 3 grant applications for which a grant may be awarded with available funds. Regardless of the amount of funds available, no more than a total of $5 million will be awarded for Operation and Maintenance Project grants in any year in accordance with the statutory requirements of the Act.

This proposed rule would change the arrangement and numbering of the current sections in part 39 and update the references to various codes. It would also incorporate some non-substantive changes to the current regulations and remove specific forms from current § 39.26 because all forms cited in this part are available at *http://www.cem.va.gov/cem/scg_grants.asp*. This will enable applicants to download forms as needed.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined not to be a significant regulatory action under the Executive Order.

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule will directly affect only State government entities and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This proposed rule would have no such effect on State, local, and Tribal governments, or on the private sector.

Paperwork Reduction Act

This proposed rule contains several provisions that constitute collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521). Some of the information collections have already been approved by OMB, as required by the Paperwork Reduction Act. Those provisions display the OMB control numbers that evidence OMB approval (*i.e.*, 0348–0002, 4040–0004, 4040–0008, 4040–0009, and 2900–0559). Other information collections in the proposed rule still require OMB approval. These provisions are in §§ 39.31, 39.32, 39.34, 39.81, 39.82, 39.84, 39.120, and 39.122. In accordance with 44 U.S.C. 3507(d), VA has forwarded a copy of this proposed rule to OMB for its review of the collections of information.

Comments on the proposed collections of information contained in this proposed rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503; with copies mailed or hand delivered to: Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; faxed to (202) 273–9026; or e-mailed to ''*http://www.Regulations.gov*.'' Comments should indicate that they are submitted in response to ''RIN 2900–AM96.''

Title: Submission of VA Form 40–0895–2.

Summary of collection of information: Proposed §§ 39.31 and 39.81 would require an applicant to submit VA Form 40–0895–2 (Certification of Compliance with Provisions of the Davis-Bacon Act) to certify that the applicant has obtained the latest prevailing wage rates for Federally funded projects.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant complies with provisions of the Davis-Bacon Act and requirements in 38 CFR part 39. Any construction project fully or partially funded with Federal dollars must comply with the latest prevailing wage rates for specific work by trade employees (*e.g.*, electricians, carpenters).

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 3 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of VA Form 40–0895–3.

Summary of collection of information: Proposed § 39.31 would require an applicant to submit VA Form 40–0895–3 (State or Tribal Government Cemetery Grants Service Space Program Analysis—Buildings) to provide information on the proposed size of cemetery buildings.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the proposed size of cemetery buildings are within the size allowed by VA and that the applicant complies with requirements in this Part.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 36 hours.

Estimated annual burden per collection: 3 hours.

Title: Submission of VA Form 40–0895–6.

Summary of collection of information: Proposed §§ 39.31 and 39.81 would require an applicant to submit VA Form 40–0895–6 (Certification of State or Tribal Government Matching Architectural and Engineering Funds to Qualify for Group 1 on the Priority List) to provide documentation that the State has legislative authority to support the project and the resources necessary to initially fund the architectural and

engineering portion of the project development.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant has adequate resources for the proposed project and complies with requirements in this Part.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 6 hours.

Estimated annual burden per collection: 30 minutes.

Title: Submission of VA Form 40–0895–7.

Summary of collection of information: Proposed §§ 39.31 and 39.81 would require an applicant to submit VA Form 40–0895–7 (Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions (State or Tribal Government)) to certify that the applicant has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant is eligible for Federal funds and complies with the requirements of 2 CFR Parts 180 and 801.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 3 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of VA Form 40–0895–8.

Summary of collection of information: Proposed §§ 39.31 and 39.81 would require an applicant to submit VA Form 40–0895–8 (Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals) to certify compliance with the Drug-Free Workplace Act of 1988 at the location where the construction will occur.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant complies with the requirements of the Drug-Free Workplace Act of 1988.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 3 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of VA Form 40–0895–9.

Summary of collection of information: Proposed §§ 39.31 and 39.81 would require an applicant to submit VA Form 40–0895–9 (Certification Regarding Lobbying) to certify that the applicant has not made any payments to anyone that influences or attempts to influence an officer or Member of Congress in connection with the award of a grant.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant complies with sec. 319 of Public Law 101–121 and requirements in this Part.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 3 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of VA Form 40–0895–10.

Summary of collection of information: Proposed §§ 39.31 and 39.81 would require an applicant to submit VA Form 40–0895–10 (Certification of Compliance with Federal Requirements—State or Tribal Government Construction Grant) to certify compliance with all requirements of Part 39.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant complies with the requirements in this Part.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 3 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of VA Form 40–0895–11.

Summary of collection of information: Proposed §§ 39.34 and 39.84 would require an applicant to submit VA Form 40–0895–11 (Memorandum of Agreement for a Grant to Construct or Modify a State or Tribal Government Veterans Cemetery) to identify the parties (VA and applicant), identify the scope of the project, and indicate how the grant award funds will be paid to the applicant.

Description of the need for information and proposed use of information: This collection is necessary to establish an agreement between VA and the applicant regarding a grant and to ensure that the applicant complies with requirements in this Part.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 24 hours.

Estimated annual burden per collection: 2 hours.

Title: Submission of VA Form 40–0895–12.

Summary of collection of information: Proposed §§ 39.34 and 39.84 would require applicants to submit VA Form 40–0895–12 (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (Contractor)) to certify that the contractor has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the contractor has not been debarred or suspended, and is eligible to participate in the VA grant process and complies with the requirements of 2 CFR Parts 180 and 801.

Description of likely respondents: Contractors of States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 3 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of VA Form 40–0895–13.

Summary of collection of information: Proposed § 39.122 would require grantees to submit VA Form 40–0895–

13 (Certification Regarding Documents and Information Required for State or Tribal Government Cemetery Construction Grants—Post Grant Requirements) to certify that the grantee is aware of all grant responsibilities and to properly and timely close out the grant.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant complies with requirements in this Part.

Description of likely respondents: States and Tribal Governments awarded a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 24 hours.

Estimated annual burden per collection: 2 hours.

Title: Submission of VA Form 40–0895–15.

Summary of collection of information: Proposed §§ 39.31 and 39.81 would require an applicant to submit VA Form 40–0895–15 (Certification of Cemetery Maintained in Accordance with National Cemetery Administration Standards) to certify compliance with VA's national shrine standards following receipt of a grant.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the applicant complies with requirements in this Part.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 3 hours.

Estimated annual burden per collection: 15 minutes.

Title: Submission of project's plans and specifications.

Summary of collection of information: Proposed §§ 39.32 and 39.82 would require an applicant to submit some or all of the following items: a boundary and site survey, a soil investigation report, a topographical survey, a master plan, preliminary or design development drawings, final construction drawings and specifications, and cost estimates.

Description of the need for information and proposed use of information: The planning requirements as stated in §§ 39.32 and 39.82 are the basis for appropriate project development. When the required plans and specifications are approved, the project will be prepared for the solicitation and will ensure that VA received the best possible facility at the best cost.

Description of likely respondents: States and Tribal Governments applying for a grant under this Part.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 7680 hours.

Estimated annual burden per collection: 640 hours per grant.

Title: Submission of a written report documenting grant accomplishments.

Summary of collection of information: Proposed § 39.120 would require a grantee to submit a written report documenting how the grant accomplished the desired improvements that will assist the State or Tribal Government in meeting VA's national shrine standards at its veterans cemetery. The report would include statistical data and detailed pictures of the work accomplished.

Description of the need for information and proposed use of information: This collection is necessary to ensure that the grantee provides a timely response to VA regarding its compliance with the program narrative submitted to VA as part of the preapplication process under § 39.81(b)(10).

Description of likely respondents: State or Tribal governments that received an Operation and Maintenance Grant.

Estimated number of respondents per year: 12.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 48 hours.

Estimated annual burden per collection: 4 hours.

VA considers comments by the public on proposed collections of information in:

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of VA, including whether the information will have practical utility;
- Evaluating the accuracy of VA's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including responses 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.

OMB is required to make a decision concerning the collections of information in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best ensured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

Catalog of Federal Domestic Assistance Number and Title

The Catalog of Federal Domestic Assistance program number and title for this proposed rule is 64.203, State Cemetery Grants.

List of Subjects in 38 CFR Part 39

Cemeteries, Grants programs—veterans, Veterans.

Approved: December 22, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

For the reasons set out in the preamble, VA proposes to revise 38 CFR part 39 to read as follows:

PART 39—AID TO STATES FOR ESTABLISHMENT, EXPANSION, AND IMPROVEMENT, OR OPERATION AND MAINTENANCE, OF VETERANS CEMETERIES

Subpart A—General Provisions

Sec.

39.1 Purpose.
39.2 Definitions.
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39.4 Decision makers, notifications, and additional information.
39.5 Submission of information and documents to VA.
39.6 Amendments to grant application.
39.7 Line item adjustment to grants.
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Grant Requirements and Procedures

39.30 General requirements for a grant.
39.31 Preapplication requirements.
39.32 Plan preparation.
39.33 Conferences.
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Award of Grant

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39.60 General requirements for site selection and construction of veterans cemeteries.
39.61 Site planning standards.
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Subpart C—Operation and Maintenance Projects

Grant Requirements and Procedures

39.80 General requirements for a grant.
39.81 Preapplication requirements.
39.82 Plan preparation.
39.83 Conferences.
39.84 Application requirements.
39.85 Final review and approval of application.

Award of Grant

39.100 Amount of grant.
39.101 Payment of grant award.

Subpart D—Grant Recipient Responsibilities, Inspections, and Reports Following Project Completion

39.120 Documentation of grant accomplishments.
39.121 State responsibilities following project completion.
39.122 Inspections, audits, and reports.

Authority: 38 U.S.C. 101, 501, 2408, 2411.

Subpart A—General Provisions

§ 39.1 Purpose.

This part sets forth the mechanism for a State to obtain a grant to establish, expand, or improve a veterans cemetery that is or will be owned by the State or to obtain a grant to operate or maintain a State veterans cemetery to meet VA's national shrine standards of appearance.

Authority: 38 U.S.C. 501, 2408.

§ 39.2 Definitions.

For the purpose of this part:

(a) *Establishment* means the process of site selection, land acquisition, design and planning, earth moving, landscaping, construction, and provision of initial operating equipment necessary to convert a tract of land to an operational veterans cemetery.

(b) *Expansion* means an increase in the burial capacity or acreage of an existing cemetery through the addition of gravesites and other facilities, such as committal service shelters, crypts (preplaced grave liners), and columbaria, necessary for the functioning of a cemetery.

(c) *Improvement* means the enhancement of a cemetery through landscaping, construction, or renovation of cemetery infrastructure, such as building expansion and upgrades to roads and irrigation systems, that is not directly related to the development of new gravesites; nonrecurring maintenance; and the addition of other features appropriate to cemeteries.

(d) *Establishment, Expansion, and Improvement Project* means an undertaking to establish, expand, or improve a site for use as a State-owned veterans cemetery.

(e) *Operation and Maintenance Project* means a project that assists a State to achieve VA's national shrine standards of appearance in the key cemetery operational areas of cleanliness, height and alignment of headstones and markers, leveling of gravesites, and turf conditions.

(f) *Secretary* means the Secretary of the United States Department of Veterans Affairs.

(g) *State* means each of the States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(h) *State Cemetery Grants Service (SCGS)* means the State Cemetery Grants Service within VA's National Cemetery Administration (NCA).

(i) *VA* means the United States Department of Veterans Affairs or the State Cemetery Grants Service.

(j) *Veteran* means a person who served in the active military, naval, or air service and who died in line of duty while in service or was discharged or released under conditions other than dishonorable.

Authority: 38 U.S.C. 101, 501, 2408.

§ 39.3 Priority list.

(a) The priority groups, with Priority Group 1 having the highest priority and Priority Group 4 the lowest priority, are:

(1) *Priority Group 1*—Projects needed to avoid disruption in burial service that would otherwise occur at existing veterans cemeteries within 4 years of the date of the preapplication. Such projects would include expansion projects as well as improvement projects (such as construction of additional or replacement facilities) when such improvements are required to continue interment operations.

(2) *Priority Group 2*—Projects for the establishment of new veterans cemeteries.

(3) *Priority Group 3*—Expansion projects at existing veterans cemeteries when a disruption in burial service due to the exhaustion of existing gravesites is not expected to occur within 4 years of the date of the preapplication.

(4) *Priority Group 4*—Improvement projects for cemetery landscaping or infrastructure, such as building expansion and upgrades to roads and irrigation systems, that are not directly related to the development of new gravesites. Operation and Maintenance Projects that address VA's national shrine standards of appearance are included in this group.

(b) Within Priority Groups 1, 2, and 3, highest priority will be given to projects in geographical locations with the greatest number of veterans who will benefit from the project as determined by VA. This prioritization system, based on veteran population data, will assist VA in maintaining and improving access to burial in a veterans cemetery to more veterans and their eligible family members. Within Priority Group 1, at the discretion of VA, higher priority may be given to a project that must be funded that fiscal year to avoid disruption in burial service.

(c) Grants for projects within Priority Group 4 will be awarded in any fiscal year only after grants for all project applications under Priority Groups 1, 2, and 3 that are ready for funding have been awarded. Within Priority Group 4, projects will be ranked in priority order based upon VA's determination of the relative importance of proposed improvements and the degree to which proposed Operation and Maintenance Projects achieve VA's national shrine standards of appearance. No more than $5 million in any fiscal year will be awarded for Operation and Maintenance Projects under Priority Group 4.

(d) By August 15 of each year, VA will make a list prioritizing all preapplications that were received on or before July 1 of that year and that were approved under § 39.31 or § 39.81, ranking them in their order of priority within the applicable Priority Group for funding during the fiscal year that begins the following October 1. Preapplications from previous years will be re-prioritized each year and do not need to be resubmitted.

Authority: 38 U.S.C. 501, 2408.

§ 39.4 Decision makers, notifications, and additional information.

Decisions required under this part will be made by the VA Director, State Cemetery Grants Service (SCGS), National Cemetery Administration, unless otherwise specified in this part. The VA decision maker will provide to affected States written notice of approvals, denials, or requests for additional information under this part.

Authority: 38 U.S.C. 501, 2408.

§ 39.5 Submission of information and documents to VA.

All information and documents required to be submitted to VA must be submitted to the Director of the State Cemetery Grants Service, National Cemetery Administration, Department

of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All forms cited in this part are available at *http://www.cem.va.gov/cem/scg_grants.asp.*

Authority: 38 U.S.C. 501, 2408.

§ 39.6 Amendments to grant application.

A State seeking to amend a grant application must submit revised Standard Forms 424 (Application for Federal Assistance) and 424C (Budget Information) with a narrative description of, and justification for, the amendment. Any amendment of an application that changes the scope of the application or increases the amount of the grant requested, whether or not the application has already been approved, shall be subject to approval by VA in the same manner as an original application.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040–0004 and 4040–0008.)

§ 39.7 Line item adjustment to grants.

After a grant has been awarded, upon request from the State representative, VA may approve a change in one or more line items (line items are identified in Standard Form 424C) of up to 10 percent (increase or decrease) of the cost of each line item if the change would be within the scope or objective of the project and the aggregate adjustments would not increase the total amount of the grant.

Authority: 38 U.S.C. 501, 2408.

§ 39.8 Withdrawal of grant application.

A State representative may withdraw an application by submitting to VA a written document requesting withdrawal.

Authority: 38 U.S.C. 501, 2408.

§ 39.9 Hearings.

(a) No application for a grant under this part shall be disapproved until the applicant has been afforded an opportunity for a hearing.

(b) Whenever a hearing is requested under this section, notice of the hearing, procedure for the conduct of such hearing, and procedures relating to decisions and notices shall accord with the provisions of §§ 18.9 and 18.10 of this chapter. Failure of an applicant to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to be heard and constitutes consent to the making of a decision on the basis of such information as is available.

Authority: 38 U.S.C. 501, 2408.

§ 39.10 Cemetery requirements and prohibitions and recapture provisions.

(a) In order to qualify for a grant, a State veterans cemetery must be operated solely for the interment of veterans, their spouses, surviving spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support.

(b) Any grant under this part made on or after November 21, 1997, is made on the condition that, after the date of receipt of the grant, the State receiving the grant, subject to requirements for receipt of notice in 38 U.S.C. 2408 and 2411, will prohibit in the cemetery for which the grant is awarded the interment of the remains or the memorialization of any person:

(1) Who has been convicted of a Federal capital crime, as defined in 38 CFR 38.600(b), and whose conviction is final, other than a person whose sentence was commuted by the President;

(2) Who has been convicted of a State capital crime, as defined in 38 CFR 38.600(b), and whose conviction is final, other than a person whose sentence was commuted by the Governor of a State.

(3) Who has been found by an appropriate State official, as defined in 38 CFR 38.600(b), under procedures to be established by the State, to have committed a Federal or State capital crime, as defined in 38 CFR 38.600(b), but to have not been convicted of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(c) If a State which has received a grant under this part ceases to own the cemetery for which the grant was made, ceases to operate such cemetery as a veterans cemetery in accordance with paragraph (a) of this section, violates the prohibition in paragraph (b) of this section, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from the State the total of all grants made to the State under this part in connection with such cemetery.

(d) If, within 3 years after VA has certified to the Department of the Treasury an approved grant application, not all funds from the grant have been used by the State for the purpose for which the grant was made, the United States shall be entitled to recover any unused grant funds from the State.

Authority: 38 U.S.C. 501, 2408, 2411.

§ 39.11 State to retain control of operations.

Neither the Secretary nor any employee of VA shall exercise any supervision or control over the administration, personnel, maintenance, or operation of any State veterans cemetery that receives a grant under this program except as prescribed in this part.

Authority: 38 U.S.C. 501, 2408.

Subpart B—Establishment, Expansion, and Improvement Projects

Grant Requirements and Procedures

§ 39.30 General requirements for a grant.

(a) For a State to obtain a grant for the establishment, expansion, or improvement of a State veterans cemetery:

(1) Its preapplication for the grant must be approved by VA under § 39.31(e);

(2) Its project must be ranked sufficiently high on the priority list in § 39.3 for the applicable fiscal year so that funds are available for the project;

(3) Its plans and specifications for the project must be approved by VA under § 39.32;

(4) The State must meet the application requirements in § 39.34; and

(5) Other requirements specified in §§ 39.6, 39.10, and 39.33 must be satisfied.

(b) VA may approve under § 39.35 any application under this subpart up to the amount of the grant requested once the requirements under paragraph (a) of this section have been satisfied, provided that sufficient funds are available. In determining whether sufficient funds are available, VA shall consider the project's priority ranking, the total amount of funds available for cemetery grant awards during the applicable fiscal year, and the prospects of higher ranking projects being ready for the award of a grant before the end of the applicable fiscal year.

Authority: 38 U.S.C. 501, 2408.

§ 39.31 Preapplication requirements.

(a) A State seeking a grant of more than $100,000 for the establishment, expansion, or improvement of a State veterans cemetery must submit a preapplication to the Director, State Cemetery Grants Service, through *http://www.cem.va.gov/cem/scg_grants.asp.*

(b) No detailed drawings, plans, or specifications are required with the preapplication. As a part of the preapplication, the State must submit each of the following:

(1) Standard Form 424 (Application for Federal Assistance) and Standard

Form 424C (Budget Information) signed by the authorized representative of the State. These forms document the amount of the grant requested, which may not exceed 100 percent of the estimated cost of the project to be funded with the grant.

(2) A program narrative describing the objectives of the project, the need for a grant, the method of accomplishment, the projected interment rate, and the results or benefits expected to be obtained from the assistance requested.

(3) If a site has been selected, a description of the geographic location of the project (*i.e.,* a map showing the location of the project and all appropriate geographic boundaries, and any other supporting documentation, as needed).

(4) A design concept describing the major features of the project including the number and types of gravesites, such as columbarium niches.

(5) Any comments or recommendations made by the State's ''Single Point of Contact'' reviewing agency.

(6) VA Form 40–0895–2 (Certification of Compliance with Provisions of the Davis-Bacon Act) to certify that the State has obtained the latest prevailing wage rates for Federally funded projects. Any construction project fully or partially funded with Federal dollars must comply with those rates for specific work by trade employees (*e.g.,* electricians, carpenters).

(7) VA Form 40–0895–3 (State or Tribal Government Cemetery Grants Service Space Program Analysis—Buildings) to provide information on the proposed size of cemetery buildings, based on VA guidance on the net and gross square footage standards for cemetery buildings. This standard is based on a workload of 1–6 burials per day.

(8) VA Form 40–0895–6 (Certification of State or Tribal Government Matching Architectural and Engineering Funds to Qualify for Group 1 on the Priority List) to provide documentation that the State has legislative authority to support the project and the resources necessary to initially fund the architectural and engineering portion of the project development. Once the grant is awarded, VA will reimburse the applicant for all allowable architectural and engineering costs.

(9) VA Form 40–0895–7 (Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions (State or Tribal Government)) to ensure that the applicant has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(10) VA Form 40–0895–8 (Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals) to ensure that the applicant complies with the Drug-Free Workplace Act of 1988 at the location where the construction will occur.

(11) VA Form 40–0895–9 (Certification Regarding Lobbying) to ensure that the applicant complies with Public Law 101–121 regarding the prohibition against any payments to anyone that influences or attempts to influence an officer or Member of Congress in connection with the award of a grant.

(12) VA Form 40–0895–10 (Certification of Compliance with Federal Requirements—State or Tribal Government Construction Grant) to ensure that the applicant complies with all requirements of Part 39.

(13) VA Form 40–0895–15 (Certification of Cemetery Maintained in Accordance with National Cemetery Administration Standards) to ensure that any cemetery established, expanded, or improved through a grant will be operated and maintained in accordance with the operational standards of NCA.

(c) In addition, the State must submit written assurance of each of the following conditions:

(1) Any cemetery established, expanded, or improved through a grant will be used exclusively for the interment or memorialization of eligible persons, as set forth in § 39.10(a), whose interment or memorialization is not contrary to the conditions of the grant (*see* § 39.10(b) and 38 U.S.C. 2408(d) and 2411).

(2) Title to the site is or will be vested solely in the State.

(3) The State possesses legal authority to apply for the grant and to finance and construct the proposed facilities; *i.e.,* legislation or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the State to act in connection with the application and to provide such additional information as may be required.

(4) The State will assist VA in assuring that the grant complies with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 *et seq.*).

(5) The State will obtain approval by VA of the final construction drawings and specifications before the project is advertised or placed on the market for bidding; it will construct the project, or cause the project to be constructed, to completion in accordance with the application and approved plans and specifications; it will submit to the Director of the State Cemetery Grants Service, for prior approval, changes that alter any cost of the project, use of space, or functional layout; and it will not enter into a construction contract for the project or undertake other activities until the requirements of the grant program have been met.

(6) The State will comply with the Federal requirements in 2 CFR parts 180 and 801 and 38 CFR part 43 and submit Standard Form 424D (Assurances—Construction Programs).

(7) The State will prepare an Environmental Assessment to determine whether an Environmental Impact Statement is necessary, and certify that funds are available to finance any costs related to preparation of the Environmental Assessment.

(d) The State must submit a copy of the legislation, as enacted into law, authorizing the establishment, maintenance, and operation of the facility as a veterans cemetery in accordance with 38 CFR 39.10(a).

(e) Upon receipt of a complete preapplication for a grant, including all necessary assurances and all required supporting documentation, VA will determine whether the preapplication conforms to all requirements listed in paragraphs (a) through (d) of this section, including whether it contains sufficient information necessary to establish the project's priority. VA will notify the State of any nonconformity. If the preapplication does conform, VA shall notify the State that the preapplication has been found to meet the preapplication requirements, and the proposed project will be included in the next scheduled ranking of projects, as indicated in § 39.3(d).

Authority: 38 U.S.C. 501, 2408, 2411.

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers XXXX–XXXX, 4040–0004, 4040–0008, and 4040–0009.)

§ 39.32 Plan preparation.

The State must prepare Establishment, Expansion, and Improvement Project plans and specifications in accordance with the requirements of this section for review

by the SCGS. The plans and specifications must be approved by the SCGS prior to the State's solicitation for construction bids. Once SCGS approves the plans and specifications, the State must obtain construction bids and determine the successful bidder prior to submission of the application. The State must establish procedures for determining that costs are reasonable and necessary and can be allocated in accordance with the provisions of Office of Management and Budget (OMB) Circular No. A–87. Once the Establishment, Expansion, and Improvement Project preapplication and the project's plans and specifications have been approved, an application for assistance must be submitted in compliance with the uniform requirements for grants-in-aid to State and local governments prescribed by OMB Circular No. A–102, Revised.

(a) *General.* These requirements have been established for the guidance of the State agency and the design team to provide a standard for preparation of drawings, specifications, and estimates.

(b) *Technical requirements.* The State should meet these technical requirements as soon as possible after VA approves the Establishment, Expansion, and Improvement Project preapplication.

(1) *Boundary and site survey.* The State agency shall provide a survey of the site and furnish a legal description of the site. A boundary and site survey need not be submitted if one was submitted for a previously approved project and there have been no changes. Relevant information may then be shown on the site plan. If required, the site survey shall show each of the following items:

(i) The outline and location referenced to boundaries of all existing buildings, streets, alleys (whether public or private), block boundaries, easements, encroachments, the names of streets, railroads, and streams, and other information as specified. If there is nothing of this character affecting the property, the Surveyor shall so state on the drawings.

(ii) The point of beginning, bearing, distances, and interior angles. Closure computations shall be furnished with the survey, and error of closure shall not exceed 1 foot for each 10,000 feet of lineal traverse. Boundaries of an unusual nature (curvilinear, off-set, or having other change or direction between corners) shall be referenced with curve data (including measurement chord) and other data sufficient for replacement, and such information shall be shown on the map. For boundaries of such nature, coordinates shall be given for all angles and other pertinent points.

(iii) The area of the parcel in acres or in square feet.

(iv) The location of all monuments.

(v) Delineation of 100-year floodplain and source.

(vi) The signature and certification of the Surveyor.

(2) *Soil investigation.* The State shall provide a soil investigation of the scope necessary to ascertain site characteristics for construction and burial or to determine foundation requirements and utility service connections. A new soil investigation is not required if one was done for a previously approved project on the same site and information from the previous investigation is adequate and unchanged. Soil investigation, when done, shall be documented in a signed report. The investigation shall be adequate to determine the subsoil conditions. The investigation shall include a sufficient number of test pits or test borings as will determine, in the judgment of the architect, the true conditions. The following information will be covered in the report:

(i) Thickness, consistency, character, and estimated safe bearing value where needed for structural foundation design of the various strata encountered in each pit or boring.

(ii) Amount and elevation of ground water encountered in each pit or boring, its probable variation with the seasons, and effect on the subsoil.

(iii) The elevation of rock, if known, and the probability of encountering quicksand.

(iv) If the site is underlaid with mines, the elevations and location of the tops of the mine workings relative to the site, or old workings located in the vicinity.

(3) *Topographical survey.* A topographical survey in 1-foot contour intervals shall be prepared for projects establishing new cemeteries and for significant expansion projects in previously undeveloped land.

(c) *Master plan.* A master plan showing the proposed layout of all facilities—including buildings, roadways, and burial sections—on the selected site shall be prepared for all new cemetery establishment projects for approval by the SCGS. If the project is to be phased into different year programs, the phasing shall be indicated. The master plan shall analyze all factors affecting the design, including climate, soil conditions, site boundaries, topography, views, hydrology, environmental constraints, transportation access, *etc.* It should provide a discussion of alternate designs that were considered. In the case of an expansion project or improvement project, the work contemplated should be consistent with the VA-approved master plan or a justification for the deviation should be provided.

(d) *Preliminary or ''design development'' drawings.* Following VA approval of the master plan, the State must submit design development drawings that show all current phase construction elements to be funded by the grant. The drawings must comply with the following requirements:

(1) Site development and environmental plans must include locations of structures, demolition, parking, roads, service areas, walks, plazas, memorial paths, other paved areas, landscape buffer and major groupings, and interment areas (including quantity of gravesites in each area). A grading plan including existing and proposed contours at 1-foot intervals of the entire area affected by the site work must be submitted. A site plan of the immediate area around each building shall be drawn to a convenient scale and shall show the building floor plan, utility connections, walks, gates, walls or fences, flagpoles, drives, parking areas, indication of handicapped provisions, landscaping, north arrow, and any other appropriate items.

(2) Floor plans of all levels at a convenient scale shall be double-line drawings and shall show overall dimensions, construction materials, door swings, names and square feet for each space, toilet room fixtures, and interior finish schedule.

(3) Elevations of the exteriors of all buildings shall be drawn to the same scale as the plan and shall include all material indications.

(4) Preliminary mechanical and electrical layout plans shall be drawn at a convenient scale and shall have an equipment and plumbing fixture schedule.

(e) *Final construction drawings and specifications.* Funds for the construction of any project being assisted under this program will not be released until VA approves the final construction drawings and specifications. If VA approves them, VA shall send the State a written letter of approval indicating that the project's plans and specifications comply with the terms and conditions as prescribed by VA. This does not constitute approval of the contract documents. It is the responsibility of the State to ascertain that all State and Federal requirements have been met and that the drawings and specifications are acceptable for bid purposes.

(1) *General.* The State shall prepare final working drawings so that clear and distinct prints may be obtained. These drawings must be accurately dimensioned to include all necessary explanatory notes, schedules, and legends. Working drawings shall be complete and adequate for VA review and comment. The State shall prepare separate drawings for each of the following types of work: architectural, equipment, layout, structural, heating and ventilating, plumbing, and electrical.

(2) *Architectural drawings.* The State shall submit drawings which include: All structures and other work to be removed; all floor plans if any new work is involved; all elevations which are affected by the alterations; building sections; demolition drawings; all details to complete the proposed work and finish schedules; and fully dimensioned floor plans at ⅛′ or ¼′ scale.

(3) *Equipment drawings.* The State shall submit a list of all equipment to be provided under terms of the grant in the case of an Establishment Project. Large-scale drawings of typical special rooms indicating all fixed equipment and major items of furniture and moveable equipment shall be included.

(4) *Layout drawings.* The State shall submit a layout plan that shows:

(i) All proposed features such as roads, buildings, walks, utility lines, burial layout, *etc.*

(ii) Contours, scale, north arrow, and legend showing existing trees.

(iii) A graphic or keyed method of showing plant types as well as quantities of each plant.

(iv) Plant list with the following: key, quantity, botanical name, common name, size, and remarks.

(v) Typical tree and shrub planting details.

(vi) Areas to be seeded or sodded.

(vii) Areas to be mulched.

(viii) Gravesite section layout with permanent section monument markers and lettering system.

(ix) Individual gravesite layout and numbering system. If the cemetery is existing and the project is expansion or renovation, show available, occupied, obstructed, and reserved gravesites.

(x) Direction the headstones face.

(5) *Structural drawings.* The State shall submit complete foundation and framing plans and details, with general notes to include: governing code, material strengths, live loads, wind loads, foundation design values, and seismic zone.

(6) *Mechanical drawings.* The State shall submit:

(i) Heating and ventilation drawings showing complete systems and details of air conditioning, heating, ventilation, and exhaust; and

(ii) Plumbing drawings showing sizes and elevations of soil and waste systems, sizes of all hot and cold water piping, drainage and vent systems, plumbing fixtures, and riser diagrams.

(7) *Electrical drawings.* The State shall submit separate drawings for lighting and power, including drawings of:

(i) Service entrance, feeders, and all characteristics;

(ii) All panel, breaker, switchboard, and fixture schedules;

(iii) All lighting outlets, receptacles, switches, power outlets, and circuits; and

(iv) Telephone layout, fire alarm systems, and emergency lighting.

(8) *Final specifications.* Final specifications (to be used for bid purposes) shall be in completed format. Specifications shall include the invitations for bids, cover or title sheet, index, general requirements, form of bid bond, form of agreement, performance and payment bond forms, and sections describing materials and workmanship in detail for each class of work.

(9) *Cost estimates.* The State shall show in convenient form and detail the estimated total cost of the work to be performed under the contract, including provisions of fixed equipment shown by the plans and specifications, if applicable, to reflect the changes of the approved financial plan. Estimates shall be summarized and totaled under each trade or type of work. Estimates shall also be provided for each building structure and other important features such as the assembly area and shall include burial facilities.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control number XXXX–XXXX.)

§ 39.33 Conferences.

(a) *Predesign conference.* A predesign conference is required for all Establishment, Expansion, and Improvement Projects requiring major construction, primarily to ensure that the State agency becomes oriented to VA procedures, requirements, and any technical comments pertaining to the project. This conference will take place at an appropriate location near the proposed site and should include a site visit to ensure that all parties to the process, including NCA staff, are familiar with the site and its characteristics.

(b) *Additional conferences.* At any time, VA may recommend an additional conference (such as a design development conference) be held in VA Central Office in Washington, DC, to provide an opportunity for the State and its architects to discuss with VA officials the requirements for a grant.

Authority: 38 U.S.C. 501, 2408.

§ 39.34 Application requirements.

(a) For an Establishment, Expansion, and Improvement Project to be considered for grant funding under this subpart, the State must submit an application (as opposed to a preapplication) consisting of the following:

(1) Standard Form 424 (Application for Federal Assistance) with the box labeled ''application'' marked;

(2) Standard Form 424C (Budget Information), which documents the amount of funds requested based on the construction costs as estimated by the successful construction bid;

(3) A copy of itemized bid tabulations (If there are non-VA participating areas, these shall be itemized separately.); and

(4) Standard Form 424D (Assurances—Construction Program).

(5) VA Form 40–0895–11 (Memorandum of Agreement for a Grant to Construct or Modify a State or Tribal Government Veterans Cemetery) to identify the parties (VA and applicant), identify the scope of the project, and indicate how the grant award funds will be paid to the applicant.

(6) VA Form 40–0895–12 (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (Contractor)) to ensure that the contractor has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(b) Prior to submission of the application, the State must submit a copy of an Environmental Assessment to determine if an Environmental Impact Statement is necessary for compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4332). The Environmental Assessment must briefly describe the project's possible beneficial and harmful effects on the following impact categories:

(1) Transportation;

(2) Air quality;

(3) Noise;

(4) Solid waste;

(5) Utilities;

(6) Geology (Soils/Hydrology/Floodplains);

(7) Water quality;

(8) Land use;

(9) Vegetation, Wildlife, Aquatic, Ecology/Wetlands, *etc.;*

(10) Economic activities;

(11) Cultural resources;

(12) Aesthetics;

(13) Residential population;

(14) Community services and facilities;

(15) Community plans and projects; and

(16) Other.

(c) If an adverse environmental impact is anticipated, the State must explain what action will be taken to minimize the impact. The assessment shall comply with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers XXXX–XXXX, 4040–0004, 4040–0008, and 4040–0009.)

§ 39.35 Final review and approval of application.

Following VA approval of bid tabulations and cost estimates, VA will review the complete Establishment, Expansion and Improvement Project grant application for approval in accordance with the requirements of § 39.30. If the application is approved, the grant will be awarded by a Notification of Award of Federal Grant Funds.

Authority: 38 U.S.C. 501, 2408.

Award of Grant

§ 39.50 Amount of grant.

(a) The amount of an Establishment, Expansion, and Improvement Project grant awarded under this subpart may not exceed 100 percent of the total cost of the project, but may be less than the total cost of the project.

(b) The total cost of a project under this subpart may include:

(1) Administration and design costs, *e.g.*, architectural and engineering fees, inspection fees, and printing and advertising costs.

(2) The cost of cemetery features, *e.g.*, entry features, flag plaza and assembly areas, columbaria, preplaced liners or crypts, irrigation systems, committal-service shelters, and administration/maintenance buildings.

(3) In the case of an establishment grant, the cost of equipment necessary for the operation of the State veterans cemetery. This may include the cost of non-fixed equipment such as grounds maintenance equipment, burial equipment, and office equipment.

(4) In the case of an improvement or expansion grant, the cost of equipment necessary for operation of the State veterans cemetery, but only if such equipment:

(i) Was included in the construction contract;

(ii) Was installed during construction; and

(iii) Is permanently affixed to a building or connected to the heating, ventilating, air conditioning, or other service distributed through a building via ducts, pipes, wires, or other connecting device, such as kitchen and intercommunication equipment, built-in cabinets, and equipment lifts.

(5) A contingency allowance not to exceed five percent of the total cost of a project that involves new construction or eight percent of the total cost of an improvement project that does not involve new construction.

(c) The total cost of a project under this subpart may not include the cost of:

(1) Land acquisition;

(2) Building space that exceeds the space guidelines specified in this part;

(3) Improvements not on cemetery land, such as access roads or utilities;

(4) Maintenance or repair work;

(5) Office supplies or consumable goods (such as fuel and fertilizer) that are routinely used in a cemetery; or

(6) Fully enclosed, climate-controlled, committal-service facilities, freestanding chapels, or chapels that are part of an administrative building or information center.

(d) VA shall certify approved applications to the Secretary of the Treasury in the amount of the grant, and shall designate the appropriation from which it shall be paid. Funds paid for the establishment, expansion, or improvement of a veterans cemetery must be used solely for carrying out approved projects.

Authority: 38 U.S.C. 501, 2408.

§ 39.51 Payment of grant award.

The amount of an Establishment, Expansion, and Improvement Project grant award will be paid to the State or, if designated by the State representative, the State veterans cemetery for which such project is being carried out, or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement, and in installments that are consistent with the progress of the project, as the Director of the State Cemetery Grants Service may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved Establishment, Expansion, and Improvement Project shall be used solely for carrying out such project as approved. As a condition for the final payment, the State representative must submit to VA the following:

(a) Standard Form 271 (Outlay Report and Request for Reimbursement for Construction Programs);

(b) A request in writing for the final architectural/engineering inspection, including the name and telephone number of the local point of contact for the project;

(c) The written statement, ''It is hereby agreed that the monetary commitment of the Federal government will have been met and the project will be considered terminated upon payment of this voucher.''; and

(d) Evidence that the State has met its responsibility for an audit under the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*) and § 39.122, if applicable.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348–0002.)

Standards and Requirements

§ 39.60 General requirements for site selection and construction of veterans cemeteries.

(a) The various codes, requirements, and recommendations of State and local authorities or technical and professional organizations, to the extent and manner in which those codes, requirements, and recommendations are referenced in this subpart, are applicable to grants involving construction of veterans cemeteries. Additional information concerning these codes, requirements, and recommendations may be obtained from VA, National Cemetery Administration, 810 Vermont Avenue, NW., Washington, DC 20420.

(b) The standards in §§ 39.60, 39.61, 39.62, and 39.63 constitute general design and construction criteria and shall apply to all Establishment, Expansion, and Improvement Projects for which Federal assistance is requested under 38 U.S.C. 2408.

(c) In developing these standards, no attempt has been made to comply with all of the various State and local codes and regulations. The standards contained in §§ 39.60, 39.61, 39.62, and 39.63 shall be followed where they exceed State or local codes and regulations. Departure will be permitted, however, when alternate standards are demonstrated to provide equivalent or better design criteria than the standards in these sections. Conversely, compliance is required with State and local codes where such requirements provide a standard higher than those in these sections. The additional cost, if any, in using standards that are higher than those of VA should be documented and justified in the application.

(d) The space criteria and area requirements referred to in these standards shall be used as a guide in planning. Additional area and facilities beyond those specified as basic may be included if found to be necessary to meet the functional requirements of the project but are subject to approval by VA. Substantial deviation from the space criteria or area standards shall be carefully considered and justified. Failing to meet the criteria or standards or exceeding them by more than 10 percent in the completed plan would be regarded as evidence of inferior design or as exceeding the boundaries of professional requirements. In those projects that unjustifiably exceed maximum space criteria or area requirements, VA funding may be subject to reduction in proportion to the amount by which the space or area of the cemetery exceeds the maximum specified in these standards.

Authority: 38 U.S.C. 501, 2408.

§ 39.61 Site planning standards.

(a) *Site selection*—(1) *Location.* The land should be located as close as possible to the densest veteran population in the area under consideration.

(2) *Size.* Sufficient acreage shall be available to provide gravesites for estimated needs for at least 20 years. More acreage should be provided where feasible. Acreage could vary depending on the State veteran population and national cemetery availability.

(3) *Accessibility.* The site should be readily accessible by highway. Offsite improvements shall not be funded by the grant.

(4) *Topography.* The land should range from comparatively level to rolling and moderately hilly terrain. Natural rugged contours are suitable only if development and maintenance costs would not be excessive and burial areas would be accessible to elderly or infirm visitors. The land shall not be subject to flooding.

(5) *Water table.* The water table should be lower than the maximum proposed depth of burial.

(6) *Soil requirements.* The soil should be free from rock, muck, unstable composition, and other materials that would hamper the economical excavation of graves by normal methods. In general, the soil should meet the standards of good agricultural land that is capable of supporting turf and trees, with normal care and without the addition of topsoil.

(7) *Utilities.* Electricity and gas, if required, should be available. Offsite improvements shall not be funded by the grant.

(8) *Water supply.* An adequate supply of water should be available. Offsite improvements shall not be funded by the grant.

(9) *Sewerage.* An approved means to dispose of storm flow and sewage from the facility should be available. Offsite improvements shall not be funded by the grant.

(b) *Site development requirements*—(1) *General.* The development plan shall provide for adequate hard-surfaced roads, walks, parking areas, public rest rooms, a flag circle, and a main gate.

(2) *Parking.* All parking facilities shall include provisions to accommodate the physically handicapped. A minimum of one space shall be set aside and identified with signage in each parking area with additional spaces provided in the ratio of 1 handicapped space to every 20 regular spaces. Handicapped spaces shall not be placed between two conventional diagonal or head-on parking spaces. Each of the handicapped parking spaces shall not be less than 9 feet wide; in addition, a clear space 4 feet wide shall be provided between the adjacent conventional parking spaces and also on the outside of the end spaces. Parking shall not be provided for large numbers of people attending ceremonial events such as Memorial Day services.

(3) *Roads.* Roads should generally follow the topography of the cemetery and allow pedestrian access to burial sections on both sides. Roads should generally not be used as ''boundaries'' outlining burial sections. Extensive bridging should be avoided. Grant program funding may not be used to build access roads on property that is not part of the cemetery. Road widths shall be compatible with proposed traffic flows and volumes. Primary roads shall be generally 24 feet wide.

(4) *Pavement design.* The pavement section of all roads, service areas, and parking areas shall be designed for the maximum anticipated traffic loads and existing soil conditions and in accordance with local and State design criteria.

(5) *Curbs.* Bituminous roads may be provided with integral curbs and gutters constructed of portland cement concrete. Freestanding curbs may be substituted when the advantage of using them is clearly indicated. All curbs shall have a ''roll-type'' cross section for vehicle and equipment access to lawn areas except as may be necessary for traffic control. The radii of curbs at road intersections shall not be less than 20 feet-0 inches. Curb ramps shall be provided to accommodate the physically handicapped and maintenance equipment. Curb ramps shall be provided at all intersections of roads and walks. The curb ramps shall not be less than 4 feet wide; they shall not have a slope greater than 8 percent, and preferably not greater than 5 percent. The vertical angle between the surface of a curb ramp and the surface of a road or gutter shall not be less than 176 degrees; the transition between the two surfaces shall be smooth. Curb ramps shall have nonskid surfaces.

(6) *Walks.* Walks shall be designed with consideration for the physically handicapped and elderly. Walks and ramps designed on an incline shall have periodic level platforms. All walks, ramps and platforms shall have nonskid surfaces. Any walk shall be ramped if the slope exceeds 3 percent. Walks that have gradients from 2 to 3 percent shall be provided with level platforms at 200-foot intervals and at intersections with other walks. Ramps shall not have a slope greater than 8 percent, and preferably not greater than 5 percent. The ramps shall have handrails on both sides unless other protective devices are provided; every handrail shall have clearance of not less than 1½ inches between the back of the handrail and the wall or any other vertical surface behind it. Ramps shall not be less than 4 feet wide between curbs; curbs shall be provided on both sides. The curbs shall not be less than 4 inches high and 4 inches wide. A level platform in a ramp shall not be less than the full width of the ramp and not less than 5 feet long. Entrance platforms and ramps shall be provided with protective weather barriers to shield them against hazardous conditions resulting from inclement weather.

(7) *Steps.* Exterior steps may be included in the site development as long as provisions are made for use by physically handicapped persons.

(8) *Grading.* Minimum lawn slopes shall be 2 percent; critical spot grade elevations shall be shown on the contract drawings. Insofar as practicable, lawn areas shall be designed without steep slopes.

(9) *Landscaping.* The landscaping plan should provide for a park-like setting of harmonious open spaces balanced with groves of indigenous and cultivated deciduous and evergreen trees. Shrubbery should be kept to a minimum. Steep slopes that are unsuitable for interment areas should be kept in their natural state.

(10) *Surface drainage.* Surface grades shall be determined in coordination with the architectural, structural, and mechanical design of buildings and facilities so as to provide proper surface drainage.

(11) *Burial areas.* A site plan of the cemetery shall include a burial layout. If appropriate, the burial layout should reflect the phases of development in the various sections. The first phase of construction should contain sufficient burial sites to meet the foreseeable demand for at least 10 years. All applicable dimensions of roadways, fences, utilities, or other structures shall be indicated on the layout.

(12) *Gravesites.* Gravesites shall be laid out in uniform pattern. There shall be a minimum of 10 feet from the edge of roads and drives and a minimum of 20 feet from the boundaries or fence lines. Maximum distance from the edge of a permanent road to any gravesite shall not be over 275 feet. Temporary roads may be provided to serve areas in phase developments.

(13) *Monumentation.* Each grave shall be marked with an appropriate marker, and each cemetery shall maintain a register of burials setting forth the name of each person buried and the designation of the grave in which he/she is buried. Permanent gravesite control markers shall be installed based on a grid system throughout the burial area unless otherwise specified. This will facilitate the gravesite layout, placement of utility lines, and alignment of headstones.

(14) *Entrance.* The entrance should be an architectural or landscape feature that creates a sense of arrival.

(15) *Memorial walkway.* Each cemetery should have an area for the display of memorials donated by veterans groups and others. Such areas may take the form of a path or walkway and should provide a contemplative setting for visitors.

(16) *Donation items.* Family members and others often wish to donate items such as benches and trees. Acceptable items of donation should be specified in the cemetery plan. The plan should also designate appropriate locations for such items.

(17) *Flag/assembly area.* There shall be one primary flagpole for the United States flag. This flag shall be lighted. A turf assembly area should be developed for major gatherings such as Memorial Day. The assembly area may be focused on the flag. The area may also incorporate an architectural or a landscape feature that functions as a platform or backdrop for speakers.

(18) *Site furnishings.* Site furnishings include signage, trash receptacles, benches, and flower containers. These items should be coordinated and complement each other, the architectural design, and the cemetery as a whole. They should be simple, durable, standardized, and properly scaled.

(19) *Carillons.* The cemetery development plan should include a location for a carillon tower. Carillons are normally donated. They are not provided for in the grant.

Authority: 38 U.S.C. 501, 2408.

§ 39.62 Space criteria for support facilities.

These criteria are based on a projected average burial rate of one to six per day, staffing by position, and a defined complement of maintenance and service equipment. For cemeteries with less than one or more than six burials per day, support facilities are considered on an individual basis in accordance with § 39.60(d). In converting Net Square Feet (NSF) to Gross Square Feet (GSF), a conversion factor of 1.5 is the maximum allowed. The applicant shall, in support of the design, include the following as an attachment to the application: a list of all grounds maintenance supplies and equipment and the number of Full Time Employees (FTE) by job assignment for the next 10 years.

(a) *Administrative building.* The administrative building should be approximately 1,600 NSF in total, providing space, as needed, for the following:

(1) Cemetery director's office;
(2) Other offices (as needed);
(3) Administrative staff (lobby/office area);
(4) Operations (file/office/equipment/work area);
(5) Family/conference room;
(6) Military honors team;
(7) Refreshment unit;
(8) Housekeeping aide's closet; and
(9) Restroom facilities.

(b) *Maintenance/service building.* The maintenance/service building may be combined with the administrative building. The maintenance/service building should be approximately 2,200 NSF in total, providing heated and air conditioned space, as needed, for the following:

(1) Foreman's office;
(2) Lunch room;
(3) Kitchen unit;
(4) Toilet and locker room facilities;
(5) Housekeeping aide's closet; and
(6) Vehicle and equipment maintenance and storage.

(c) *Vehicle and equipment storage.* Approximately 275 NSF/Bay as needed. Not all types of vehicles and equipment require storage in heated space. Based on climatic conditions, it may be justified to rely completely on open structures rather than heated structures to protect the following types of vehicles and equipment: dump trucks, pickup trucks, cemetery automobiles, gang and circular mowers.

(d) *Interment/committal service shelter.* One permanent shelter is authorized for every five interments per day. The shelter may include a covered area to provide seating for approximately 20 people and an uncovered paved area to provide space for approximately 50 additional people. The shelter may also include a small, enclosed equipment/storage area. Provisions must be made for the playing of Taps by recorded means.

(e) *Public Information Center.* One permanent Public Information Center is authorized per facility. A Public Information Center is used to orient visitors and funeral corteges. It should include the gravesite locator. The public restrooms may also be combined with this structure. Space determinations for separate structures for public restrooms shall be considered on an individual basis. The Public Information Center, including public restrooms, may be combined with the administrative building.

(f) *Other interment structures.* Space determinations for other support facilities such as columbaria, preplaced graveliners (or crypts), garden niches, *etc.,* will be considered on an individual basis in accordance with § 39.60(d).

Authority: 38 U.S.C. 501, 2408.

§ 39.63 Architectural design standards.

The publications listed in this section are incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be inspected at the office of the State Cemetery Grants Service, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies of the 2006 edition of the National Fire Protection Association Life Safety Code and Errata (NFPA 101), the 2006 edition of the NFPA 5000, Building Construction and Safety Code, and the 2008 edition of the National Electrical Code, NFPA 70, may be obtained from the National Fire Protection Association, Inc. (NFPA), 1 Batterymarch Park, P.O. Box 9101, Quincy, MA 02269–9101. Copies of the 2006 edition of the International Mechanical Code and the 2006 edition of the International Plumbing Code may be obtained from the International Code Council (ICC) 2122 112th Avenue NE., Suite C, Bellevue, WA 98001.

(a) *Architectural and structural requirements*—(1) *Life Safety Code.* Standards must be in accordance with the 2006 edition of the National Fire Protection Association Life Safety Code, NFPA 101. Fire safety construction features not included in NFPA 101 shall be designed in accordance with the requirements of the 2006 edition of the NFPA 5000, Building Construction and Safety Code. Where the adopted codes state conflicting requirements, the NFPA National Fire Codes shall govern.

(2) *State and local codes.* In addition to compliance with the standards set forth in this section, all applicable local and State building codes and regulations must be observed. In areas not subject to local or State building codes, the recommendations contained in the 2006 edition of the NFPA 5000, Building Construction and Safety Code, shall apply.

(3) *Occupational safety and health standards.* Applicable standards contained in the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) must be observed.

(b) *Mechanical requirements.* The heating system, boilers, steam system, ventilation system, and air-conditioning system shall be furnished and installed to meet all requirements of the local and State codes and regulations. Where no local or State codes are in force, the 2006 edition of the International Mechanical Code shall apply.

(c) *Plumbing requirements.* Plumbing systems shall comply with all applicable local and State codes, the requirements of the State Department of Health, and the minimum general standards as set forth in this part. Where no local or State codes are in force, the 2006 edition of the International Plumbing Code shall apply.

(d) *Electrical requirements.* The installation of electrical work and equipment shall comply with all local and State codes and laws applicable to electrical installations and the minimum general standards set forth in the NFPA 70, National Electrical Code, 2008 edition. The regulations of the local utility company shall govern service connections. Aluminum bus ways shall not be used as a conducting medium in the electrical distribution system.

Authority: 38 U.S.C. 501, 2408.

Subpart C—Operation and Maintenance Projects

Grant Requirements and Procedures

§ 39.80 General requirements for a grant.

(a) For a State to obtain a grant for the operation or maintenance of a State veterans cemetery:

(1) Its preapplication for the grant must be approved by VA under § 39.81(e);

(2) Its project must be ranked sufficiently high within Priority Group 4 as defined in § 39.3 for the applicable fiscal year so that funds are available for the project, and a grant for the project must not result in payment of more than the $5 million total amount permissible for all Operation and Maintenance Projects in any fiscal year;

(3) Its plans and specifications for the project must be approved by VA under § 39.82;

(4) The State must meet the application requirements in § 39.84; and

(5) Other requirements specified in §§ 39.6, 39.10, and 39.83 must be satisfied.

(b) VA may approve under § 39.85 any Operation and Maintenance Project grant application up to the amount of the grant requested once the requirements under paragraph (a) of this section have been satisfied, provided that sufficient funds are available and that total amount of grants awarded during any fiscal year for Operation and Maintenance Projects does not exceed $5 million. In determining whether sufficient funds are available, VA shall consider the project's ranking in Priority Group 4; the total amount of funds available for cemetery grant awards in Priority Group 4 during the applicable fiscal year; and the prospects of higher ranking projects being ready for the award of a grant before the end of the applicable fiscal year.

Authority: 38 U.S.C. 501, 2408.

§ 39.81 Preapplication requirements.

(a) A State seeking a grant for the operation or maintenance of a State veterans cemetery must submit a preapplication to the Director, State Cemetery Grants Service, through *http://www.cem.va.gov/cem/scg_grants.asp*.

(b) No detailed drawings, plans, or specifications are required with the preapplication. As a part of the preapplication, the State must submit each of the following:

(1) Standard Form 424 (Application for Federal Assistance) and Standard Form 424C (Budget Information) signed by the authorized representative of the State. These forms document the amount of the grant requested, which may not exceed 100 percent of the estimated cost of the project to be funded with the grant.

(2) VA Form 40–0895–2 (Certification of Compliance with Provisions of the Davis-Bacon Act) to certify that the State has obtained the latest prevailing wage rates for Federally funded projects. Any construction project fully or partially funded with Federal dollars must comply with those rates for specific work by trade employees (*e.g.*, electricians, carpenters).

(3) VA Form 40–0895–6 (Certification of State or Tribal Government Matching Architectural and Engineering Funds to Qualify for Group 1 on the Priority List) to provide documentation that the State has legislative authority to support the project and the resources necessary to initially fund the architectural and engineering portion of the project development. Once the grant is awarded, VA will reimburse the applicant for all allowable architectural and engineering costs.

(4) VA Form 40–0895–7 (Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions (State or Tribal Government)) to ensure that the applicant has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(5) VA Form 40–0895–8 (Certification Regarding Drug-Free Workplace Requirements for Grantees Other Than Individuals) to ensure that the applicant complies with the Drug-Free Workplace Act of 1988 at the location where the construction will occur.

(6) VA Form 40–0895–9 (Certification Regarding Lobbying) to ensure that the applicant complies with Public Law 101–121 regarding the prohibition against any payments to anyone that influences or attempts to influence an officer or Member of Congress in connection with the award of a grant.

(7) VA Form 40–0895–10 (Certification of Compliance with Federal Requirements—State or Tribal Government Construction Grant) to ensure that the applicant complies with all requirements of Part 39.

(8) VA Form 40–0895–15 (Certification of Cemetery Maintained in Accordance with National Cemetery Administration Standards) to ensure that any cemetery operated or maintained through a grant will be operated and maintained in accordance with VA's national shrine standards of appearance.

(9) A gravesite assessment survey documenting the State cemetery's performance related to the standards outlined in paragraph (b)(10) of this section for the year in which the preapplication is submitted.

(10) A program narrative describing how the project will assist the State in meeting VA's national shrine standards with respect to cleanliness, height and alignment of headstones and markers, leveling of gravesites, or turf conditions.

Specifically, the preapplication should explain the need for the grant, how the work is to be accomplished, and the expected improvement in the State cemetery's performance related to one or more of the following national shrine standards:

(i) *Cleanliness.* 90 percent of headstones, markers, and niche covers must be clean and free of debris and objectionable accumulations.

(ii) *Height.* 90 percent of headstones and markers must be set and maintained at the proper height.

(iii) *Alignment.* 100 percent of headstones, markers, and niche covers must be properly installed. Upright headstones in active burial sections must be uniform in height (24″–26″ above ground), horizontally and vertically aligned with inscriptions visible, and installed to ensure a pleasing top line while compensating for ground contours. Flat markers must be uniform in height (parallel with the ground and no more than 1″ above grade) and horizontally and vertically aligned. Niche covers must be horizontally and vertically aligned. All inscriptions must be visible.

(iv) *Grade.* 95 percent of the grade of every gravesite must blend in with adjacent grade levels.

(v) *Turf Conditions.* 100 percent of visually prominent areas must have a well-established, healthy stand of turf that is generally weed free; 95 percent of visually prominent areas with established turf must be generally free of bare areas.

(11) A description of the geographic location of the existing State cemetery and any other supporting documentation, as requested by the SCGS Director.

(12) A description of the project including the number and types of headstones and markers that need to be cleaned and aligned, a description of the gravesites that need to be leveled, and a description of the turf conditions that need to be improved to meet VA's national shrine standards.

(c) In addition, the State must submit written assurance of each of the following conditions:

(1) Any cemetery in receipt of a grant under this subpart will be used exclusively for the interment or memorialization of eligible persons, as set forth in § 39.10(a), whose interment or memorialization is not contrary to the conditions of the grant (*see* § 39.10(b) and 38 U.S.C. 2408(d) and 2411).

(2) Title to the site is or will be vested solely in the State.

(3) The State possesses legal authority to apply for the grant.

(4) The State will obtain approval by VA of the final specifications before the project is advertised or placed on the market for bidding; the project will achieve VA's national shrine standards with respect to cleanliness, height and alignment of headstones and markers, leveling of gravesites, or turf conditions in accordance with the application and approved plans and specifications; the State will submit to the Director of the State Cemetery Grants Service, for prior approval, changes that alter any cost of the project; and the State will not enter into a contract for the project or undertake other activities until all the requirements of the grant program have been met.

(d) Depending on the scope of the project, the SCGS will work with the State to determine which, if any, of the following are required:

(1) Compliance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 *et seq.*).

(2) Compliance with the Federal requirements in 2 CFR parts 180 and 801 and 38 CFR part 43 and submission of Standard Form 424D (Assurances—Construction Programs).

(3) A site Environmental Assessment to determine whether an Environmental Impact Statement will be necessary as a result of the work to be performed on the headstones and markers, gravesites, or turf conditions.

(e) Upon receipt of a complete preapplication for a grant, including all necessary assurances and all required supporting documentation, VA will determine whether the preapplication conforms to all requirements listed in paragraphs (a) through (d) of this section, including whether it contains sufficient information necessary to establish the project's priority. VA will notify the State of any nonconformity. If the preapplication does conform, VA shall notify the State that the preapplication has been found to meet the preapplication requirements, and the proposed project will be included in the next scheduled ranking of projects, as indicated in § 39.3(d).

Authority: 38 U.S.C. 501, 2408, 2411.

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers XXXX–XXXX, 4040–0004, 4040–0008, and 4040–0009.)

§ 39.82 Plan preparation.

(a) The State must successfully complete its plan preparation under this section before submitting a grant application for an Operation and Maintenance Project. The State may be required to undertake some or all of the following requirements of this section. After submitting all necessary plans and specifications to the SCGS and obtaining approval for the State to solicit for the Operation and Maintenance Project contract bids, the State shall:

(1) Obtain bids and determine the successful bidder;

(2) Establish procedures for determining that costs are reasonable and necessary and can be allocated in accordance with the provisions of OMB Circular No. A–87 and submit documentation of such determinations to VA; and

(3) Comply with the uniform requirements for grants-in-aid to State and local governments prescribed by OMB Circular No. A–102, Revised.

(b) Depending on the scope of the project, the SCGS will work with the State to determine which of the following will be required prior to submission of an application. As determined by VA, these may include:

(1) A boundary and site survey comprising a survey and legal description of the existing State cemetery site;

(2) Project drawings indicating the cemetery section(s) to be impacted by the Operation and Maintenance Project, gravesite section layout with permanent section monument markers and lettering system, and the total number of gravesites to be impacted;

(3) Project specifications (to be used for bid purposes), which shall include the invitation for bid, cover or title sheet, index, general requirements, form of bid bond, form of agreement, performance and payment bond forms, and detailed descriptions of materials and workmanship for the work to be performed to meet VA's national shrine standards;

(4) A detailed estimate of the total cost of the work to be performed under the contract; or

(5) A site Environmental Assessment meeting the provisions of § 39.34(b) to determine if an Environmental Impact Statement is necessary for compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4332), as a result of the work to be performed on the headstones and markers, gravesites, or turf conditions.

(c) If VA determines that the project's plans and specifications comply with the terms and conditions prescribed by VA, VA will send the State a written letter of approval indicating that the

project's plans and specifications comply with the terms and conditions as prescribed by VA. This does not constitute approval of the contract documents. It is the responsibility of the State to ascertain that all State and Federal requirements have been met and that the drawings and specifications are acceptable for bid purposes.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control number XXXX–XXXX.)

§ 39.83 Conferences.

(a) *Planning conference.* The SCGS may require planning conferences for Operation and Maintenance Projects, primarily to ensure that the State agency becomes oriented to VA's national shrine standards, procedures, requirements, and any technical comments pertaining to the project. These conferences will normally occur over the telephone.

(b) *Additional conferences.* At any time, VA may recommend an additional telephone conference to provide an opportunity for the State to discuss with VA officials the requirements for an Operation and Maintenance Project grant.

Authority: 38 U.S.C. 501, 2408.

§ 39.84 Application requirements.

For an Operation and Maintenance Project to be considered for grant funding under this subpart, the State must submit an application (as opposed to a preapplication) consisting of the following:

(a) Standard Form 424 (Application for Federal Assistance) with the box labeled ''application'' marked;

(b) Standard Form 424C (Budget Information), which documents the amount of funds requested based on the construction costs as estimated by the successful construction bid;

(c) A copy of itemized bid tabulations; and

(d) Standard Form 424D (Assurances—Construction Program).

(e) VA Form 40–0895–11 (Memorandum of Agreement for a Grant to Construct or Modify a State or Tribal Government Veterans Cemetery) to identify the parties (VA and applicant), identify the scope of the project, and indicate how the grant award funds will be paid to the applicant.

(f) VA Form 40–0895–12 (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (Contractor)) to ensure that the contractor has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers XXXX–XXXX, 4040–0002, 4040–0008, and 4040–0009.)

§ 39.85 Final review and approval of application.

Following VA approval of bid tabulations and cost estimates, the complete Operation and Maintenance Project grant application will be reviewed for approval in accordance with the requirements of § 39.80. If the application is approved, the grant will be awarded by a Notification of Award of Federal Grant Funds.

Authority: 38 U.S.C. 501, 2408.

Award of Grant

§ 39.100 Amount of grant.

(a) The amount of an Operation and Maintenance Project grant awarded under this subpart may not exceed 100 percent of the total cost of the project, but may be less than total cost of the project.

(b) The total cost of a project under this subpart may include any or all of the following costs:

(1) Administration and design costs, *e.g.*, architectural and engineering fees, inspection fees, and printing and advertising costs.

(2) Construction costs.

(3) The cost of VA-approved equipment that is necessary for the completion of the project.

(c) The total cost of a project under this subpart may not include the cost of any of the following:

(1) Land acquisition;

(2) Buildings of any type;

(3) Improvements not on cemetery land, such as access roads or utilities;

(4) Office supplies or consumable goods (such as fuel and fertilizer) that are routinely used in a cemetery; or

(5) Project contingency costs.

(d) VA shall certify approved applications to the Secretary of the Treasury in the amount of the grant, and shall designate the appropriation from which it shall be paid. Funds paid for the operation and maintenance of a veterans cemetery must be used solely for carrying out approved projects.

Authority: 38 U.S.C. 501, 2408.

§ 39.101 Payment of grant award.

The amount of an Operation and Maintenance Project grant award will be paid to the State or, if designated by the State representative, the State veterans cemetery for which such project is being carried out, or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement and in installments that are consistent with the progress of the project, as the Director of the State Cemetery Grants Service may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved Operation and Maintenance Project shall be used solely for carrying out such project as approved. As a condition for the final payment, the State representative must submit to VA each of the following:

(a) Standard Form 271 (Outlay Report and Request for Reimbursement for Construction Programs);

(b) A report on the project accomplishments in accordance with § 39.120 and a request in writing for the final architectural/engineering inspection, including the name and telephone number of the local point of contact for the project;

(c) The written statement, ''It is hereby agreed that the monetary commitment of the Federal government will have been met and the project will be considered terminated upon payment of this voucher.''; and

(d) Evidence that the State has met its responsibility for an audit under the Single Audit Act of 1984 (31 U.S.C. 7501 *et seq.*) and § 39.122.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control number 0348–0002.)

Subpart D—Grant Recipient Responsibilities, Inspections, and Reports Following Project Completion

§ 39.120 Documentation of grant accomplishments.

Within 60 days of completion of an Operation and Maintenance Project, the State must submit to SCGS a written report regarding the work performed to meet VA's national shrine standards. This report must be based on the original justification for the grant as noted in § 39.81(b)(10) and must include statistical data and detailed pictures of the work accomplished.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirement in this section under control number XXXX–XXXX.)

§ 39.121 State responsibilities following project completion.

(a) A State that has received an Establishment, Expansion, and Improvement Project grant or an Operation and Maintenance Project grant shall monitor use of the cemetery

by various subgroups and minority groups, including women veterans. If VA determines that under-utilization by any of these groups exists, the State shall establish a program to inform members of these groups about benefits available to them. If a significant number or portion of the population eligible to be served or likely to be directly affected by the grant program needs benefits information in a language other than English, the State shall make such information available in the necessary language.

(b) A State veterans cemetery that has received an Establishment, Expansion, and Improvement Project grant or an Operation and Maintenance Project grant shall be operated and maintained as follows:

(1) Buildings, grounds, roads, walks, and other structures shall be kept in reasonable repair to prevent undue deterioration and hazards to users.

(2) The cemetery shall be kept open for public use at reasonable hours based on the time of the year.

(c) VA, in coordination with the State, shall inspect the project for compliance with the standards set forth in subpart B for Establishment, Expansion, and Improvement Projects and with the standards set forth in subpart C for Operation and Maintenance Projects at the project's completion and at least once in every 3-year period following completion of the project throughout the period the facility is operated as a State veterans cemetery. The State shall forward to the Director, State Cemetery Grants Service, a copy of the inspection report, giving the date and location the inspection was made and citing any deficiencies and corrective action to be taken or proposed.

(d) Failure of a State to comply with any of paragraphs (a) through (c) of this section shall be considered cause for VA to suspend any payments due the State on any project until the compliance failure is corrected.

Authority: 38 U.S.C. 501, 2408; and E.O. 13166, 65 FR 50121.

§ 39.122 Inspections, audits, and reports.

(a) A State will allow VA inspectors and auditors to conduct inspections as necessary to ensure compliance with the provisions of this part. The State will provide to VA evidence that it has met its responsibility under the Single Audit Act of 1984 (*see* part 41 of this chapter).

(b) A State will make an annual report on VA Form 40–0241 (''State Cemetery Data'') signed by the authorized representative of the State. These forms document current burial activity at the cemetery, use of gravesites, remaining gravesites, and additional operational information intended to answer questions about the status of the grant program.

(c) A State will complete and submit to VA a VA Form 40–0895–13 (Certification Regarding Documents and Information Required for State or Tribal Government Cemetery Construction Grants—Post Grant Requirements) to ensure that the grantee is aware of and complies with all grant responsibilities and to properly and timely close out the grant.

Authority: 38 U.S.C. 501, 2408.

(The Office of Management and Budget has approved the information collection requirements in this section under control number XXXX–XXXX and 2900–0559.)

[FR Doc. E9–30873 Filed 12–30–09; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2009–0668; FRL–8796–6]

RIN 2070–AB27

Proposed Revocation of Significant New Use Rule on a Certain Chemical Substance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for one chemical substance. For the chemical substance covered by premanufacture notice (PMN) P–95–1772, EPA issued a non-5(e) SNUR (i.e. SNUR on a substance that is not subject to a TSCA section 5(e) consent order) designating certain activities as significant new uses based on the concern criteria in 40 CFR 721.170(b). EPA has received and reviewed new information and test data for the chemical substance and proposes to revoke the SNUR pursuant to 40 CFR 721.185.

DATES: Comments must be received on or before February 1, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2009–0668, by one of the following methods:

- *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery*: OPPT Document Control Office (DCO), EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number EPA–HQ–OPPT–2009–0668. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930. Such deliveries are only accepted during the DCO's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA–HQ–OPPT–2009–0668. 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, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in

the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

For technical information contact: Tracey Klosterman, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–2209; e-mail address: *klosterman.tracey@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, import, process, or use the chemical substance contained in this proposed revocation. Potentially affected entities may include, but are not limited to:

- Manufacturers, importers, or processors of the subject chemical substance (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This listing is not intended to be exhaustive, but rather provides 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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in § 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

In the **Federal Register** of January 22, 1998 (63 FR 3393) (FRL–5720–3), EPA promulgated a SNUR for the chemical substance covered by PMN P–95–1772. This non-5(e) SNUR designated certain activities as significant new uses based on the concern criteria identified in § 721.170(b)(4)(ii). EPA has received and reviewed test data for the chemical substance, and, based on that test data, EPA now proposes to revoke the SNUR pursuant to § 721.185. In this unit, EPA provides a brief description of this chemical substance, including the PMN number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned and not claimed as CBI), the **Federal Register** publication date and reference, the docket number, the basis for revoking the SNUR under § 721.185, and the CFR citation of the SNUR.

PMN Number P–95–1772

Chemical name: Polyalkyl phosphate (generic).

CAS number: Not available.

Federal Register *publication date and reference:* January 22, 1998 (63 FR 3393).

Docket number: OPPTS–50628.

Basis for revocation of SNUR: EPA issued a SNUR for this substance based on the concern criteria at § 721.170(b)(4)(ii). Subsequently, the PMN submitter petitioned EPA to revoke the SNUR based on the results of submitted biodegradation testing. The biodegradation testing demonstrated that the substance is readily biodegradable, mitigating concerns for chronic toxicity to aquatic organisms. Therefore, EPA no longer finds that releases to water resulting in stream concentrations that exceed 1 parts per billion (ppb) may cause significant adverse environmental effects. Based on available information, the substance no longer meets the concern criteria at § 721.170(b)(4)(ii). Therefore, EPA proposes that the SNUR for this chemical substance be revoked pursuant to § 721.185(a)(4).

CFR citation: 40 CFR 721.5995.

B. What is the Agency's Authority for Taking this Action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. The mechanism for reporting under this requirement is established under § 721.5.

Upon conclusion of the review for P–95–1772, based on the concern criteria

in § 721.170(b)(4)(ii) as discussed in Unit II.A., EPA determined that there was a concern for potential environmental effects of the substance and promulgated a non-5(e) SNUR for this chemical substance.

Under § 721.185, EPA may at any time revoke a SNUR for a chemical substance which has been added to subpart E of 40 CFR part 721 if EPA makes one of the determinations set forth in § 721.185(a)(1) through (a)(6). Revocation may occur on EPA's initiative or in response to a written request. Under § 721.185(b)(3), if EPA concludes that a SNUR should be revoked, the Agency will propose the changes in the **Federal Register**, briefly describe the grounds for the action, and provide interested parties an opportunity to comment.

EPA has determined that the criteria set forth in § 721.185(a)(4) have been satisfied for the chemical substance; therefore, EPA is proposing to revoke the SNUR provisions for this chemical substance. When this revocation becomes final, EPA will no longer require notice of intent to manufacture, import, or process this substance for any significant new uses. In addition, export notification requirements under section 12(b) of TSCA triggered by this SNUR will no longer be required.

III. Statutory and Executive Order Reviews

This proposed rule would revoke or eliminate an existing regulatory requirement and does not contain any new or amended requirements. As such, the Agency has determined that this proposed SNUR revocation would not have any adverse impacts, economic or otherwise.

The Office of Management and Budget (OMB) has exempted these types of regulatory actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This proposed rule does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), (44 U.S.C. 3501 *et seq.*). Since this proposed rule eliminates a reporting requirement, the Agency certifies pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), that this SNUR revocation would not have a significant economic impact on a substantial number of small entities.

For the same reasons, this action does not require any action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). This proposed rule has neither Federalism implications, because it would not have substantial direct effects on 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, entitled *Federalism* (64 FR 43255, August 10, 1999), nor tribal implications, because it would not have substantial direct effects 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 in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000).

This action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined under Executive Order 12866, and it does not address environmental health or safety risks disproportionately affecting children. It 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), because this action is not expected to affect energy supply, distribution, or use. Because this action does not involve any technical standards, 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), does not apply to this action. This action does not involve special considerations of environmental justice related issues as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 22, 2009.

Barbara A. Cunningham,

Acting Director, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.5995 [Removed]

2. By removing § 721.5995.

[FR Doc. E9–30990 Filed 12–30–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–AX67

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31

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

ACTION: Notice of Availability of Amendment 31 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 31 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Amendment 31 proposes actions to address sea turtle bycatch in the bottom longline component of the Gulf of Mexico (Gulf) reef fish fishery. The measures contained in the subject amendment are intended to balance the continued viability of the bottom longline component of the reef fish fishery while maintaining adequately protective measures for sea turtles.

DATES: Comments must be received no later than 5 p.m., eastern time, on March 1, 2010.

ADDRESSES: You may submit comments on the amendment or the proposed rule, identified by ''0648–AX67'' by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov*.
- Fax: 727–824–5308; Attention: Cynthia Meyer.
- Mail: Cynthia Meyer, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov*

without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov*, enter ''NOAA-NMFS–2008–0310'' in the keyword search, then check the box labeled ''Select to find documents accepting comments or submissions'', then select ''Send a Comment or Submission.'' NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. No comments will be posted for public viewing until after the comment period has closed.

Copies of Amendment 31, which includes a draft environmental impact statement, an initial regulatory flexibility analysis, and a regulatory impact review may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813–348–1630; fax 813–348–1711; e-mail *gulfcouncil@gulfcouncil.org*; or may be downloaded from the Council's website at *http://www.gulfcouncil.org/*.

FOR FURTHER INFORMATION CONTACT: Cynthia Meyer, telephone: 727–824–5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each Regional Fishery Management Council to submit any fishery management plan or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

Background

In September 2008, NMFS released a report analyzing sea turtle takes by the bottom longline component of the reef fish fishery as documented by an observer program. Subsequently updated in April 2009, the report indicated that the number of hardshell sea turtle takes by the bottom longline component of the Gulf reef fish fishery had exceeded the incidental take estimates specified in a 2005 Biological Opinion. Therefore, action was needed to provide protection for threatened loggerhead sea turtles in compliance with the Endangered Species Act (ESA). To address this issue in the short-term while the Council developed a long-term management strategy, NMFS published an emergency rule effective May 18, 2009. The emergency rule prohibited longline fishing for reef fish in the eastern Gulf shoreward of a line approximating the 50–fathom depth contour, and prohibited all longline fishing in the eastern Gulf after the deep-water grouper and tilefish commercial quotas were filled.

On October 16, 2009, NMFS published a rule, under the authority of the ESA, to replace the emergency rule. The rule prohibits bottom longline fishing in the eastern Gulf shoreward of a line approximating the 35–fathom contour with a restriction of 1,000 hooks per vessel with no more than 750 hooks rigged for fishing or fished at any given time. The intended effect of the rulemaking is to maintain protective measures for loggerhead sea turtles as well as to maintain a viable bottom longline fleet pending the implementation of Amendment 31 or alternative long-term mitigation measures.

Specifically, Amendment 31 would modify the FMP to: 1) prohibit the use of bottom longline gear in the reef fish fishery east of Cape San Blas, Florida, shoreward of a line approximating the 35–fathom (64–m) depth contour from June through August; 2) reduce the number of bottom longline vessels operating in the fishery through a longline endorsement provided only to vessel permits with demonstrated average annual landings of 40,000 lb (18,144 kg) of reef fish taken by fish traps or longlines during 1999–2007; and 3) restrict the number of hooks that may be possessed onboard each longline vessel to 1,000 hooks total, only 750 of which may be fished or rigged for fishing at any given time.

The Council has submitted Amendment 31 for review, approval, and implementation by the Secretary of Commerce. A proposed rule that would implement measures outlined in Amendment 31 has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, the ESA, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by March 1, 2010, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: December 24, 2009.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–31068 Filed 12–30–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 74, No. 250

Thursday, December 31, 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

Forest Service

Sparring Bulls EIS; Kootenai National Forest, Lincoln County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact statement (EIS) to disclose the environmental effects of commercial and non-commercial vegetation management, prescribed burning, and watershed improvement activities which include intermittent stored service work or decommissioning of system roads. Access management changes and other design features are also included to protect resources and facilitate management activities. The project is located in the Lake and Spar planning subunits on the Three Rivers Ranger District, Kootenai National Forest, Lincoln County, Montana, south of Troy, Montana.

Scoping Comment Date

Comments concerning the scope of the analysis must be received within 30 days from the date of publication in the **Federal Register**. Comments should be mailed to: Mike Herrin; District Ranger, Three Rivers Ranger District; 12858 U.S. Hwy 2; Troy, MT 59935, or e-mail: *comments-northern-kootenai-three-rivers@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Contact Timory Peel, Project Team Leader, Three Rivers Ranger District, 12858 U.S. Hwy 2, Troy, MT 59935. Phone: (406) 295–4693.

SUPPLEMENTARY INFORMATION: The project area is south of Troy, Montana, in the Lake Creek watershed. The legal description includes Townships 28–31 North, Ranges 33–35 West, Lincoln County, Montana, and Township 57–58 North, Range 3 East, Bonner County, Idaho. The area supports many species of wildlife and fish. Most of the project area is within the Cabinet-Yaak Grizzly Bear Recovery zone. A separate population of bull trout inhabits the Lake Creek watershed.

The purpose and need for this project is to: (1) Contribute to the supply of the timber in the area by recovering economically valuable wood products using timber harvest strategies that: (a) Manage characteristic vegetation patterns, stand structure, patch sizes, and species composition, while reducing stand vulnerability to insects and diseases; (b) Reduce existing fuel loadings and stand densities, and promote fire resilient conditions to allow for future use of fire as a management tool; and (c) Enhance visual resources as seen from critical viewpoints. (2) Increase forage habitat for big-game and grizzly bears using timber harvest and prescribed fire, including maintaining huckleberry fields over time for wildlife forage and public use. (3) Reduce hazardous ladder fuels, surface fuels, and canopy densities in the vicinity of private property and associated access routes to provide for public and firefighter safety. (4) Reduce sediment delivery and risk of road failures in bull trout watersheds.

To meet this purpose and need this project proposes:

1. Approximately 700 acres of intermediate harvest and 710 acres of regeneration harvest. Approximately half of the harvest would be tractor yarded and half skyline yarded. This harvest would contribute approximately 8 million board feet (MMBF) or 16 hundred cubic feet (CCF) of timber products to the economy, and result in employment associated with timber sales and service contracts. Unit 13, an 11-acre unit, lies within the Cabinet Face West #670 Inventoried Roadless Area (IRA), and is included in this proposal for urban interface fuels reduction. This unit borders U.S. Highway 56 and is adjacent to a restaurant and tavern, and several residences.

2. It is estimated that four temporary roads totaling less than one mile would be utilized to accomplish this harvest and would be obliterated following activities. Approximately 71 miles of haul road would have State Best Management Practices applied for water quality protection.

3. The size of harvest openings created by even-aged silvicultural (regeneration harvest) in the Northern Region will be normally 40 acres or less. Creation of larger openings requires 60-day public review and Regional Forester approval (FSM 2471.1). There is potential that Units 12, 12A, and 14 would create an opening greater than 40 acres.

4. Fuels reduction along open travel routes is proposed on approximately 216 acres. This includes approximately 207 acres of slashing with hand piling and 9 acres of excavator piling.

5. Prescribed burning, is proposed on approximately 3,820 acres to accentuate existing openings, with a Maximum Allowable Area of approximately 8,016 identified to allow for some movement of fire outside the ignition zone. Low to moderate intensity fire would be expected within the ignition zones, with low intensity fire expected outside that zone.

6. Approximately 40 miles of road would be stabilized to reduce sediment delivery to streams. This includes removing wood/log or old metal stream crossing structures, installing waterbars, and/or removing unstable fill material. Of this 40 miles, approximately 36 miles were identified in the Travel Analysis as needed for long-term management of the National Forest so would be put in intermittent stored service; approximately 4 miles identified as not needed would be decommissioned. All road decommissioning and intermittent stored service work is proposed on roads currently closed to motor vehicle access. Coordination with recreational users (snowmobiles, mountain bikers, hikers, and stock users) would be ongoing through analysis and implementation to maintain popular access routes. These activities and the Best Management Practices work will require an SPA 124/318 permit from the Montana Department of Environment Quality and a Nationwide 404 Permit from the Army Corps of Engineers.

7. Design features and mitigations are included to maintain and protect resource values.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities will be implemented. Preliminary analysis identified two issues with the proposed

action: (1) Effects to Big Game Habitat and (2) Mechanical Equipment in the IRA. An alternative responding to these issues would be included in the analysis. Additional alternatives may be included to respond to the scoping issues and other resource values.

Public Involvement and Scoping

The public is encouraged to take part in the process and to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service has sought and will continue seeking information, comments, and assistance from Federal, State, and local agencies, Tribal governments, and other individuals or organizations that may be interested in, or affected by, the proposed action. It is expected that formal consultation with the U.S. Fish and Wildlife Service will occur for this project regarding the potential impacts to endangered species. This input will be used in preparation of the draft and final EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying major issues to be analyzed in depth.
3. Identifying alternatives to the proposed action.
4. Exploring additional alternatives that will be derived from issues recognized during scoping activities.
5. Identifying potential environmental effects of this proposal (*i.e.*, direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing

The draft EIS is expected to be filed with the Environmental Protection agency (EPA) and to be available for public review in February 2010. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed in April 2010. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and to applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative review or judicial review. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the respondent with standing to participate in subsequent administrative review or judicial review.

Responsible Official

Paul Bradford, Forest Supervisor of the Kootenai National Forest, 31374 U.S. Highway 2, Libby, MT 59923-3022, is the Responsible Official for this project. The Responsible Official decides if the proposed project will be implemented, and documents the decision and reasons for the decision in the Record of Decision. The responsibility for preparing the DEIS and FEIS is delegated to Mike Herrin, District Ranger, Three Rivers Ranger District.

Dated: December 18, 2009.

C. Quinn Carver,

Acting for Forest Supervisor Paul Bradford, Kootenai National Forest.

[FR Doc. E9–30740 Filed 12–30–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Bend/Ft. Rock Ranger District; Deschutes National Forest; Deschutes County, OR; Ogden Landscape Vegetation Management Project EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an environmental impact statement (EIS) on a proposed action to promote development of large tree structural conditions and to improve forest health and fuel conditions within the 26,500-acre Ogden Landscape planning area. The planning area is located to the west of and adjacent to the Newberry National Volcanic Monument and to private lands to the east of State Highway 97, south of Forest road 9735 and north of Forest road 22. The planning area is all within public lands managed by the Deschutes National Forest. An analysis has been initiated that takes a landscape approach to managing the vegetation to meet objectives for resilient forest, fuels and fire behavior, and wildlife habitat. Methods that would be used to reduce tree density and hazardous fuels are: Non-commercial and commercial thinning, mechanical shrub treatment, and prescribed burning. The alternatives will include the proposed action, no action, and, if necessary, additional alternatives that respond to issues generated through the scoping process. The agency will give notice of the full environmental analysis and decision-making process so interested and affected public may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis must be received by 30 days following the date that this notice appears in the **Federal Register**.

ADDRESSES: Send written comments to Shane Jeffries, District Ranger, Bend-Fort Rock Ranger District, Red Oaks Square, 1230 NE. Third Street Suite A–262, Bend, Oregon 97701.

FOR FURTHER INFORMATION CONTACT: Beth Peer, Environmental Coordinator, Bend-Fort Rock Ranger District, Red Oaks Square, 1230 NE. Third Street Suite A–262, Bend, Oregon 97701, phone (541) 383–4769.

Responsible Official: The responsible official is John Allen, Forest Supervisor, Deschutes National Forest, 1001 SW. Emkay Dr., Bend, OR 97701.

SUPPLEMENTARY INFORMATION: *Background.* This Central Oregon landscape is a priority for restoration. There are many high-value areas within and adjacent to the project area: Paulina Creek which bisects the planning area from east to west is eligible for the National Wild and Scenic Rivers System; popular sites such as McKay, Ogden, and Prairie Campgrounds and the Peter Skeen Ogden National Scenic Trail provide diverse opportunities for recreation; and the primary access into and out of Newberry Crater and the Newberry National Monument passes through the project area. The project area also provides habitat for goshawk and other Management Indicator Species. High fuel loads and the presence of ladder of fuels puts these areas at risk to a large scale wildfire.

The amount of late and old structure ponderosa pine is far below the historic range of variability. A majority of the planning area is second-growth ponderosa pine, which has grown in following historic logging in the 1920s to 1940s. Portions of the area have been

thinned dating from the 1960s to as recently as 2009. In thinned and unthinned areas, tree growth is increasing stand density relative to stocking capacity of the site. Densities are affecting tree diameter growth and creating conditions favorable for mountain pine beetle attack. In some cases, lodgepole has been established and is adversely affecting the growth of ponderosa pine. There are also areas of pure lodgepole pine that are either mature stands, or have been regenerated in the recent past. Mixed conifer stands are a smaller component of the landscape and are primarily ponderosa pine with a mix of lodgepole pine and white fir.

Purpose and Need. The general purpose of entering the project area is to move the area towards a more resilient landscape and provide a diversity of habitats closer to what historically occurred. There is a need to reduce forest vegetation density and fuels to increase resilience to insects, disease, and stand-replacing fire, and to increase the proportion of LOS ponderosa pine. Currently, values associated with the landscape are susceptible to a wide-scale disturbance. The Deschutes National Forest Land and Resource Management Plan supports proactive maintenance and enhancing the vigor of the forest in preventing a stand replacement event rather than waiting.

There is a need to contribute to the local and regional economies by providing timber and other wood fiber products and associated jobs. The Deschutes National Forest Land and Resource Management Plan supports management of timber resources and recognizes the value in a way that is consistent with other resource objectives, environmental constraints, and economic efficiency.

Proposed Action. The Forest Service proposes to implement activities across approximately 14,600 acres within the Ogden Landscape. Treatments (commercial and non-commercial thinning) will provide a diversity of habitat structures that are more in line with historical conditions. Thinning will maintain large trees that are present and encourage the development of late and old structure characteristics in stands where not currently present. Shrub mowing will reduce surface and ladder fuels and allow fire to be used as an ecological restoration tool. Prescribed fire will be applied in the fire-dependent ecosystems to reduce fuels, maintain habitat, and allow fire to perform its natural ecological function. Treatments are designed to address the objectives for each stand type and are strategically located across the area to break up fuel continuity.

Issues. Preliminary issues include the potential effect of the proposed action on cultural resources, developed and dispersed recreation, noxious weeds, air quality, and wildlife habitat.

Comment. Public comments regarding this proposal are requested in order to assist in identifying issues, determine how to best manage the resources, and to focus the analysis. Comments received to this notice, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision in accordance with 36 CFR parts 215 and 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

A draft EIS will be filed with the Environmental Protection Agency (EPA) and available for public review by October 2010. The EPA will publish a Notice of Availability (NOA) of the draft EIS in the **Federal Register**. The final EIS is scheduled to be available February 2011.

The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions [*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978)]. Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts [*City of Angoon* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)]. Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS of the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. The Forest Service is the lead agency and the responsible official is the Forest Supervisor, Deschutes National Forest. The responsible official will decide where and whether or not to apply natural fuels treatments, thin stands, and reforest group cuts. The responsible official will also decide how to mitigate impacts of these actions and will determine when and how monitoring of effects will take place.

The Ogden Landscape Vegetation Management decision and the reasons for the decision will be documented in the record of decision, which will be subject to Forest Service Appeal Regulations (35 CFR Part 215).

Dated: December 18, 2009.

John Allen,

Forest Supervisor, Deschutes National Forest.

[FR Doc. E9–30744 Filed 12–30–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath National Forest, CA, Johnny O'Neil Late-Successional Reserve (LSR) Habitat Restoration and Fuel Reduction Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Klamath National Forest will prepare an environmental impact statement (EIS) on a proposal to promote the development of late-successional habitat, retain existing large trees, and reduce the risk of large, high severity wildfires to move toward more ecologically resilient conditions on approximately 7,245 acres of the Johnny O'Neil LSR. This project is proposed under the authority of the Healthy Forest Restoration Act of 2003. The project is located in portions of the Johnny O'Neil LSR north of the Klamath River in the Lower Horse Creek, Middle/Horse Creek and Salt Gulch sub-watersheds of the McKiimey Horse watershed. These sub-watersheds include habitat for anadromous fish and streams are listed as 3 03(d) impaired under the Clean Water Act. The legal description of the proposed project area of the Mt. Diablo Base Meridian is: T41N, R11W, Sections 15, 22–27, and 34–36; T47N, R1OW, Sections 20 and 30; T46N, R11W, Sections 1–3 and 10–15; and T46N, R1OW, Sections 6 and 18.

DATES: The comment period on the proposed action will extend 30 days from the date the Notice of Intent is published in the **Federal Register.** The draft EIS is expected to be completed by September 2010, and the final EIS is expected to be completed by March 2011.

ADDRESSES: Send written comments to: Patricia A. Grantham, Forest Supervisor, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097, ATTN: Johnny O'Neil LSR Team Leader. Electronic comments, in acceptable plain text (.txt), rich text (.rtf), or Word (.doc) may be sent via e-mail to *comments-pacificsouthwestklamath@fs.fed.us* with Subject: Johnny O'Neil LSR Restoration, or via facsimile to 530–841–4571.

FOR FURTHER INFORMATION CONTACT: Tim Burnett, Happy Camp and Oak Knoll Ranger Districts, Klamath National Forest, Happy Camp, California 96039. Phone: 530–493–2243. 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 Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the Johnny O'Neil LSR Habitat Restoration and Fuel Reduction Project is to move the project area toward more ecologically resilient conditions that can better support desirable late-successional attributes and habitat, and reduce the likelihood of large, damaging high-severity wildfires. This project is proposed under the direction of Section 7(a)(1) of the Endangered Species Act that directs federal agencies to carry out programs for the conservation of threatened and endangered species. The Forest Service is also directed to conduct habitat restoration and enhance protection from stand replacing wildfire by the Healthy Forest Restoration Act, the Northwest Forest Plan as incorporated in the Klamath National Forest Land and Resource Management Plan (LRMP) of 1995, and the National Fire Plan. The need for action in the project area primarily results from changes in fire regimes over the last century. Fire suppression over the last century, combined with past vegetation management in the Johnny O'Neil area, has resulted in a landscape dominated by denser, young and mid-successional forests that are lacking structural diversity. The Johnny O'Neil LSR is located in an area of high concentration of lightning strikes, but few fires have occurred in this LSR since the 1930s. Without the influence of fire to create and maintain stand diversity, many of the stands within the Johnny O'Neil LSR are unlikely to develop into functional late-successional habitat due to factors associated with inter-tree competition and lower resilience to mixed-severity fires. Approximately 76 percent of the Johnny O'Neil LSR currently is in early or mid-successional stages, and about 20 percent is in late-successional stages.

Proposed Action

Habitat Restoration

Restoration treatments include the combination of tree thinning and prescribed fire. All thinning will deliberatively vary spacing between trees (variable density thinning) to create more structurally diverse stands. Prescribed fire will mimic low-intensity wildfires. Insect outbreaks that can affect dense stands of trees are currently not an issue in this landscape; however, treatments proposed would reduce the potential of these occurring at large scales. The proposal is summarized as follows:

Thinning in Plantations

Approximately 1,100 acres of thinning are proposed within plantations of which approximately 700 acres would be thinned using mastication (cutting and shredding of small trees and shrubs). Some of these plantations are within riparian reserves. Plantations proposed for treatment were planted to Douglas-fir and/or ponderosa pine approximately 20 to 50 years ago. They are dense, even-aged, and single-story. Thinning would aim to increase growth and vigor of healthy trees, increase structural diversity and break up fuel continuity within these young stands.

Thinning in Unmanaged (Natural) Stands

About 1,000 acres in the project are unmanaged or minimally managed in terms of timber harvest. Some of these acres are within riparian reserves. Thinning would reduce competition between trees, thereby reducing stress on large old trees, increasing growth and vigor of mid-successional trees, and reducing or removing ''ladder fuels''. The removal of trees greater than 20 inches in diameter at breast height (DBH) would occur only in limited instances for site-specific purposes; removal of these trees would be the exception rather than the rule.

Fuel Reduction Treatments

About 5,000 acres are proposed to be treated by underburning only, and about 1,400 acres by underburning combined with mechanical thinning. In addition, about 700 acres of mastication would occur, primarily near private property where prescribed fire is not considered appropriate. Prescribed fire would decrease surface and ladder fuels in strategic locations such as major ridges, within thinning units and within un-treated stands. Combined, these efforts would contribute to protecting the larger blocks of late-successional habitat and increasing the landscape's resilience to severe wildfires, and return fire to the ecological system. Fuel treatments will occur in some riparian reserves that need this treatment.

Harvest Methods, Yarding Methods, and Temporary Road Construction: ''Harvesting'' refers to tree-cutting methods. ''Yarding'' refers to tree removal methods once the trees have been cut. In stands that are to be yarded using cable systems, mechanical harvesters (also known as ''feller-bunchers'') may operate on slopes less than 50%. Mechanical harvesters would only operate straight up and down fall lines with no mid-slope turning. In stands that are to be yarded using ground-based methods such as rubber-tired skidders, mechanical harvesters may operate on slopes less than 45%. In general, skidding would be limited to slopes less than 35%. On slopes greater than those stated above, trees would be

hand-cut. About 870 acres of ground-based yarding and 440 acres of cable yarding have been identified. The majority of the project area includes existing roads that can be used to accomplish proposed activities. About two miles of temporary roads would be constructed. Some new landings may be required.

Responsible Official

Patricia A. Grantham, Forest Supervisor, Klamath National Forest, 1312 Fairlane Road, Yreka, CA 96097.

Nature of Decision To Be Made

The responsible official will decide whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to make changes to existing conditions in the Johnny O'Neil Late-Successional Reserve.

Scoping Process

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action.

Members of the Johnny O'Neil Team have been meeting informally with interested individuals, adjacent landowners and residents, and organizations to discuss the need for treatment of the Johnny O'Neil LSR and various possible ways to treat the area.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by November 2010. EPA will publish a notice of availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will extend 45 days from the date the EPA notice appears in the **Federal Register.** At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Klamath National Forest participate at that time.

The final EIS is scheduled to be completed in March 2011. In the final EIS, the Forest Service will respond to comments received during the comment period that are: Within the scope of the proposed action; specific to the proposed action; have a direct relationship with the proposed action; and include supporting reasons for the responsible official to consider. Submission of comments to the draft EIS is a prerequisite for eligibility to participate in the pre-decisional objection process under the 36 CFR part 218 regulations.

Comment Requested

This Notice of Intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft EIS will be prepared for comment. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register.**

At this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519. 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: December 18, 2009.

Patricia A. Grantham,

Forest Supervisor.

[FR Doc. E9–31052 Filed 12–30–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Ketchikan Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ketchikan Resource Advisory Committee will meet in Ketchikan, Alaska, January 20, 2010. The purpose of this meeting is to discuss potential projects under the Secure Rural Schools and Community Self-Determination Act of 2008.

DATES: The meeting will be held January 20, 2010 at 6 p.m.

ADDRESSES: The meeting will be held at the Ketchikan Misty Fiords Ranger District Office, 3031 Tongass Avenue, Ketchikan, Alaska. Send written comments to Ketchikan Resource Advisory Committee, c/o District Ranger, USDA Forest Service, 3031 Tongass Ave., Ketchikan, AK 99901, or electronically to Diane Daniels, RAC Coordinator at *ddaniels@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Diane Daniels, RAC Coordinator Ketchikan-Misty Fiords Ranger District, Tongass National Forest, (907) 228–4105.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 18, 2009.

Forrest Cole,

Forest Supervisor.

[FR Doc. E9–30745 Filed 12–30–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Southwest Idaho Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure

Rural Schools and Community Self-Determination Act of 2000, as amended, (Pub. L. 110–343), the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will conduct a business meeting. The meeting is open to the public.

DATES: Thursday, February 11, 2010, beginning at 10:30 a.m.

ADDRESSES: Idaho Counties Risk Management Program Building, 3100 South Vista Avenue, Boise, Idaho.

SUPPLEMENTARY INFORMATION: Agenda topics will include review and approval of project proposals, and is an open public forum.

FOR FURTHER INFORMATION CONTACT: Dale Olson, Designated Federal Official, at (208) 347–0300 or e-mail *dolson07@fs.fed.us.*

Dated: December 18, 2009.

Suzanne C. Rainville,

Forest Supervisor, Payette National Forest.

[FR Doc. E9–30746 Filed 12–30–09; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 56–2009]

Foreign-Trade Zone 152—Burns Harbor, IN; Application for Reorganization/Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Ports of Indiana, grantee of Foreign-Trade Zone 152, requesting authority to reorganize/expand its zone in the Burns Harbor, Indiana area, within the Chicago Customs and Border Protection port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on December 14, 2009.

FTZ 152 was approved by the Board on December 9, 1988 (Board Order 393, 53 FR 52454, 12/28/88) and expanded on March 9, 1992 (Board Order 563, 57 FR 9103, 3/16/92) and September 16, 1993 (Board Order 654, 58 FR 50330, 9/27/93). The general-purpose zone currently consists of six sites in the Burns Harbor/Gary, Indiana area: Site 1: (533,288 sq. ft.) located at 201 Mississippi Street, within the Great Lakes Industrial Center, Gary; Site 2: (441 acres) within the Port of Indianal/Burns International Harbor, Porter County, Indiana; Site 3: (330 acres) within the Gary Regional Airport Complex located at 6001 West Industrial Highway, Gary; Site 4: (50 acres) located at 700 Chase Street, Gary (expires 6/30/10); Site 5: (152,548 sq. ft.) located at 240 Waite Street, Gary (expires 9/1/10); and, Site 6: (277,455 sq. ft.) located at 425 W. 151st Street, East Chicago, Indiana (expires 9/1/10).

The applicant is now requesting authority to expand the general-purpose zone by permanently including the 50 acres located at Site 4, returning 50 acres to Site 3 and permanently including the 152,548 sq. ft. located at Site 5.

No specific manufacturing authority is being requested at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, Claudia Hausler of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 1, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to March 16, 2010.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.*

For further information, contact Claudia Hausler at *Claudia.Hausler@trade.gov* or (202) 482–1379.

Dated: December 16, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–30527 Filed 12–30–09; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 59–2009]

Foreign-Trade Zone 230—Greensboro, North Carolina Application for Subzone Klaussner Home Furnishings (Upholstered Furniture) Asheboro and Candor, NC

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Piedmont Triad Partnership, grantee of FTZ 230, requesting special-purpose subzone status for the upholstered furniture manufacturing facilities of Klaussner Home Furnishings (KHF) located in Asheboro and Candor, North Carolina. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on December 16, 2009.

The KHF facilities (800 employees) consist of three sites: Site 1—manufacturing plant and warehouse (77.5 acres) located at 405 Lewallen Road, Asheboro; Site 2—manufacturing plant and warehouse (76.4 acres) located at 4400 Highway 220 Business South, Asheboro; and, Site 3—manufacturing plant (52.5 acres) located at 468 East Main Street in the town of Candor, North Carolina. The facilities are used to manufacture and distribute upholstered furniture (up to 1 million sofas, sleep sofas, and recliners combined annually) as well as cut and cut-and-sewn upholstery covering sets for the U.S. market and export. The application proposes that KHF utilize foreign-origin ''micro-denier suede'' fabric to be transformed into furniture upholstery covering sets under FTZ procedures. The finished upholstery covering sets (HTSUS 9401.90.5020; duty free) would then be assembled into finished chairs, seats, sofas, sleep sofas, and sectionals manufactured by KHF facilities in North Carolina and Iowa.

The proposed scope of authority under FTZ procedures would only involve duty savings on foreign-origin, micro-denier suede fabrics (classified under HTSUS Headings 5407, 5512, 5515, 5516, 5903, 5906, 6001, 6005, 6006; duty rate range: 2.7–17.2%) finished with a caustic soda wash process, which the applicant indicates are not produced by U.S. mills. The application indicates that KHF does not seek FTZ benefits on any of the other foreign fabrics used in production at the facilities (i.e., full duties would be paid on all such fabrics). All other material inputs used in production would be domestic status.

FTZ procedures could exempt KHF from customs duty payments on the foreign micro denier suede fabric used in export production. On micro-denier suede fabric used in production for the U.S. market, KHF could elect the finished upholstery cover (i.e., furniture part) duty rate (free) after the foreign fabric has been manufactured into cut or cut-and-sewn upholstery covering sets, at which time they are entered for consumption from the proposed

subzone. KHF would also have the option to elect the finished furniture duty rate (free) for the subject fabric when the finished furniture is entered for domestic consumption. The application indicates that the savings from FTZ procedures would help improve the facilities' international competitiveness.

In accordance with the Board's regulations, Pierre Duy of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board. Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002. The closing period for receipt of comments is March 1, 2010. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to March 16, 2010.

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the address listed above and in the ''Reading Room'' section of the Board's website, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: December 16, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–30526 Filed 12–30–09; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval and Availability for the Revised Management Plan for the Jacques Cousteau National Estuarine Research Reserve.

SUMMARY: The Estuarine Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce has approved the Jacques Cousteau National Estuarine Research Reserve Management Plan Revision.

The Jacques Cousteau National Estuarine Research Reserve consists of public lands within the Mullica River-Great Bay watershed of New Jersey and managed by a variety of local, state, and federal agencies. The site was designated as the Jacques Cousteau National Estuarine Research Reserve in 1998 pursuant to Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461. The reserve has been operating in partnership with the Institute of Marine and Coastal Sciences of Rutgers, the State University of New Jersey under a management plan approved in 1997. Pursuant to 15 CFR Section 921.33(c), a state must revise their management plan every five years. The submission of this plan fulfills this requirement and sets a course for successful implementation of the goals and objectives of the reserve. A boundary expansion and land conservation initiative, new facilities, and updated programmatic objectives are notable revisions to the 1997 approved management plan.

The revised management plan outlines the administrative structure; the research, coastal training, education and outreach, and stewardship goals of the reserve; and the plans for future land acquisition and facility development to support reserve operations. This management plan describes how the reserve will focus on three key coastal management issues: Nutrient inputs into coastal waters; human alteration of habitat and water quality; and effects of climate change on coastal and estuarine systems.

Since 1997, the reserve has completed a site profile that characterizes the reserve; they have also expanded the coastal training, research and monitoring, stewardship and education programs significantly. A new administrative building, the Jacques Cousteau Coastal Center, and a new interpretive exhibit, ''Life on the Edge'' at the Tuckerton Seaport, have been built to support the growth of reserve programs.

With the approval of this management plan, the Jacques Cousteau National Estuarine Research Reserve will expand their total acreage from 114,665 acres to 114,873 acres. Pursuant to 15 CFR 921.33(a), a boundary change requires public comment. NOAA announced a thirty day public comment period in the **Federal Register** on November 4, 2009. The reserve announced a thirty day public comment period in the Asbury Park Press on October 16, 2009. No comments were received. This change is attributable to the acquisition of four parcels within the Mullica River watershed through a partnership with New Jersey Conservation Foundation. The acquisition of Bear Creek Preserve (100 acres), Hanselman Preserve (57 acres), Rudolph Property (31 acres), and Lee Property (20 acres) provides additional buffer areas (mixed pitch pine-scrub oak upland, Atlantic white cedar forest) for key land and water areas (salt marsh flats, tidal wetlands).

FOR FURTHER INFORMATION CONTACT: Michael Migliori at (301) 563–1126 or Laurie McGilvray at (301) 563–1158 of NOAA's National Ocean Service, Estuarine Reserves Division, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910. For copies of the Jacques Cousteau Management Plan revision, visit *http://www.jcnerr.org/.*

Donna Wieting,

Acting Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

[FR Doc. E9–31069 Filed 12–30–09; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

International Trade Administration

Request for Comments on Priorities for the Transatlantic Innovation Dialogue

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice and request for comments.

SUMMARY: The International Trade Administration is seeking comments on priorities for the Transatlantic Innovation Dialogue from any interested party, including industry, consumer, labor and environmental groups, trade associations, professional organizations/societies, academia, and Federal, state, and local governments. Comments will be used to identify and select projects for cooperation on innovation policy between the United States government and the European Commission.

DATES: Written comments must be submitted on or before February 5, 2010.

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

E-mail: transatlanticinnovation@trade.gov.

Fax: (202) 482–2897 (Attn.: Tshanda Kalombo).

Mail or Hand Delivery/Courier: Tshanda Kalombo, U.S. Department of Commerce, Office of the European Union, Room 3513, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230.

All of the comments received will be posted on the following Web site: *http://www.state.gov/p/eur/rt/eu/tec/.*

FOR FURTHER INFORMATION CONTACT: For questions on the submission of comments, please contact Tshanda Kalombo by phone at (202) 482–2561 or by e-mail at *tshanda.kalombo@trade.gov.*

SUPPLEMENTARY INFORMATION: *Background Information:* The Transatlantic Innovation Dialogue is a senior-level government-to-government forum that was established on October 27, 2009 by U.S. and European Union (EU) leaders in the Transatlantic Economic Council (TEC). The objective of the Innovation Dialogue is to bolster U.S. and EU efforts to spur growth, productivity, and entrepreneurial activity by sharing best policy practices and identifying steps that will improve the policy environment for innovative activities across the Atlantic. By innovation, we mean the design, invention, development and/or implementation of new or altered products, services, processes, systems, organizational structures, or business models for the purpose of creating new value for the economy and society.

The TEC created the Transatlantic Innovation Dialogue to elevate and improve the effectiveness of existing and new areas of cooperation in order to achieve tangible results in job creation, higher competitiveness and economic growth, and solutions for addressing societal challenges. Cooperation on improving innovation and technological development ecosystems is expected to benefit companies, workers, consumers, and governments on both sides of the Atlantic by spurring economic growth and transatlantic trade and investment.

The Transatlantic Innovation Dialogue will be co-led by senior-level officials in the U.S. Department of Commerce and in the European Commission's Directorate-General for Industry and Entrepreneurship, who will oversee its activities and report to interested stakeholders and to the TEC leaders.

The U.S. government and European Commission will collaborate with stakeholders to identify, select, and develop work plans for priority areas of cooperation. The work of the Dialogue will complement and coordinate with existing, innovation-related, bilateral fora including: U.S.-EU Intellectual Property Rights Working Group, the U.S. and EU Energy Council, the U.S.-EU Science and Technology Agreement, the U.S. Department of Commerce-European Commission Standards Dialogue, the U.S.-EU High Level Regulatory Cooperation Forum and the U.S.-EU Information Society Dialogue.

To assist in identifying topics for innovation cooperation between the U.S. government and the European Commission, the U.S. Department of Commerce is requesting comments from any interested stakeholder on priorities that should be the focus of the Transatlantic Innovation Dialogue. In submitting comments, stakeholders should consider the following questions:

- What specific technology areas and industry sectors should the U.S. and EU focus on?
- What government policies that enable innovation should the U.S. and EU address?
- For the topics identified, what form should cooperation take (e.g. exchange of information, knowledge transfer)?
- What should the short and long term objectives be for each identified project?
- What specific outcomes should the U.S. and EU try to achieve by 2011?

After receiving and reviewing submissions to this notice, the U.S. Department of Commerce will hold a public meeting to discuss the prioritization of potential areas of cooperation under the Dialogue. After interagency consultations, the U.S. Department of Commerce will work with the European Commission on the agenda for Dialogue and submit work plans for the agreed priorities to the TEC for its 2010 meeting.

Dated: December 28, 2009.

David De Falco,

Director, Office of the European Union, Market Access and Compliance, International Trade Administration, U.S. Department of Commerce.

[FR Doc. E9–31085 Filed 12–30–09; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2009–OS–0190]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Notice.

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 Personnel and Readiness proposes to extend a 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 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 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 March 1, 2010.

ADDRESSES: You may submit 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 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 proposal and associated collection instruments, please write to the Air Force Review Boards Agency, 1535 Command Drive, Andrews AFB ATTN. Mr. Victor Donovan MD 20732, or call Air Force Review Boards Agency, at (240) 857–3137.

Title; Associated Form; and OMB Number: Application for a Review by the Physical Disability Board of Review of the Rating for a Medical Separation from the Armed Forces of the United States; DD Form 294; OMB Number 0704–0453.

Needs and Uses: The information collection requirement is necessary to have former members who were separated from the armed forces from

between September 11, 2001 and December 31, 2009 due to unfitness for duty due to a medical condition with a disability rating of 20 percent disabled or less; and were found to be not eligible for retirement request a review of that determinations in accordance with the provisions of 10 Unites States Code Section 1554a.

Affected Public: Former service members requesting a review.

Annual Burden Hours: 1,350.

Number of Respondents: 1,800.

Responses per Respondent: 1.

Average Burden per Response: 45 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are those members as described above who request a review of the rating of their medical separation rating. The completed form triggers the review. If the form is not completed, it may jeopardize or delay the Agency's ability to accomplish the requested review.

Dated: December 28, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–31044 Filed 12–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2009–OS–0191]

Proposed Collection; Comment Request

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Pentagon Force Protection Agency announces the proposed extension of a 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 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 information collection on respondents, including through the use of automated collection techniques or forms of information technology.

DATES: Consideration will be given to all comments received by March 1, 2010.

ADDRESSES: You may submit 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 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 proposal and associated collection instrument, please write to Pentagon Force Protection Agency, ATTN: Ms. Lillian Dockery, Room 1F1084, 9000 Defense Pentagon, Washington, DC 20301–9000, or call the Pentagon Access Control Division at (703) 697–9327.

Title; Associated Form; and OMB Number: DoD Building Pass Application; DD Form 2249; OMB Number 0704–0328.

Needs and Uses: The information collection requirement is used by officials of Security Services, Pentagon Force Protection Agency, to maintain a listing of personnel who are authorized a DoD Building Pass.

Affected Public: Individuals or households; businesses or other for-profit.

Annual Burden Hours: 12,000.

Number of Respondents: 120,000.

Responses per Respondent: 1.

Average Burden for Response: 6 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This requirement provides for the collection of information from applicants for DoD Building Passes. The information collected from the DD Form 2249, ''DoD Building Pass Application,'' is used to verify the need for and to issue a DoD Building Pass to DoD personnel, other authorized U.S. Government personnel, and DoD consultants and experts who regularly work in or require frequent and continuing access to DoD-owned or occupied buildings in the National Capital Region.

Dated: December 28, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–31046 Filed 12–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2009–0035]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army, (OAA–RPA), DoD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army proposes to extend a 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 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 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 March 1, 2010.

ADDRESSES: You may submit 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 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 proposal and associated collection instruments, please write to U.S. Army ROTC Cadet Command, ATTN: ATCC–OP–I–S, 55 Patch Road, Building 56, Fort Monroe, Virginia 23651–1052, or call Department of the Army Reports Clearance Officer at (703) 428–6440.

Title, Associated Form, and OMB Number: U.S. Army ROTC 4-Year College Scholarship Application (For High School Students); CC Form 114–R, OMB Control Number 0702–0073.

Needs and uses: The Army ROTC Program produces approximately 80 percent of the newly commissioned officers for the U.S. Army. The Army ROTC scholarship is an incentive to attract men and women to pursue educational degrees in the academic disciplines required by the Army. The information is collected annually.

Affected Public: Business or Other for-Profit.

Annual Burden Hours: 8,250.

Number of Respondents: 11,000.

Responses per Respondent: 1.

Average Burden per Response: 45 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection:

The applications are available to high school students. Once the applications for U.S. Army ROTC 4-Year College Scholarship Program are completed, they are submitted to Headquarters, Cadet Command for review, screening and selection of scholarship recipients. The application and information provides the basis for the scholarship award.

Dated: December 28, 2009.

Mitchell S. Bryman,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–31047 Filed 12–30–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) for Development and Implementation of Range-Wide Mission and Major Capabilities at White Sands Missile Range (WSMR), NM

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of an FEIS that analyzes environmental and socioeconomic impacts resulting from expanding testing and training capabilities at WSMR. The FEIS analyzes the impacts of land use changes that provide for expanded off-road maneuver and facilities to support new testing and training requirements associated with increased Brigade Combat Team (BCT) modernization (formerly known as Future Combat Systems) testing (preferred alternative) and the stationing of a Heavy Brigade Combat Team (HBCT) (or comparable unit) of approximately 3,800 Soldiers. On June 2, 2009, the Secretary of the Army announced a decision not to station an HBCT at WSMR in 2013; however, it was decided to retain the analysis in this FEIS to support implementation of potential future stationing decisions.

DATES: The waiting period will end 30 days after publication of a notice of availability for the FEIS in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: For specific questions regarding the FEIS, please contact: White Sands Test Center, Operations Office, Attention: Catherine Giblin, 124 Crozier Street, Building 124, Room B–15, White Sands Missile Range, NM 88002. Written questions may be mailed to the above address, faxed to (575) 678–4082, or e-mailed to: *WSMREIS@conus.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Monte Marlin, Public Affairs Office, Building 1782, Headquarters Avenue, White Sands Missile Range, NM 88002; (575) 678–1134; or e-mail *monte.marlin@us.army.mil.*

SUPPLEMENTARY INFORMATION: The proposed action (Alternative 1) would result in a flexible, capabilities-based land use and airspace plan able to accommodate rapidly evolving customer needs, support current and future mission activities, and support a full range of test and training efforts from individual components up through major joint and multi-national programs. The FEIS analyzes the environmental impacts associated with the testing, training, and stationing activities under the proposed plan. Testing typically involves activities such as missile flight tests, aerial intercepts, air-delivered munitions tests against ground targets, directed energy and various weapons systems tests. Training involves military personnel using the land for maneuver, as well as for field evaluation of weapons, equipment, communication systems, or other objectives. Testing, training and stationing require additional infrastructure such as barracks, motor pools, and administrative buildings.

The development and implementation of a land use and airspace plan is intended to integrate and realize more fully the capabilities of the WSMR primary mission (research, development, testing, and evaluation (RDTE)) with new training capabilities and potential future Army stationing decisions. Establishing new test and training capabilities requires changing land use designations within the current installation boundaries. These changes would support current and future requirements and allow off-road vehicle maneuver on designated portions of the installation. WSMR will maintain its current RDTE mission and continue to support testing objectives of all military services and federal agencies.

In addition to consideration of Alternative 1 and a No Action Alternative (current test capabilities and land use designations with current levels of operations and activities), one additional alternative was analyzed. Alternative 2 includes those activities described in Alternative 1 plus potential future stationing of an HBCT (or comparable unit) by expanding the cantonment area and construction of supporting infrastructure and additional off-road maneuver areas for training on WSMR.

Copies of the FEIS are available at local libraries surrounding WSMR and may also be accessed at *http://www.wsmr.army.mil.* Comments from the public will be considered before any final decision is made.

Dated: December 14, 2009.

Addison D. Davis IV,

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health).

[FR Doc. E9–30594 Filed 12–30–09; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 1, 2010.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or send e-mail to *oira_submission@omb.eop.gov.*

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 Acting Director, Information Collection Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 24, 2009.

James Hyler,

Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: New.

Title: FFEL Program IBR Plan Request and IBR Plan Alternative Documentation of Income.

Frequency: On occasion.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 1,692,869.

Burden Hours: 936,721.

Abstract: The IBR Plan Request form serves as the means by which a borrower with FFEL Program loans requests to repay those loans under the IBR Plan and provides certain information that is needed by the borrower's loan holder to determine whether the borrower is eligible to repay under the IBR Plan and to calculate the borrower's monthly payment amount under the IBR Plan. The IBR Plan Alternative Documentation of Income form serves as the means by which a borrower who is repaying FFEL Program loans under the IBR provides the borrower's loan holder with alternative documentation of the borrower's income if the borrower's adjusted gross income (AGI) is not available from the IRS, or if the loan holder believes that the borrower's most recently reported AGI does not accurately reflect the borrower's current income. Under the FFEL Program regulations, a borrower's AGI is used to calculate the monthly loan payment amount under the IBR Plan.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4115. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–31063 Filed 12–30–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection Update; Informational

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Proposed Collection Update; Informational.

SUMMARY: The EIA issued a Proposed Collection Comment Request on ''Report of Refinery Outages,'' 73 FR 10745, Thursday, February 28, 2008, followed by an Informational Update, 73 FR 74713, Tuesday, December 9, 2008, indicating EIA's postponement of a decision to collect refinery outage data. EIA has determined that collection of this data is necessary to meet the intent of Section 804 of the Energy Independence and Security Act of 2007.

FOR FURTHER INFORMATION CONTACT: Joanne Shore by e-mail at *joanne.shore@eia.doe.gov* or by telephone at 202–586–4677.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions

I. Background

EIA recognizes the importance of understanding and anticipating supply changes that could affect prices paid by consumers for petroleum products. Refinery availability is an important element of this issue, and was highlighted in Section 804 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140), requiring EIA to assess the impact of planned outages using commercially available data. Congressional interest in having EIA collect such data was partially a result of unusually high refinery outages in 2007.

In response, EIA put out a **Federal Register** notice in February 2008 (Proposed Collection Comment Request on ''Report of Refinery Outages,'' 73 FR 10745, Thursday, February 28, 2008), to solicit comments on collecting such data. This was followed by an informational **Federal Register** notice in December 2008 (Proposed Collection Update, 73 FR 74713, Tuesday, December 9, 2008) that provided the status of our review of this issue.

For about two years, EIA has been using commercially available refinery outage data and evaluating its ability to meet the intent of Section 804. As summarized in the December 2008 **Federal Register** notice, commercial data captures significant outages and is cost-effective, while government collection is likely more accurate and could address production impacts as well as unit outages, albeit at a higher cost both to industry and the government.

EIA's evaluation indicates that commercial data is useful and appropriate for many purposes, but it falls short in two areas regarding EIA's ability to meet the Section 804 requirements. First, commercial data sometimes misses a planned outage, picking it up shortly before or even after the outage begins. This is in part due to commercial data being accumulated

from third party sources and voluntary company information rather than a required company survey such as EIA would conduct. As a result, commercial data can miss plans for an outage since some companies want and are able to keep their information private due to business sensitivities concerning certain outages. EIA needs to know about planned outages at least 3 or 4 months prior to their occurrence in order to assess any significant supply or price impacts and to provide information to the Secretary of Energy in a timely fashion. Missing a planned outage until shortly before it is scheduled to happen can lead to erroneous conclusions about its impacts in the larger context of the petroleum market.

Second, commercially available outage data does not include estimates of the production impacts of planned outages, only whether a unit will be offline. Production changes resulting from unit outages are needed to evaluate impacts on petroleum product prices. Currently EIA estimates production impacts using both the commercial unit outage information and historical EIA refinery data. As noted in the December 2008 **Federal Register** notice, any refinery estimates of planned unit outage impacts on production provided to EIA would not be precise.

The EIA December 2008 **Federal Register** notice also indicated that the Department of Energy's Office of Electricity Delivery and Energy Reliability (OE) was intending to collect unplanned outage information on a real-time basis in order to monitor ongoing issues as part of its role in monitoring potential supply disruptions and emergencies. This survey proposal has been withdrawn due to a change in OE's policy and operations. The proposal would not have served the purpose of collecting information on planned outages.

II. Current Actions

EIA has determined that it should pursue the collection of data monthly on planned and unplanned refinery outages and on estimates of associated production losses. Because of the complexity of this collection, EIA will work with industry to determine how best to collect the information needed and what the potential costs will be. Parties interested in participating in these discussions should contact Joanne Shore (*joanne.shore@eia.doe.gov*). EIA plans on issuing a **Federal Register** notice in 2010 with a proposed survey form, providing another opportunity for comments. EIA will then request approval from the Office of Management and Budget (OMB). The intent is to begin collection in 2011.

EIA will continue to use commercial data. Commercial data provide a historical context for analyzing outages and can assist in data validation. Eventually, the EIA data collection will generate a historical series, but adequate time series for analysis will not be available for some time. In addition, commercial data are updated daily and can provide alerts for rapidly evolving events in between EIA data collections.

A survey proposal would fall under the Federal Energy Administration Act of 1974 (Pub. L. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95–91, 42 U.S.C. 7101 *et seq.*), which require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, analyzes, and disseminates information on energy resource reserves, production, demand, prices, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands, and to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received following a survey proposal help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public.

After assembling public response to a **Federal Register** notice announcing specific survey information to be collected, including the proposed survey form, EIA will seek approval for this collection from the Office of Management and Budget (OMB) under Section 3507(a) of the Paperwork Reduction Act of 1995.

Issued in Washington, DC, December 24, 2009.

Howard Gruenspecht,

Deputy Administrator, Energy Information Administration.

[FR Doc. E9–31033 Filed 12–30–09; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9086–6; Docket ID No. EPA–HQ–ORD–2009–0855]

An Assessment of Decision-Making Processes: The Feasibility of Incorporating Climate Change Information Into Land Protection Planning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Comment Period.

SUMMARY: EPA is announcing a 30-day public comment period for the draft document titled, ''An Assessment of Decision-Making Processes: The Feasibility of Incorporating Climate Change Information into Land Protection Planning'' (EPA/600/R–09/142a). The document was prepared by the National Center for Environmental Assessment within EPA's Office of Research and Development. This draft document is a review of decision-making processes of selected land protection programs. The goal of this document is to assess the feasibility of incorporating climate change impacts information into the evaluation of these programs. The assessment revealed that there are several strategies that might be useful for incorporating climate change information into decision making. As part of a portfolio of adaptation strategies, land protection may become more important for jurisdictions, particularly to ameliorate climate change impacts on watersheds and wildlife.

The public comment period and the external peer review, which will occur after the public comment period, are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted in accordance with this notice to the external peer reviewer panel prior to the meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

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.

DATES: The 30-day public comment period begins December 31, 2009, and ends February 1, 2010. Technical

comments should be in writing and must be received by EPA by February 1, 2010.

ADDRESSES: The draft ''An Assessment of Decision-Making Processes: The Feasibility of Incorporating Climate Change Information into Land Protection Planning'' is available primarily via the Internet on the National Center for Environmental Assessment's home page under the Recent Additions and the Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, your mailing address, and the document title, ''An Assessment of Decision-Making Processes: The Feasibility of Incorporating Climate Change Information into Land Protection Planning''.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

For technical information, contact Britta Bierwagen, NCEA; telephone: 703–347–8613; facsimile: 703–347–8694; or e-mail: *bierwagen.britta@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Project/Document

The document, ''An Assessment of Decision-Making Processes: The Feasibility of Incorporating Climate Change Information into Land Protection Planning'' describes a review of the decision-making processes of selected programs that protect land to assess the feasibility of incorporating climate-change impacts information into the evaluation of land protection programs. The review focused on a sample of programs with goals to protect wildlife and watersheds. Most programs reviewed use quantitative evaluation criteria and a bottom-up process for selecting parcels. Almost all programs have one or more advisory committees. The assessment revealed that strategies that might be useful for incorporating climate-change information into decision making include new decision-support tools for advisory committees, promulgation of different land protection models (*e.g.,* purchase as opposed to transfer of development rights), and educational outreach for elected officials.

Because land protection decisions are long-term, hard to reverse, and resource intensive, these decisions are important to consider in the context of climate change. Climate change may directly affect the services intended for protection and parcel selection can exacerbate or ameliorate certain impacts. Therefore, when considering long-term acquisition strategies, land protection programs should be considering both the mitigation potential of land through carbon sequestration and the adaptation potential of the land for preserving wildlife migration routes, protecting water resources, and buffering infrastructure and development from storm events. As jurisdictions learn more about possible climate change impacts, certain land protection strategies may become more desirable and feasible as part of a portfolio of adaptation strategies that ameliorate impacts on watersheds and wildlife.

II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD 2009–0855, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0855. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov,* including any personal information provided, unless a 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 or 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: 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 materials, such as copyrighted material, are 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 OEI Docket in the EPA Headquarters Docket Center.

Dated: November 19, 2009.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. E9–31100 Filed 12–30–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9099–4]

Cross-Media Electronic Reporting Rule State Approved Program Revision Approval: State of IL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval, under regulations for Cross-Media Electronic Reporting, of the State of Illinois' request to revise its EPA-authorized program to allow electronic reporting; and also provides notice of an opportunity to request a public hearing on this action.

DATES: EPA's approval is effective on February 1, 2010 if no timely request for a public hearing is received and accepted by the Agency.

FOR FURTHER INFORMATION CONTACT: Evi Huffer, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566–1697, *huffer.evi@epa.gov,* or David Schwarz, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 566–1704, *schwarz.david@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as Part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Under Subpart D of CROMERR, state, Tribe or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and get EPA approval. Subpart D also provides standards for such approvals based on consideration of the electronic document receiving systems that the State, Tribe, or local government will use to implement the electronic reporting. Additionally, in § 3.1000(b) through (e) of 40 CFR Part 3, Subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the State, Tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the Subpart D procedures must show that the State, Tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable Subpart D requirements.

On July 15, 2009, the State of Illinois Environmental Protection Agency (EPA) submitted an application for its Safe Drinking Water Information System (SDWIS)/Lab to State electronic document receiving system, for revision of its 40 CFR Part 142—National Primary Drinking Water Regulations Implementation EPA-authorized program for electronic reporting of drinking water data submitted under 40 CFR part 141. EPA reviewed ILEPA's request to revise its EPA-authorized program and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions set out in 40 CFR Part 3, Subpart D, for electronic reporting of drinking water data that does not require signature or include an electronic signature. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Illinois' request to revise its Part 142—National Primary Drinking Water Regulations Implementation authorized program, to allow electronic reporting of drinking water data that does not require signature or include an electronic signature, is being published in the **Federal Register.**

ILEPA was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Also, in today's notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Illinois' request to revise their authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of today's **Federal Register** notice. Such requests should include the following information:

(1) The name, address and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming today's determination or rescinding such determination. If no timely request for a hearing is received and granted, this action will become effective 30 days after today's notice is published, pursuant to CROMERR section 3.1000(f)(4).

Dated: December 22, 2009.

Lisa Schlosser,

Director, Office of Information Collection.

[FR Doc. E9–31105 Filed 12–30–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8986–9]

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).

Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which

includes a brief summary of EPA's comment letters, in the **Federal Register.** Since February 2008, EPA has been including its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, after March 31, 2010, EPA will discontinue the publication of this notice of availability of EPA comments in the **Federal Register.**

Draft EISs

EIS No. 20090349, ERP No. D–SFW–K91018–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.

Summary: EPA expressed environmental concerns about wetland impacts, and requested additional information on monitoring, aquatic toxicity, and ammonia toxicity. Rating EC2.

EIS No. 20090369, ERP No. D–USA–G11052–LA, Joint Readiness Training Center and Fort Polk Land Acquisition Program, Purchase and Lease Lands for Training and Management Activities, in the Parishes of Vernon, Sabine, Natchitoches, LA.

Summary: While EPA has no objections to the proposed action, EPA did request clarification of wetland issues. Rating LO.

EIS No. 20090377, ERP No. D–BOP–F81022–00, Criminal Alien Requirement 9 Project, Proposal to Contract with one or more Private Contractors to House up to 2,500 Federal, Low-Security, Adult Male, Non-U.S. Citizen, Criminal Aliens at Contractor Owned and Operated Correctional Facilities, Located in Baldwin, MI and/or Lake City, FL.

Summary: EPA expressed environmental concerns about wastewater management impacts. Rating EC2.

EIS No. 20090385, ERP No. DS–TVA–A06090–AL, Bellefonte Site Single Nuclear Unit Project, Proposes to Complete or Construct and Operate a Single 1,100–1,200 MW Nuclear Generation Unit, Jackson County, AL.

Summary: EPA expressed environmental concerns about air quality, wetland, and radiological impacts. Rating EC2.

Final EISs

EIS No. 20090389, ERP No. F–AFS–K65370–CA, Beaverslide Timber Sale and Fuel Treatment Project, Proposing to Harvest Commercial Timber and Treat Hazardous Fuels, Six Rivers National Forest, Mad River Ranger District, Trinity County, CA.

Summary: EPA does not object to the proposed project.

EIS No. 20090391, ERP No. F–AFS–K65359–CA, Salt Timber Harvest and Fuel Hazard Reduction Project, Proposing Vegetation Management in the Salt Creek Watershed, South Fork Management Unit, Hayfork Ranger District, Shasta-Trinity National Forest, Trinity County, CA.

Summary: EPA's previous asbestos concerns have been resolved; therefore, EPA does not object to the proposed action.

Dated: December 24, 2009.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–31053 Filed 12–30–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8987–1]

Environmental Impact 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 12/21/2009 Through 12/25/2009

Pursuant to 40 CFR 1506.9.

Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, after March 31, 2010, EPA will discontinue the publication of this notice of availability of EPA comments in the **Federal Register**.

EIS No. 20090448, Final EIS, FHWA, WA, South Park Bridge Project, Proposes to Rehabilitate or Replace the Historic South Park Ridge over the Duwamish Waterway at 14th/16 Avenue S, U.S. Coast Guard Permit and U.S. Army COE Section 10 and 404 Permits, King County, WA, Wait Period Ends: 02/01/2010, Contact: Peter A. Jilek, P.E. 360–753–9550.

EIS No. 20090449, Final EIS, USFS, MI, Niagara Project, To Address Site-Specific Vegetation and Transportation System Needs in the Project Areas, Hiawatha National Forest, St. Ignace and Sault Ste. Marie Ranger Districts, Mackinac and Chippewa Counties, MI, Wait Period Ends: 02/01/2010, Contact: Martha Sjoren 906–643–7900 Ext. 117.

EIS No. 20090450, Final EIS, FERC, 00, Bison Pipeline Project (Docket No. CP09–161–000), Construction, Operation, and Maintenance of Interstate Natural Gas Pipeline Facilities, Application for Right-of-Way Grant and Temporary Use Permit, NPDES Permit and U.S. Army COE 404 Permit, WY, MT, and ND, Wait Period Ends: 02/01/2010, Contact: Julia Bovey 1–866–208–3372.

Amended Notices

EIS No. 20090446, Final EIS, USFS, NV, Jarbidge Ranger District Rangeland Management Project, Proposed Reauthorizing Grazing on 21 Existing Grazing Allotments, Humboldt Toiyabe National Forest, Elko County, NV, Wait Period Ends: 01/25/2010, Contact: Vernon Keller 775–355–5356 Revision to FR Notice Published 12/24/2009: Correction to State and Comment Due Date.

Dated: December 24, 2009.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E9–31057 Filed 12–30–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 30-Day Proposed Information Collection: Application for Participation in the IHS Scholarship Program

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork

Reduction Act of 1995 which requires a 30-day advance opportunity for public comment on the proposed information collection project, the Indian Health Service (IHS) 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 project was previously published in the **Federal Register** (74 FR 36714) on July 24, 2009 and allowed 60 days for public comment. No public comment was received in response to the notice. The purpose of this notice is to allow 30 days for public comment to be submitted directly to OMB.

Proposed Collection: Title: 0917–0006, ''Application for Participation in the IRS Scholarship Program.'' *Type of Information Collection Request:* Previously Approved Collection (Form changes and additions). *Form Number(s):* IHS–856, 856–2 through 856–24, IHS–815, IHS–816, IHS–817, and IHS–818. Reporting formats are contained in an IT–IS Scholarship Program application booklet. *Need and Use of Information Collection:* The IHS Scholarship Branch needs this information for program administration and uses the information to solicit, process, and award IHS Pre-graduate, Preparatory, andlor Health Professions Scholarship grants and monitor the academic performance of awardees, to place awardees at payback sites, and for awardees to request additional program information. The IHS Scholarship Program is streamlining the application to reduce the time needed by applicants to complete and provide the information and plans on using information technology to make the application electronically available on the internet. *Affected Public:* Individuals, not-for-profit institutions and State, local or Tribal Government. *Type of Respondents:* Students pursuing health care professions.

The table below provides: Types of data collection instruments, Estimated number of respondents, Number of responses per respondent, Annual number of responses, Average burden hour per response, and Total annual burden hour(s).

Data collection instrument(s)	Number of respondents	Responses per respondent	Total annual response	Burden hour per response*	Annual burden hours
Scholarship Application (IHS–856)	1500	1	1500	1.00 (60 mm)	1500
Application Checklist (IHS–856–2)	1500	1	1500	0.13 (8 mm)	200
Faculty/Employer Evaluation (IHS–856–3)	1500	2	3000	0.83 (50 mm)	2500
Narrative Statements (IHS–856–4)	1500	1	1500	0.75 (45 mm)	1125
Delinquent Federal Debt (IHS–856–5)	1500	1	1500	0.13 (8 mm)	200
Course Curriculum Verification (IHS–856–6)	1500	1	1500	0.70 (42 mm)	1050
Verification of Acceptance (IHS–856–7)	400	1	400	0.13 (8 mm)	53
Recipient's Initial Program Progress Report (IHS–856–8)	400	1	400	0.13 (8 mm)	53
Notification of Academic Problem (IHS–856–9)	50	1	50	0.13 (8 mm)	7
Change of Status (IHS–856–10)	50	1	50	0.45 (25 mm)	21
Request for Approval of Deferment (IHS–856–11)	50	1	50	0.13 (8 mm)	7
Preferred Placement (IHS–856–12)	200	1	200	0.75 (45 mm)	150
Notice of Impending Graduation (IHS–856–13)	200	1	200	0.17 (10 mm)	33
Notification of Deferment Program (IHS–856–14)	50	1	50	0.13 (8 mm)	7
Placement Update (IHS–856–15)	200	1	200	0.18 (11 mm)	37
Annual Status Report (IHS–856–16)	200	1	200	0.25 (15 mm)	50
Extern Site Preference Request (IHS–856–17)	125	1	125	0.13 (8 mm)	17
Request for Extern Travel Reimbursement (IHS–856–18)	125	1	125	0.10 (6 mm)	13
Lost Stipend Checks (IHS–856–19)	50	1	50	0.13 (8 mm)	7
Request for Tutorial Assistance (IHS–856–20)	150	1	150	0.13 (8 mm)	20
Summer School Request (IHS–856–21)	75	1	75	0.10 (6 mm)	8
Change of Name or Address (IHS–856–22)	50	1	50	0.13 (8 mm)	7
Request for Credit Validation (IHS–856–23)	30	1	30	0.10 (6 mm)	3
Faculty/Advisor Evaluation (IHS–856–24)	1500	2	3000	0.83 (50 mm)	2500
Acknowledgment Card (IHS–8l5)	1500	1	1500	0.03 (2 mm)	50
Address Change Notice (IHS–816)	50	1	50	0.02 (1 mm)	1
Scholarship Program Agreement (IHS–817)	175	1	175	0.05 (3 mm)	9
Health Professions Contract (IHS–818)	225	1	225	0.05 (3 mm)	11
Total			17,855		9,639

* For ease of understanding, burden hours are also provided in actual minutes.

There is no direct cost to respondents other than their time to voluntarily complete the forms and submit them for consideration. The estimated cost in time to respondents, as a group, is $99,355.00 (9639 burden hours x 2009 GS–3 base pay rate = $10.31 per burden hour). This total dollar amount is based upon the number of burden hours per data collection instrument, rounded to the nearest dollar.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimates are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response

time to: Office of Management and Budget, Office of Regulatory Affairs, Attention: Desk Officer for IRS, New Executive Office Building, Room 10235, Washington, DC 20503.

Send Comments and Requests for Further Information: To request more information on the proposed collection or to obtain a copy of the data collection instrument(s) and or instruction(s) contact: Ms. Betty Gould, IHS Reports Clearance Officer, 801 Thompson Avenue, TMP, Suite 450, Rockville, MD 20852, call non-toll free (301) 443–7899; send via facsimile to (301) 443–9879; or send your e-mail requests, comments, and return address to: *betty.gould@ihs.gov.*

Comment Due Date: Comments regarding this information collection are best assured of having full effect if received within 30 days of the date of this publication.

Dated: December 17, 2009.

Randy Grinnell,

Deputy Director, Indian Health Service.

[FR Doc. E9–30947 Filed 12–30–09; 8:45 am]

BILLING CODE 4165–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; A Generic Submission for Formative Research, Pretesting, and Customer Satisfaction of NCI's Communication and Education Resources (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 28, 2009 (74 FR 55558) and allowed 60 days for public comment. One comment in regards to NCI's communication on October 28, 2009, and we responded on October 28, 2009, ''We received your comment. We will take your comments into consideration''. 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: A Generic Submission for Formative Research, Pretesting, and Customer Satisfaction of NCI's Communication and Education Resources (NCI). *Type of Information Collection Request:* REVISION. *Need and Use of Information Collection:* In order to carry out NCI's legislative mandate to educate and disseminate information about cancer prevention, detection, diagnosis, and treatment to a wide variety of audiences and organizations (*e.g.,* cancer patients, their families, the general public, health providers, the media, voluntary groups, scientific and medical organizations), it is beneficial for NCI, through its Office of Communications and Education (OCE), to pretest NCI communications strategies, concepts, and messages while they are under development. This pretesting, or formative evaluation, helps ensure that the messages, communication materials, and information services created by NCI have the greatest capacity of being received, understood, and accepted by their target audiences. Since NCI's OCE also is responsible for the design, implementation, and evaluation of education programs over the entire cancer continuum and management of NCI initiatives that address specific challenges in cancer research and treatment, it is also necessary to ensure that customers are satisfied with programs. This customer satisfaction research helps ensure the relevance, utility, and appropriateness of the many educational programs and products that OCE and NCI produce. OCE will use a variety of qualitative (focus groups, interviews) and quantitative (paper, phone, in-person, and web surveys) methodologies to conduct this formative and customer satisfaction research, allowing NCI to: (1) Understand characteristics (attitudes, beliefs, and behaviors) of the intended target audience and use this information in the development of effective communication tools and strategies; (2) use a feedback loop to help refine, revise, and enhance messages, materials, products, and programs—ensuring that they have the greatest relevance, utility, appropriateness, and impact for/to target audiences; and (3) expend limited program resource dollars wisely and effectively. This package represents the combination of a currently approved generic submission, ''Pretesting of NCI's Office of Communications Messages,'' (OMB No. 0925–0046) and a previously approved generic submission, ''Customer Satisfaction with Educational Programs and Products of the NCI'' (OMB No. 0925–0526). *Frequency of Response:* On occasion. *Affected Public:* Individuals or households; Businesses or other for profit; Not-for-profit institutions; Federal Government; State, local, or tribal Government. *Type of Respondents:* Adult cancer patients; members of the public; health care professionals; organizational representatives. The table below outlines the estimated burden hours required for a three-year approval of this generic submission. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

TABLE 1—ESTIMATES FOR BURDEN HOURS FOR THREE YEARS

[Generic Study]

Survey method	Total number of respondents	Frequency of response	Minutes/hour per response	Total burden hours
Focus Groups	900	1	90/60 (1.5)	1,350.00
Individual In-Depth Interviews (Typically longer than 15 minutes, includes Web site usability testing)	600	1	45/60 (.75)	450.00
Brief Interviews (Typically less than 5 minutes)	19,000	1	10/60 (.17)	3,166.67
Surveys (Web, phone, in-person, paper-and-pencil)	12,500	1	10/60 (.17)	2,083.33
Totals	33,000			7,050.00

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) 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) 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) 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 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 Attention: NIH Desk Officer, Office of Management and Budget at *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Nina Goodman, Senior Public Health Advisor, Office of Communications and Education (OCE), NCI, NIH, 6116 Executive Blvd., Suite 400, Rockville, MD 20892, call non-toll-free number 301–435–7789 or e-mail your request, including your address to: *goodmann@mail.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: December 21, 2009.

Kristine Miller,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E9–31071 Filed 12–30–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Development and Evaluation of AHRQ's Quality Indicators Improvement Toolkit.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by March 1, 2010.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by e-mail at *doris.lefkowitz@AHRQ.hhs.gov.*

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by e-mail at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Development and Evaluation of AHRQ's Quality Indicators Improvement Toolkit.

An important part of AHRQ's mission is to disseminate information and tools that can support improvement in quality and safety in the U.S. health care community. See 42 U.S.C. 299(b)(1)(F); 299a(a)(1) and (2). This proposed information collection supports that part of AHRQ's mission by developing and evaluating a toolkit that will enable hospitals to effectively use AHRQs Quality Indicators (QIs).

AHRQ has developed sets of QIs that can be used by the Agency and others to document quality and safety conditions at U.S. hospitals. Two sets of QIs will be used in this proposed toolkit: the Inpatient Quality Indicators (IQIs) and the Patient Safety Indicators (PSIs). The IQIs contain measures of volume, mortality, and utilization for common medical conditions and major surgical procedures. The PSIs are a set of measures to screen for potentially preventable adverse events that patients may experience during hospitalization. These QIs have been previously developed and evaluated by AHRQ, and are in use at a number of hospitals throughout the country. The QIs and supportive documentation on how to work with them are posted on AHRQ's Web site at *www.qualityindicators.ahrq.gov.* Many of the QIs have been endorsed by the National Quality Forum through its consensus review process.

Values for each QI can be estimated for a given hospital by applying computations in SAS programs developed by AHRQ to the hospital's pre-existing inpatient encounter data. To identify potential areas for improving the quality and safety of the care that a hospital provides, the hospital can use these data to examine its current performance on each QI measure, changes in its performance over time, and how its performance compares to that of other hospitals. However, despite the availability of the QIs as tools to help hospitals assess their performance, many U.S. hospitals have limited experience with the use of such measurement tools, or in using quality improvement methods to improve their performance as assessed by these measures.

An alpha version of the Quality Indicators Improvement Toolkit will be developed, which then will be field tested by six hospitals. During the field test, the proposed evaluation will assess the usability of the Toolkit for hospitals, and it will examine their experiences in implementing interventions to improve their performance on the AHRQ QIs, as well as effects on trends in the hospitals' AHRQ QI values. Using results from the evaluation, the alpha Toolkit will be revised to yield a final Toolkit that will be effective in supporting hospitals' quality improvement efforts.

The development and evaluation of the Quality Indicators Improvement Toolkit will be conducted by AHRQ's contractor, the RAND Corporation, under contract number HHSA2902006000 171. RAND has subcontracted with the University HealthSystem Consortium (UHC) to partner in the development of the Toolkit and field testing of it with hospitals as they use the Toolkit in carrying out initiatives designed to improve performance on the QIs.

Method of Collection

Case study research methods will be used for this qualitative study. The following four data collection instruments will be used in the evaluation: (1) *Pre/post-test interview protocol*—consisting of both open and closed ended questions will be administered prior to implementation of the Toolkit and again post implementation. The purpose of this data collection is to obtain data on the steps the hospitals took to implement actions to improve performance on the QIs; their plans for making process changes; and their experiences in achieving changes and perceptions

regarding lessons learned that could be shared with other hospitals.

(2) *Update protocol*—consisting of both open and closed ended questions will be administered three times during the study (quarterly during the implementation year). The purpose of this data collection is to capture longitudinal data regarding hospitals' progress in implementing changes, successes and challenges, and plans for subsequent actions. These data will include descriptive information on changes over time in the hospitals' implementation actions and how they are using the Toolkit, as well as experiential information on the perceptions of participants regarding the improvement implementation process and its effects. It also ensures the collection of information close to pertinent events, which avoids the recall bias associated with retrospective reporting of experiences.

(3) *Usability testing protocol*—also consisting of both open and closed ended questions will be administered once at the end of the evaluation period. The purpose of this data collection is to gather information from the hospitals on how they used each tool in the Toolkit, the ease of use of each tool, which tools were most helpful, suggested changes to improve each tool, and suggestions for other tools to add to the Toolkit. This information will be used in the revisions of the Toolkit following the end of the field test.

(4) *AHRQ QI data collection tool*—used to collect the IQI and PSI measures calculated by the hospitals both prior to implementation of the Toolkit and again post implementation. The purpose of this data collection is to determine if the hospitals' implementation actions, including use of the toolkit, had a measurable impact on the QI measures.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this information collection. Three protocols will be used to collect data from respondents in interviews that will take one hour each. The pre/post-test interview protocol will be administered twice—at the beginning and end of the field-test year. The pre-test interviews will be performed as one-hour group interviews conducted with the six hospitals' implementation teams at the start of the year. At the end of the year, post-test interviews will be performed as one-hour group interviews with three of the hospitals and during site visits with the other three hospitals. At each site visit, data will be collected through one-hour interviews with the hospital's implementation team as well as through other group interviews performed separately with each of the key stakeholder groups—physicians, nurses, clerks, and others. The additional data from the stakeholder groups will allow triangulation of variations in perceptions and experiences among different groups, of which the implementation teams might not be aware. The quarterly update protocol will be administered quarterly to 2 hospital staff members from each hospital during the year (in months 3, 6, and 9). The usability testing protocol will be administered to 4 staff members once at the end of the evaluation period. The AHRQ QI data collection tool will be used both pre- and post-implementation to collect the QI measures. The total burden is estimated to be 360 hours.

Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in the evaluation. The total cost burden is estimated to be $9,886.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of hospitals	Number of responses per hours hospital	Hours per response	Total burden hours
Pre/Post-Test Interview Protocol	6	26	1	156
Quarterly Update Protocol	6	6	1	36
Usability Testing Protocol	6	4	1	24
AHRQ QI Data Collection Tool	6	2	*12	144
Total	24	NA	NA	360

* Includes time to program and run the computer programs necessary to produce the measures.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN FOR HOSPITALS

Form name	Number of hospitals	Total burden hours	Average hourly wage rate *	Total cost burden
Pre/Post-Interview Protocol	6	156	$27.46	$4,284
Quarterly Update Protocol	6	36	27.46	989
Usability Testing Protocol	6	24	27.46	659
AHRQ QI Data Collection Tool	6	144	27.46	3,954
Total	24	360	NA	9,886

* Based upon the mean of the average wages, National Compensation Survey: Occupational wages in the United States, March 2009, U.S. Department of Labor, Bureau of Labor Statistics. Used as an overall average wage rate across the various types of staff involved in the quality improvements.

Estimated Annual Costs to the Federal Government

Exhibit 3 shows the estimated total and annualized cost of this project to the government. The estimated total cost for the evaluation work is $209,827 over the two-year year project, with an annualized total cost of $104,914. These costs were developed based on estimates of staff days required, to which administrative expenses are applied, and based on airfare, hotel, and per diem costs for staff travel for the site visits at the end of the evaluation.

EXHIBIT 3—ESTIMATED COST OF THE EVALUATION

Cost component	Total cost	Annualized cost
Protocol Development	$40,278	$20,139
Data Collection Activities	91,104	45,552
Data Analysis	45,252	22,626
Publication of Results	24,370	12,185
Travel for Site Visits	8,823	4,412
Total	209,827	104,914

Request for Comments

In accordance with the above-cited Paperwork Reduction Act legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: December 10, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9–30957 Filed 12–30–09; 8:45 am]

BILLING CODE 4160–90–M

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.

Synergy of ABT–737 With an Immunotoxin To Kill Cancer Cells

Description of Technology: Programmed cell death (*i.e.,* apoptosis) represents an attractive approach for treating cancer. However, anti-apoptotic proteins that are frequently active in cancer cells can allow the cells to survive induction of apoptosis. While inhibiting anti-apoptotic proteins has shown promise in combination with apoptosis-inducing treatments, current inhibitors only show incomplete effectiveness in promoting the induction of apoptosis.

ABT–737 is one such inhibitor; it can only inhibit the function of three of the four major anti-apoptosis proteins. The fourth member, known as a MCL1, is a short-lived protein that can still prevent apoptosis in the presence of ABT–737. Importantly, because MCL1 is a short-lived protein, it requires protein synthesis to maintain levels that are sufficient to continue blocking apoptosis.

This technology uses a combination approach in the treatment of cancer. The inventors considered that combining ABT–737 with a protein synthesis inhibitor might completely inhibit anti-apoptotic proteins, leading to efficient induction of apoptosis. Specifically, NIH inventors found that combining ABT–737 and immunotoxins did result in enhanced killing of cancer cells. Because immunotoxins function by inhibiting protein synthesis, the two agents in combination are able to inhibit all of the anti-apoptotic proteins simultaneously. Furthermore, immunotoxins can be specifically targeted to cancer cells, thereby increasing their effectiveness over a non-specific protein synthesis inhibitor. The results suggest that the combination could represent an effective approach to enhancing the induction of apoptosis as an anti-cancer therapy.

Application: Combination anti-cancer therapy.

Advantages:

- Overcomes the anti-apoptotic proteins frequently associated with inducing apoptosis, thereby leading to an effective therapeutic approach.
- Synergistic effect improves toxicity of both the apoptosis-inducing agents and immunotoxins.
- Selective inhibition of protein synthesis by immunotoxins increases effectiveness versus using non-specific inhibitors.

Development Status: Preclinical stage of development.

Inventors: David J. FitzGerald (NCI) *et al.*

Patent Status: U.S. Provisional Application No. 61/238,032 (HHS Reference No. E–279–2009/0–US–01).

For more information, see:

- Pastan *et al.,* US Patent 4,892,827.
- Pastan *et al.,* US Patent 5,705,163.
- Pastan *et al.,* PCT Application PCT/US2008/075296 (WO 2009/032954).
- JE Weldon *et al.* A protease-resistant immunotoxin against CD22 with greatly increased activity against CLL and diminished animal toxicity. Blood 2009 Apr 16;113(16):3792–3800.
- DJ FitzGerald *et al.* Recombinant immunotoxins for treating cancer. Int J Med Microbiol. 2004 Apr;293(7–8):577–582.

Licensing Status: Available for licensing.

Licensing Contact: David A. Lambertson, PhD; 301–435–4632; *lambertsond@mail.nih.gov.*

Collaborative Research Opportunity: The Center for Cancer Research, Laboratory of Molecular Biology, 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, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

A Device for Sterile Removal of a Biological Sample From a Cryopreserved Bag

Description of Technology: Cryopreservation through freezing in liquid nitrogen allows the storage of biological materials for extended periods while maintaining their activity and viability. It is commonly used in the clinic to store blood cells, semen, and umbilical cord blood (UCB) for future use. These materials are typically only obtainable in limited quantities and may be of great therapeutic value, as is the case of hematopoietic stem cells from UCB which can be used to treat and cure a number of different life-threatening illnesses. It is common practice to cryopreserve viably in bags a variety of different cells obtained from the blood. Currently, even if only a small portion of the cryopreserved sample is needed the whole bag must be thawed, wasting much of the sample since it cannot be effectively refrozen. There is a need for a method of retrieving a small sample from a frozen sample of cells in a bag while preserving the cryopreserved state and integrity of the rest of the cellular material.

Researchers at the National Heart, Lung, and Blood Institute in collaboration with the American Fluoroseal Corporation (AFC) have invented an apparatus that separates a small portion of a cryopreserved biological material stored in a collection bag while maintaining the cryopreserved integrity, sterility, and viability of the original cryopreserved material. This device could be used to retrieve small aliquots samples of various cryopreserved cellular products and biological materials such as UCB, blood mononuclear cells, stem cells, semen, and plasma while maintaining the viability and sterility of both the retrieved sample and the original cryopreserved material.

Applications: The apparatus can be used for:

- Retrieving hematopoietic stem cells from cryopreserved UCB unit to reconstitute the bone marrow of cancer patients undergoing radiotherapy and chemotherapy;
- retrieving portions of cryopreserved blood cells for expansion of antigen reactive T-cells, NK cells, and hematopoietic stem cells in the laboratory;
- retrieving portions of cryopreserved semen for assisted reproductive technology;
- sampling of cryopreserved blood plasma for detection of cytokines, chemokines, or other proteins, infectious agents or performance-enhancing drugs.

Advantages:

- Ability to isolate portions or cryopreserved biological materials while retaining viability, sterility, and cryopreserved integrity of remaining material.
- Compatibility with thousands of blood bags presently stored in commercial and public blood banks.

Development Status: A prototype of the device has been built and successfully tested.

Market: This novel apparatus has commercial potential in diverse markets such as: Blood banking and blood products, human reproductive technologies, hematopoietic stem cell and tissue transplantation, medical devices, stem cells, and cancer therapy.

Inventors: Richard W. Childs (NHLBI), Herbert Cullis (AFC), Sumi Vasu (NHLBI).

Patent Status: U.S. Provisional Application No. 61/175,131 filed 04 May 2009 (HHS Reference No. E–173–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Surekha Vathyam, PhD; 301–435–4076; *vathyams@mail.nih.gov.*

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute, Hematology Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the Device for Sterile Removal of a Biological Sample from a Cryopreserved Bag. Please contact Cecilia Pazman, PhD, 301–402–5579; *pazmance@mail.nih.gov* for more information.

Optimizing Chemotherapeutic Performance: Three Newly-Identified Classes of Tyrosyl-DNA Phosphodiesterase (Tdp1) Inhibitors

Description of Technology: During replication, DNA is structurally modified and cleaved by a host of enzymes, including topoisomerases. Some chemotherapeutic agents generate their anti-cancer activity by inducing DNA damage in rapidly replicating tumor cells, resulting in cell death. Topoisomerase I (top1) inhibitors, such as camptothecins, are common chemotherapeutics that prevent the religation of DNA after cleavage during replication.

Tyrosyl-DNA phosphodiesterase (Tdp1) counteracts the action of these chemotherapeutic agents and can reduce their effectiveness in eliminating tumor cells. Tdp1 is an enzyme that repairs DNA lesions and chemotherapeutic-mediated DNA damage, such as the DNA breaks induced by top1 inhibitors. Therefore, Tdp1 is a rational anticancer target whose inhibition should enhance the activity of common cancer chemotherapeutics by permitting greater DNA damage in tumor cells.

Scientists at the National Institutes of Health (NIH) have discovered three classes of compounds that specifically inhibit Tdp1, including cephalosporin derivatives like beta-lactam antibiotics, ellagic acid derivatives such as polyphenol antioxidants, and verteporfin derivatives including protoporphyrins. The compounds were identified as specific Tdp1 inhibitors via a high-throughput screening assay (AlphaScreen™) of the NIH Roadmap Molecular Libraries Small Molecule Repository (MLSMR). One current goal of the scientists is to identify the compounds with the greatest Tdp1 specificity and highest inhibitory activity against cancer cell proliferation. Some of the compounds identified are widely used to treat a variety of other diseases, including bacterial infections (beta-lactam antibiotics) and neurodegenerative and cardiovascular disorders (polyphenol antioxidants).

Now, through studies at the NIH, these compounds identified as Tdp1 inhibitors could be utilized to potentiate the pharmacological action of top1 inhibitors in the treatment of cancer with combination drug therapies. Top1 inhibitor/Tdp1 inhibitor combination chemotherapies are anticipated to be more selective against tumor tissues than top1 inhibitors alone. In addition, since Tdp1 is involved in repairing DNA damage caused by oxygen radicals and tumors are known to contain excess free radicals, Tdp1 inhibitors may also prove useful as anticancer agents independent of their use in conjunction with top1 inhibitors.

Applications:

- Cancer therapeutics administered in combination with known cancer drugs, such as topoisomerase I inhibitors, to enhance the activity and selectivity of these chemotherapeutics. Various types of cancer could be treated with this combination therapy, including lung cancer, colon cancer, breast cancer, prostate cancer, melanoma, lymphomas, ovarian cancer, and pancreatic cancer to name a few.

• Compounds utilized as a strategy to overcome chemotherapy resistance in cancer patients.

• Cancer drug administered alone as a sole chemotherapeutic regimen for patients.

Advantages:

• *Positive S&E History with the FDA:* Some compounds found within each of these three newly-identified classes of Tdp1 inhibitors are used to treat other health problems like bacterial infections and cardiovascular disease. The FDA approval process for these inhibitors in a combination therapy may be shortened given their proven track record in other indications.

• *Different Approach to Combination Chemotherapy:* Combination chemotherapy is a widely accepted treatment strategy for cancer patients, but many combinations lead to more side effects and toxicities due to multiple drug activities. These Tdp1 inhibitors aim to enhance the activity and selectivity of the other drug used in combination, which could lead to greater anticancer activity without an increase in side effects.

Development Status: This technology is in the pre-clinical stage of development.

Market: Cancer continues to be a medical and financial burden on U.S. public health. According to U.S. estimates, cancer is the second leading cause of death with over 565,000 deaths reported in 2008 and almost 1.5 million new cases were reported (excluding some skin cancers) in 2008. In 2007, the NIH estimated that the overall cost of cancer was $219.2 billion dollars and $89 billion went to direct medical costs. Despite our increasing knowledge of cancer treatment and diagnosis methods, the fight against cancer will continue to benefit from the development of new technologies aimed at treating individuals with disease and diagnosing susceptible patients.

Inventors: Yves Pommier (NCI) *et al.*

Selected Publications:

1. C Marchand, *et al.* Identification of phosphotyrosine mimetic inhibitors of human tyrosyl-DNA phosphodiesterase I by a novel AlphaScreen high-throughput assay. Mol Cancer Ther. 2009 Jan;8(1):240–248.

2. S Antony, *et al.* Novel high-throughput electrochemiluminescent assay for identification of human tyrosyl-DNA phosphodiesterase (Tdp1) inhibitors and characterization of furamidine (NSC 305831) as an inhibitor of Tdp1. Nucleic Acids Res. 2007;35(13):4474–4484.

3. Z Liao, *et al.* Inhibition of human tyrosyl-DNA phosphodiesterase I by aminoglycoside antibiotics and ribosome inhibitors. Mol Pharmacol. 2006 Jul;70(1):366–372.

4. TS Dexheimer, *et al.* Tyrosyl-DNA phosphodiesterase as a target for anticancer therapy. Anticancer Agents Med Chem. 2008 May;8(4):381–389.

Patent Status: U.S. Provisional Application No. 61/268,130 filed 08 Jun 2009 (HHS Reference No. E–093–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contact: Samuel E. Bish, PhD; 301–435–5282; *bishse@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 topic of invention or related laboratory interests. Please contact John D. Hewes, PhD at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Biomarkers for Osteoarthritis

Description of Technology: Osteoarthritis is chronic, often progressive and substantially disabling condition that becomes more common with advanced age. Osteoarthritis commonly involves the knees, hands, hips, neck and back resulting in pain and limitations of movement.

Unfortunately clinically available tests are neither capable of detecting osteoarthritis early in its development, nor sensitive enough to adequately assess disease progression. A better means of diagnosing early osteoarthritis and its progression that can be used to assess the response to therapeutic treatments is needed. The currently available laboratory techniques are highly sensitive but either lack specificity or require large volumes of sample. Rolling Circle Amplification (RCA) is new technology that precisely localizes unique signals arising from single reporter molecules. RCA has been incorporated into antibody-based microarray system protein chips that enable testing with high sensitivity and specificity for hundreds of proteins simultaneously, using small sample volumes.

This invention describes a method of using RCA technology for detecting the expression of serum proteins that are perturbed in osteoarthritis patients. The results of this testing can be used to identify proteins associated with osteoarthritis presence, prediction of osteoarthritis development and prognosis, predict response to osteoarthritis treatment and potentially also identify future anti-osteoarthritic drugs.

Inventors: Shari M. Ling *et al.* (NIA).

Patent Status: U.S. Patent Application No. 11/573,711 filed 14 Feb 2007 (HHS Reference No. E–354–2004/0–US–07) and related international applications.

Licensing Status: Available for licensing.

Licensing Contact: Charlene A. Sydnor, PhD; 301–435–4689; *sydnorc@mail.nih.gov.*

VAC–BAC Shuttle Vector System for Generating Recombinant Poxviruses

Description of Technology: This invention relates to a VAC–BAC shuttle vector system for the creation of recombinant poxviruses from DNA cloned in a bacterial artificial chromosome. A VAC–BAC is a bacterial artificial chromosome (BAC) containing a vaccinia virus genome (VAC) that can replicate in bacteria and produce infectious virus in mammalian cells.

Applications:

• VAC–BACs can be used to modify vaccinia virus DNA by deletion, insertion or point mutation or add new DNA to the VAC genome with methods developed for bacterial plasmids, rather than by recombination in mammalian cells.

• It can be used to produce recombinant vaccinia viruses for gene expression.

• It can be used for the production of modified vaccinia viruses that have improved safety or immunogenicity.

Advantages:

• VAC–BACs are clonally purified from bacterial colonies before virus reconstitution in mammalian cells.

• Manipulation of DNA is much simpler and faster in bacteria than in mammalian cells.

• Modified genomes can be characterized prior to virus reconstitution.

• Only virus with modified genomes will be produced so that virus plaque isolations are not needed.

• Generation of a stock of virus from a VAC–BAC is accomplished within a week rather than many weeks.

• Multiple viruses can be generated at the same time since plaque purification is unnecessary.

Inventors: Bernard Moss and Arban Domi (NIAID).

Related Publications:

1. A Domi and B Moss. Cloning the vaccinia virus genome as a bacterial artificial chromosome in Escherichia coli and recovery of infectious virus in mammalian cells. Proc Natl Acad Sci USA. 2002 Sep 17;99(19):12415–12420.

2. A Domi and B Moss. Engineering of a vaccinia virus bacterial artificial

chromosome in Escherichia coli by bacteriophage lambda-based recombination. Nat Methods. 2005 Feb;2(2):95–97.

Patent Status: U.S. Patent No. 7,494,813 issued 24 Feb 2009 (HHS Reference No. E–355–2001/2–US–02).

Licensing Status: Available for licensing.

Licensing Contact: Sue Ano, PhD; 301–435–5515; *anos@mail.nih.gov*.

Dated: December 23, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–31075 Filed 12–30–09; 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.

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Fourier X-ray Scattering and Phase-Contrast Imaging: Enhanced Contrast and Sensitivity of X-ray Images

Description of Technology: The invention offered for licensing is broadly applicable to medical diagnostic imaging, biological imaging, industrial non-destructive testing, security screening, and other routine x-ray inspections. The invention provides a method and apparatus that can significantly improve and enhance the contrast and sensitivity of x-ray images. More specifically, the method described in the invention provides a technique to obtain in a single shot x-ray diffraction, differential phase-contrast, as well as the conventional absorption images. X-ray diffraction reveals information about microscopic structures in the imaged object from nanometer to micrometer scales which enables detection of specific materials and disease pathologies that are invisible in conventional x-ray images. The main advantage of the invention over prior art is the single-shot capability without the need to scan an analyzer crystal or grating, and without the need for any hardware beyond standard radiography equipment. It also offers flexibility in hardware configuration to target specific materials by their diffraction signature. For this reason the invention is highly adaptable and well suited for day-to-day applications of x-ray radiography and computed tomography.

In one of the embodiments of the invention for example, a scattering imaging method uses a transmission grid to modulate the intensity of a beam of an x-ray radiation source. A detector captures a raw image from the modulated intensity pattern. A diffraction image can be automatically generated from the detected modulated intensity pattern.

In yet another embodiment, both a diffraction image and a differential phase-contrast image are obtained in a single exposure. Advantageously, commercially available x-ray grids and radiography machines can be used for this method, and exact positioning of the grid is unnecessary, as the method works for any non-zero distance between the grid and the detector. Thus, the speed and ease of implementation makes it suitable for both planar radiography and 3D computed tomography. In addition to its medical diagnostics significance, the invention can be utilized in other, non-medical applications such as non-destructive inspections and security screening.

Applications

- Medical diagnostic radiography and computed tomography. For example, imaging blood vessels, imaging of bones (*i.e.,* osteoporosis, fractures).
- Non-invasive characterization of material microscopic structures by planar radiography or 3D computed tomography implementations of the invention.
- Detection of materials by their diffraction signature in x-ray inspections and security screening.

Advantages: Although x-ray diffraction and phase-contrast imaging can detect materials and structures that are invisible by conventional absorption images, current techniques remain difficult to implement due to requirements for specialized x-ray optical components and/or brilliant sources, and lengthy scanning of analyzer components such as perfect crystals or high-density gratings. A recent publication (US2007/0183563 A1) mentioned that by using a detector with elements less than ⅓ of the pitch of an analyzer grating, it is possible to obtain differential phase-contrast images in one measurement without the need to scan. US2007/0183580 A1 further elaborates on this technique and specifies that the detector elements are an integer fraction of the grating pitch so that sub-groups of the detectors can report x-ray intensities of different portions of a grating period, from which the phase shift of the grating pattern is measured. Such detectors are highly challenging to realize, and are not able to cope with varying pitches or patterns of x-ray beam modulation.

It is additionally known in the art to remove the effects of scattering with the use of grids, gratings, or other masks of periodically arranged opaque areas. Specifically, a mask or multiple masks of periodically arranged opaque areas are placed in the x-ray path, such that periodic dark shadows are created on a recorder surface either by direct geometric shadowing or by wave-interference effects. The shadow areas only receive x-ray which is scattered in the object. The signals of these shadow areas are subtracted from the raw image to yield an image free of the effects of scattering.

Nonetheless, the above variations require exacting procedures or are expensive, making the prior art ill-suited for today's routine x-ray imaging applications, including non-destructive testing (*e.g.,* component inspection without damage), security screening, and medical diagnostic exams.

The present technology overcomes the drawbacks of the prior art by allowing the acquisition of x-ray diffraction, differential phase-contrast and absorption images all in a single exposure without the need for scanning or any hardware beyond commercial radiography equipment.

It is particularly flexible when compared to prior art in that the number of transmission grids, their patterns and their positions can all be adjusted to selectively detect or enhance specific materials, such as contrast agents in medical diagnostic imaging or explosive materials in security screening.

Development Status: The invention is fully developed.

Market: The market for medical imaging equipment industry is approximately $9.0 billion dollars now and has been growing by approximately 7.6% annually. X-ray imaging and related instrumentation constitutes a significant portion of this market.

• X-ray radiography is the most common and widely available diagnostic imaging technique. Even when a diagnostic testing requires more powerful or sophisticated tests, an x-ray imaging may many times be needed first before other more sophisticated tests are applied.

• X-ray angiography currently provides the best visualization of blood vessels in the body. The ability of this technology to selectively enhance contrast agents can eliminate difficulties associated with subtraction angiography and improve angiography exams.

• The advent of Computed Tomography (CT) and other digital x-ray technologies have enhanced the capabilities of x-ray imaging and have resulted in the tremendous growth of x-ray imaging. CT combines x-rays with computer technology and can produce a highly detailed, cross-sectional image of the body and organs, tissues or tumors inside the body. CT scans are now routinely used to diagnose problems with small, bony structures or in cases of severe trauma to the brain, spinal cord, chest, abdomen, or pelvis. Furthermore, the introduction of multi-slice CT has been one of the most significant enhancements ever brought to the market, and the technological innovations that have been made within the realm of CT in recent years are revolutionary and should be the primary drivers for future industry growth. Electron Beam Technology (EBT) for example is a CT technology that created opportunities in cardiac diagnostics. CT requires fast and robust image acquisition, thus the present invention is uniquely able to enhance CT with diffraction and phase contrast.

• The United States market for computed tomography (CT) scanning systems is estimated to touch $3.6 billion by the end of 2009. The U.S. accounts for over 50.0 percent of the worldwide market. Cardiac imaging is a fast expanding CT application due to its utility in emergency medicine, perfusion studies and CT angiography. While hospitals started out as the original care site where scanning was done, independent imaging centers and physician's offices offering scanning have become widespread in the U.S. over the last decade. With the advent of portable and mobile CT scans, access and availability of this imaging modality has increased significantly. Currently it is estimated that about 25% of scanning stations are in private practices and imaging centers that are not part of a hospital. Most hospitals have a range of scanners from low-slice to high-slice. The overall trend is towards acquiring high-slice scanners which can be similar in terms of capital costs but far superior in function.

• One of the fastest growing applications is CT angiograms, currently at an annual rate of about half a million in the U.S. Pediatric usage is also growing. An estimated 6 million CT scans per year are done for pediatric cases. Of these, about 600,000 are done for head and abdominal examinations. The ability of the present technology to highlight certain contrast agents against background tissue and bone signal can significantly enhance CT angiography.

• The women's mammography segment of x-ray imaging is poised for a major new phase of growth fueled by the availability of new technology coming out of the computer and digital areas and the higher interest of individual patients and general healthcare consumers to take charge of their own health status. Continuous improvements in technology are resulting in a growing number of new imaging diagnostic tests that combine high levels of accuracy with rapid, easy-to-use product formats. Digital mammography is driving more screening programs.

• X-ray inspection in product quality control and in security screening. The present technology offers the ability to detect and target materials based on their x-ray diffraction signatures. It may significantly enhance the sensitivity and specificity of the inspection.

The present technology provides enhancement in x-ray imaging, thus its application in x-ray instrumentation, offers excellent commercial opportunities given the size of the industry.

Inventors: Han Wen (NHLBI).

Related Publications

1. Wen H, Bennett EE, Hegedus MM, Rapacchi S. Fourier X-ray scattering radiography yields bone structural information. Radiology 2009 Jun;252(3):910–918.

2. Wen H, Bennett E, Hegedus MM, Carroll SC. Spatial harmonic imaging of X-ray scattering—initial results. IEEE Trans Med Imaging 2008 Aug;27(8):997–1002.

Patent Status: PCT Application No. PCT/US2009/051642 filed 24 Jul 2009 (HHS Reference No. E–248–2009/0–PCT–01).

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov;* or John Stansberry, PhD; 301–435–5236; *stansbej@mail.nih.gov.*

Collaborative Research Opportunity: The National Heart, Lung, and Blood Institute, Laboratory of Cardiac Energetics, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize single-shot x-ray diffraction and phase-contrast imaging. Please contact Denise Crooks at 301–402–5579 or *crooksd@nhlbi.nih.gov* for more information.

Non-Contact Total Emission Detection Methods for Multiphoton Microscopy: Improved Image Fidelity and Biological Sample Analysis

Description of Technology: The technology offered for licensing and for further development is in the field of multiphoton microscopy (MPM). More specifically, the invention describes and claims optical designs that can enhance and extend the capabilities of MPM in spectral imaging of biological samples. The unique design of the light collection and the detection optics maximizes the collection of emitted light, thus increasing the signal and hence the signal-to-noise ratio (SNR). Improvement in image fidelity will result in improved analysis of biological samples and thus will favorably impact medical research and possibly clinical diagnosis. The present technology is a further improvement on the TED (Total Emission Detection) technology, first disclosed by Dr. Robert Balaban *et al.* at the NIH in 2006 and claimed in U.S. patent application 11/979,600, now allowed (Patent Publication US–2008–0063345 A1, March 13, 2008). The earlier NIH TED technology proposed an optical design based on enveloping the entirety of a small sample in a parabolic mirror/condenser combination so light emanated by a sample in all directions is redirected to the detector. The present technology further expands the capabilities of TED as its unique design employing parabolic, toric and conic mirrors ensures maximum light collection from large samples in cases where there is only access to one side of the tissues (*e.g., in vivo* or *ex vivo*). This is accomplished by the redirection of all attainable light (*i.e.,* light escaping the tissue or a whole animal in the epi and sideway directions) to the detector.

Applications

• Tissue and cell analysis in biomedical research.

• Potential applications in clinical diagnostics.

Advantages: The advent of multiphoton microscopy (MPM) provided several advantages in comparison to single-photon confocal microscopy. In particular the nonlinear optics used with this technology, combined with the elimination of a confocal pinhole aperture, led to direct sectioning and the use of lower energy photons. This approach preserves the integrity of the observed object (i.e. tissue) thus improving imaging results. The technology presented here further enhances the capabilities of MPM by providing the following advantages:

- Increased signal-to-noise ratio.
- Enhanced image resolution due to SNR.
- Improved analytical capabilities.
- Non-contact.
- May readily be adaptable to commercial microscopes.

Development Status: The invention is fully developed. Prototype microscope has been built. May need further validation by rigorous in vivo testing under a variety of different conditions. Also need to build the smaller prototype that could screw into normal objective turrets. Alternative realizations with 'integrated optic' structures are also planned.

Market: Multiphoton microscopy (MPM) has found a niche in the world of biological imaging as the best noninvasive means of fluorescence microscopy in tissue explants and living animals. Coupled with transgenic mouse models of disease and 'smart' genetically encoded fluorescent indicators, its use is now increasing exponentially. Properly applied, it is capable of measuring calcium transients 500 μm deep in a mouse brain, or quantifying blood flow by imaging shadows of blood cells as they race through capillaries. One of the great advantages of optical microscopy is its ability to let scientists peek beneath the tissue surface and study cellular processes at work. Over the last two decades, the use of multiphoton microscopy has spread to all major areas of biological research. As researchers are finding more and more applications for this powerful technique the need for enhanced performance and enhanced capabilities is also increasing. The improvements provided in the present technology are simply added to existing MPM and therefore present excellent commercial opportunities.

Inventors: Jay R. Knutson (NHLBI).

Related Publications

1. U.S. Patent Application Publication US–2008–0063345 A1, March 13, 2008.

2. Presentation, 7th EBSA European Biophysics Congress, July 11–15, 2009, Genova, Italy (*http://EBSA2009.org*).

3. CA Combs, AV Smirnov, JD Riley, AH Gandjbakhche, JR Knutson, RS Balaban. Optimization of multiphoton excitation microscopy by total emission detection using a parabolic light reflector. J Micros. 2007 Dec;228(Pt3):330–337.

Patent Status: U.S. Provisional Application No. 61/224,772 filed 10 Jul 2009 (HHS Reference No. E–236–2009/0–US–01).

Related Technology: U.S. Patent Application No. 11/979,600 filed 06 Nov 2007, now allowed (HHS Reference No. E–257–2005/0–US–04).

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov;* or Michael Shmilovich, JD; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The NHLBI Laboratory of Molecular Biophysics is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize an enhanced method of multiphoton microscopy that is suitable for the spectral imaging of biological samples. Please contact Brian W. Bailey, PhD at *bbailey@mail.nih.gov* for more information.

Dated: December 24, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–31074 Filed 12–30–09; 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.

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Device and Method for Direct Measurement of Isotopes of Expired Gases: Application in Research of Metabolism and Metabolic Disorders, and in Medical Screening and Diagnostics

Description of Technology: The technology offered for licensing and for further development concerns a novel device for intervallic collection of expired gas from subjects and subsequent measurement of the isotopic content of such expired gases. The device is specifically designed for medical research and clinical applications, and in particular in the area of metabolic disorders. The device may facilitate the development and testing of new therapies for such disorders and may be used for medical screening and diagnostics of metabolic diseases. The unique design of the device includes a constant volume respiratory chamber equipped with a series of valves and stopcocks to allow precise and repetitive removal of expired gases, and addition of air or other gas to maintain the chamber at a constant volume. Also included is a vacuum tube adapter linked to a port on a three-way stopcock to allow facile transfer of the chamber gases to vacuum tubes for subsequent chemical analyses. The device also includes gas sensors operably linked to detectors and inserted to the chamber through airtight ports; this allows the operator to independently and directly measure the carbon dioxide production rate and oxygen consumption of the test subject while the expired gases are removed for study.

The experimental subject (*e.g.* mammal) is first contacted with a substrate (*e.g.* amino acid, fatty acid, organic acid) containing an isotope (*e.g.* ^{13}C) and placed in the chamber. The unique design allows easy gas removal and addition while maintaining a constant chamber volume. Precisely measured air samples are collected from the chamber by the syringe and subsequently transferred to a self-sealing vacuum tube which is then removed for analysis. Subsequent sampling is accomplished in the exact

same manner, after an equivalent volume of ambient air, or other gas such as pure oxygen, is reinjected in the chamber to maintain pressure and volume. Air samples from the chamber are collected periodically and the content of the isotope (^{13}C) accumulated in the chamber gas due to metabolism and the formation of $^{13}CO_2$ is measured (*e.g. via* Isotope Ratio Mass Spectroscopy (IRMS)) from the collected samples. The rate of the metabolite's development (*i.e.* $^{13}CO_2$) can thus be determined and can thus provide information on the metabolic status of the subject, such as the rate and extent of oxidation of the administered isotope. Furthermore, results of such analysis can provide fundamental information on the ability of the subject to metabolize a compound, quantitate the effectiveness of an experimental therapy (*i.e.* enzyme replacement, gene therapy, hormone administration, etc.) and thus facilitate progress in the development of interventional therapies.

Applications:

- Research in the area of metabolic disorders.
- Development of therapies (including enzyme replacement and gene therapy) for metabolic disorders.
- Potential applications in screening and diagnostics of metabolic disorders.
- Assessment of non-invasive breath tests to study metabolism.

Advantages:

- The device of this invention is uniquely designed for precise periodic collection of expired gas samples from a test subject and their transfer for analytical processing while the carbon dioxide production rate and oxygen consumption rate are independently and simultaneously measured.
- The unique configuration of the device and the manner in which the valves and stopcocks are attached to the main chamber facilitates the performance of repetitive measurements in a seamless, precise and reliable fashion.
- The technique and device uses stable isotopes, so treated animals can be returned to the cage after study with no concerns of radioactive contamination. This also allows animals that are difficult and expensive to create, such as genetically engineered rodents, to be repeatedly studied, pre- and post-intervention(s) and with various compounds at different times.
- The device can be readily fabricated in a relatively inexpensive manner and operated with simple instructions.

Development Status: The invention is fully developed. A prototype functioning device was fabricated.

Market: Metabolic disorders affect millions of people worldwide. Thousands of metabolic diseases, including inborn errors of metabolism and endocrinopathies, have been identified in humans. Apart for affecting the life quality of people afflicted with these diseases, some of them are responsible for large numbers of morbidity and mortality. The World Health Organization (WHO) estimates that type 2 diabetes affects 135 million people worldwide and that 300 million people meet the criteria for obesity. Dyslipidemia is another major metabolic disorder, affecting approximately 300 million people in the United States, Japan, and Western Europe. These three disorders alone—type 2 diabetes, obesity, and dyslipidemia (high blood cholesterol and triglycerides is lipid disorder)—are highly prevalent and lead to significant morbidity and mortality. Many other known metabolic disorders such as polycystic ovarian syndrome (PCOS), and non-alcoholic steatohepatitis (NASH) are common in the population, and although they may be less severe, still account for significant morbidity and mortality, especially in the pediatric population. A large group of metabolic diseases have received extensive attention due to the implementation of population newborn screening are caused by the body's inability to break down certain proteins and fats and the undesirable buildup of amino and organic acids in the blood. Examples include amino acid disorders such as phenylketonuria (PKU) and maple syrup urine disease (MSUD); fatty acid oxidation defects such as medium- and long-chain acyl-CoA dehydrogenase deficiencies (VLCADD and MCADD), and organic acidemias including methylmalonic, propionic and isovaleric acidemia. Most states in the USA are now testing every baby for these, and other conditions as part of routine newborn screening. These diseases are caused by genetic defects and are inherited; for example MMA (Methylmalonic Acidemia) is estimated to occur in 1 in 25,000–48,000 babies. Similarly, Propionic Acidemia, caused by a deficiency of the enzyme propionyl-CoA carboxylase, affects 1 in 100,000 new born babies in the U.S. and even more than that in other countries. While the disorders are individually infrequent, collectively, they occur at an incidence of approximately 1 in 6000 births. The device of this invention is particularly suitable for research in this area of diseases and an example related to its application in MMA is provided in the patent application and a recent publication (RJ Chandler and CP Venditti. Long-term rescue of a lethal murine model of methylmalonic acidemia using adeno-associated viral gene therapy. Mol Ther 2009 Oct 27. Epub ahead of print, PMID: 19861951).

Huge efforts have been made by many pharmaceutical companies to develop and market drugs for the treatment of metabolic diseases, and many commercial opportunities exist in this area. The magnitude of the potential market can be further exemplified by the following data published in commercial market research analyses:

- The global market for prescription endocrine and metabolic disease drugs was $66.2 billion in 2005 and $72.3 billion in 2006. At a compounded annual growth rate (CAGR) of 5.2%, the market will reach $96.4 billion by 2011.
- Drugs for hypercholesterolemia dominated the highest share of the market, worth almost $37.1 billion in 2006, a 51.3% share. By 2011 its share will drop slightly to 47.2% ($45.5 billion of the total market), though it will remain the largest sector of the market.
- Obesity drugs and treatment have the highest growth potential throughout the forecast period. A relatively small market, its growth however is booming at a CAGR of 23.8%. By 2011 the sector will be worth more than $4.0 billion.
- 2007 sales of the recombinant enzyme replacement therapies (ERT) reached a record level of US$ 2.3 billion shared predominantly by three companies (Genzyme, Shire and Biomarin Pharmaceuticals) for a total of seven different products. Companies are working to extending the market by developing novel ERTs for further human genetic diseases as well as by profiling small molecule therapies for enhancement of enzymatic activities. Porcine-derived extracts containing pancrelipase (a mixture of lipase, amylase and protease among others) recently were forced by the FDA to undergo regulatory review of an NDA. Now these products are exposed to upcoming competition with enzymes produced by recombinant DNA technology which intent to capture a part or maintain existing sales of exocrine enzyme replacement therapies (2007 sales > US$ 300 million).

The huge market for drugs and diagnostics for metabolic diseases and the need to develop newer treatments increase the demand for new tools to facilitate and accelerate research in this area. The present invention therefore presents a favorable commercial opportunity.

Inventors: Randy Chandler and Charles P. Venditti (NHGRI)

Related Publications:

1. CP Venditti, E Manoli, RJ Chandler. A Method To Determine The In Vivo Oxidative Capacity For 13C Isotopomers In Mice: Use To Study Intermediary Metabolism And To Monitor Transgene Activity. Presented at the American Society of Gene Therapy 12th Annual Meeting, May 2009.

2. RJ Chandler and CP Venditti. Long-term rescue of a lethal murine model of methylmalonic acidemia using adeno-associated viral gene therapy. Mol Ther. 2009 Oct 27; Epub ahead of print.

Patent Status: U.S. Patent Application No. 12/418,795 filed 09 Apr 2009 (HHS Reference No. E–099–2009/0–US–01).

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov;* Michael Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

Collaborative Research Opportunity: The Organic Acid Research Section, Genetic and Molecular Biology Branch, National Human Genome Research Institute (NHGRI) is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology or related laboratory interests. Please contact Claire T. Driscoll at *cdriscol@mail.nih.gov* for more information.

Vaccines Against Malarial Diseases

Description of Technology: The invention offered for licensing is in the field of use of vaccines for malaria. The invention provides gene sequences encoding an erythrocyte binding protein of a malaria pathogen for the expression of the erythrocyte binding protein. The codon composition of the synthetic gene sequences approximates the mammalian codon composition. The synthetic gene sequences are useful for incorporation into DNA vaccine vectors, for the incorporation into various expression vectors for production of malaria proteins, or both. The synthetic genes may be modified to avoid post-translational modification of the encoded protein in other hosts. Administration of the synthetic gene sequences, or the encoded protein, as an immunization agent is useful for induction of immunity against malaria, treatment of malaria, or both. The approach presented in this invention, i.e. vaccine that may block the binding of the malaria parasite and subsequent erythrocyte invasion, may work independently or in combination with other vaccines which are based on different mechanisms.

Applications: Vaccines compositions against Malaria in the form of DNA vaccines or as protein immunogens.

Advantage: Due to the complex nature of the malaria parasite, multiple approaches have been attempted to develop malaria vaccines. In particular, due to the diversity attributed to the different life cycle stages of the parasite, there are several sites that can be used as vaccine targets. The approach offered in the present invention, i.e. blockage of the binding to blood erythrocyte, may work independently or in combination with other vaccines based on different mechanisms to create an effective vaccine against malaria.

Development Status: Proof of concept demonstrated.

Market: Malaria is a major public health problem in more than 90 countries, inhabited by more than 2.4 billion people—40% of the world's population. The disease is estimated to kill approximately one (1.0) million people a year, and to cause up to 600 million new infections worldwide annually. Although the disease is mostly prevalent in developing countries and in particular in Sub-Saharan Africa, it also presents a significant health problem for the developed countries due to the extensive travelling between continents at this age of global economy.

Despite of the urgent need to find an effective cure against malaria, such cure has not been developed yet. Although several small molecule drugs have been used to alleviate the symptoms of the disease, a vaccine that can prevent the disease, or eradicate it altogether has not been developed yet, in spite of the many efforts to develop such a vaccine. The challenge in developing a malaria vaccine is due to the nature of the parasites that cause the disease, primarily the *Plasmodium falciparum* parasite. The parasite, which is transmitted to the human body via mosquito's bite, is quite complex and is characterized by structural diversity associated with the different stages of its life cycle.

The urgent public health need in a vaccine against malaria may present a substantial commercial opportunity to any vaccine or pharmaceutical company. The approach described and claimed in the present invention, i.e. blocking of the binding of the parasite to the blood erythrocytes, may therefore be an opportunity for vaccine developers. Furthermore, a vaccine of this invention may work effectively in combination with other malaria vaccines based on different mechanisms (i.e. RTS,S vaccine currently developed by GSK Biologicals and others).

Inventors: David Narum (NIAID) *et al.*

Related Publications:

1. H Liang and BK Sim. Conservation of structure and function of the erythrocyte-binding domain of Plasmodium falciparum EBA–175. Mol Biochem Parasitol. 1997 Feb;84(2):241–245.

2. DL Narum *et al.* Codon optimization of gene fragments encoding Plasmodium falciparum merzoite proteins enhances DNA vaccine protein expression and immunogenicity in mice. Infect Immun. 2001 Dec;69(12):7250–7253.

3. DL Narum *et al.* A novel Plasmodium falciparum erythrocyte binding protein-2 (EBP2/BAEBL) involved in erythrocyte receptor binding. Mol Biochem Parasitol. 2002 Feb;119(2):159–168.

Patent Status: U.S. Patent No. 7,078,507 issued 18 Jul 2006, entitled ''Synthetic genes for malarial proteins and methods of use'' (HHS Reference No. E–052–2004/0–US–02)

Licensing Status: Available for licensing.

Licensing Contacts: Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov*.

Collaborative Research Opportunity: The NIAID Office of Technology Development is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the erythrocyte binding protein as a malaria vaccine. Please contact Dana Hsu at 301–496–2644 for more information.

Novel Acylthiol Compositions and Methods of Making and Using Them Against HIV

Description of Technology: This invention provides a novel family of acylthiols and uses thereof. More specifically, this invention provides effective inhibitors of HIV that selectively target its highly conserved nucleocapsid protein (NCp7) by interacting with metal chelating structures of a zinc finger-containing protein. Because of the mutationally intolerant nature of NCp7, drug resistance is much less likely to occur with compounds attacking this target. In addition, these drugs should inactivate all types and strains of HIV and could also inactivate other retroviruses, since most retroviruses share one or two highly conserved zinc fingers that have the CCHC motif of the HIV Ncp7. Finally, this invention could be very useful for the large-scale practical synthesis of HIV inhibitors, because these compounds can be prepared by

using inexpensive starting materials and facile reactions. Thus, it opens the possibility that an effective drug treatment for HIV could be made available to much larger populations. These thioesters may also be used as an active component in topical applications that serve as a barrier to HIV infection.

Inventors: John K. Inman (NIAID), Atul Goel (NCI), Ettore Appella (NCI), James A. Turpin (NIAID), Marco Schito (NCI)

Publications:

1. ML Schito, A Goel, Y Song, JK Inman, RJ Fattah, WG Rice, JA Turpin, A Sher, E Appella. In vitro antiviral activity of novel human immunodeficiency virus type 1 nucleocapsid p7 zinc finger inhibitors in a transgenic murine model. AIDS Res Hum Retroviruses. 2003 Feb;19(2):91–101.

2. P Srivastava, M Schito, RJ Fattah, T Hara, T Hartman, RW Buckheit Jr, JA Turpin, JK Inman, E Appella. Optimization of unique, uncharged thioesters as inhibitors of HIV replication. Bioorg Med Chem. 2004 Dec 15;12(24):6437–6450.

3. LM Jenkins, JC Byrd, T Hara, P Srivastava, SJ Mazu, SJ Stahl, JK Inman, E Appella, JG Omichinski, P Legault. Studies on the mechanism of inactivation of the HIV–1 nucleocapsid protein NCp7 with 2-mercaptobenzamide thioesters. J Med Chem. 2005 Apr 21;48(8):2847–2858.

4. V Basrur, Y Song, SJ Mazur, Y Higashimoto, JA Turpin, WG Rice, JK Inman, E Appella. Inactivation of HIV–1 nucleocapsid protein P7 by pyridinioalkanoyl thioesters. Characterization of reaction products and proposed mechanism of action. J Biol Chem. 2000 May 19;275(20):14890–14897.

5. JA Turpin, Y Song, JK Inman, M Huang, A Wallqvist, A Maynard, DG Covell, WG Rice, E Appella. Synthesis and biological properties of novel pyridinioalkanoyl thiolesters (PATE) as anti-HIV–1 agents that target the viral nucleocapsid protein zinc fingers. J Med Chem. 1999 Jan 14;42(1):67–86.

Patent Status:

- U.S. Patent No. 7,528,274 issued 05 May 2009 (HHS Reference No. E–329–2000/0–US–06)
- U.S. Patent Application No. 12/414,321 filed 30 Mar 2009 (HHS Reference No. E–329–2000/0–US–07)

Licensing Status: Available for licensing.

Licensing Contact: Sally H. Hu, PhD, MBA; 301–435–5605; *hus@mail.nih.gov.*

Dated: December 23, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–31072 Filed 12–30–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Library of Medicine Special Emphasis Panel.

Date: February 17, 2010.

Time: 12 p.m. to 2 p.m.

Agenda: To provide concept review of proposed grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call)

Contact Person: Zoe E. Huang, MD, Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, National Institutes of Health, 6705 Rockledge Drive, Suite 301, MSC 7968, Bethesda, MD 20892–7968, 301–594–4937, *huangz©mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: December 22, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30949 Filed 12–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for the Accelerating Development of Methods for the Study of Complex Patients (R21) applications are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: AHRQ Developing Prospective Practice-based Comparative Effectiveness Research Clinical Registries: Orthopedic Devices, Drugs, and Procedures (P50).

Date: January 20, 2010 (Open on January 20 from 8 a.m. to 8:15 a.m. and closed for the remainder of the meeting).

Place: Marriott RIO, Conference Room TBD, 9751 Washingtonian Blvd., Gaithersburg, MD 20878.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: December 15, 2009.

Carolyn M. Clancy,

Director.

[FR Doc. E9–30956 Filed 12–30–09; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Innovative Diagnostic Drug Screening Tests for Drugs of Abuse (2220).

Date: January 14, 2010.

Time: 9:30 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1439, *lf33c.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Development of Innovative Techniques/Tools for the Screening, Recruitment, and Follow-up of Clinical Trial Participants (2219).

Date: January 21, 2010.

Time: 9 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: Courtyard by Marriott Rockville, 2500 Research Boulevard, Rockville, MD 20850.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1439, *lf33c.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: December 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30742 Filed 12–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; NIAAA Member Conflict K and R21 Applications.

Date: January 11, 2010.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Ranga Srinivas, PhD, Chief, Extramural Project Review Branch, Office of Extramural Activities, National Institutes of Health, National Institute on Alcohol Abuse & Alcoholism, 5635 Fishers Lane, Room 2085, Rockville, MD 20852.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: December 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30743 Filed 12–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; Member Conflict Applications.

Date: January 15, 2010.

Time: 11 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Ranga Srinivas, PhD, Chief, Extramural Project Review Branch, Office Of Extramural Activities, National Institutes of Health, National Institute on Alcohol Abuse & Alcoholism, 5635 Fishers Lane, Room 2085, Rockville, MD 20852.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: December 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–30741 Filed 12–30–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–854, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–854, Interagency Alien Witness and Informant Record; OMB Control No. 1615–0046.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on October 6, 2009, at 74 FR 51300, allowing for a 60-day public comment period. USCIS did not receive

any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 1, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov,* and OMB USCIS Desk Officer via facsimile at 202–395–5806 or via *oira_submission@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0046 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the 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 a currently approved information collection.

(2) *Title of the Form/Collection:* Interagency Alien Witness and Informant Record.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–854. 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–854 is used by law enforcement agencies to bring alien witnesses and informants to the United States in ''S'' nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 125 responses at 4 hours and 15 minutes (4.25) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 531 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 202–272–8377.

Dated: December 28, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–31054 Filed 12–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–589, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–589, Application for Asylum and for Witholding of Removal; OMB Control No. 1615–0067.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on October 1, 2009, at 74 FR 50812, allowing for a 60-day public comment period. USCIS did not receive any comments for this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 1, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Management and Budget (OMB) USCIS Desk Officer. Comments may be submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via email at *rfs.regs@dhs.gov,* and OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0067 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Asylum and for Witholding of Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–589. U.S. Citizenship and Immigration Services (USCIS).

(4) *Affected public who will be asked or required to respond, as well as a brief*

abstract: Primary: Individuals or Households. Form I–589 is necessary to determine whether an alien applying for asylum and/or withholding of deportation in the United States is classified as a refugee, and is eligible to remain in the United States..

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 63,138 responses at 12 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 757,656 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov.*

We may also be contacted at: USCIS, Regulatory Products Division, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210; Telephone 202–272–8377.

Dated: December 28, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–31055 Filed 12–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–9 CNMI; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection under Review; Form I–9 CNMI, CNMI Employment Eligibility Verification; OMB Control No. 1615–0112.

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 March 1, 2010.

During this 60 day period, USCIS will be evaluating whether to revise the Form I–9 CNMI. Should USCIS decide to revise Form I–9 CNMI 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–9 CNMI.

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. 1615–0112 in the subject box.

When submitting comments on this information collection, your comments should address one or more of the following four points.

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

a. *Type of information collection:* Extension of an existing information collection.

b. *Abstract:* This collection is necessary to document that each new employee (both citizen and noncitizen) hired in the Commonwealth of the Northern Mariana Islands (CNMI), is authorized to work in the CNMI.

c. *Title of Form/Collection:* CNMI Employment Eligibility Verification.

d. *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–9 CNMI; U.S. Citizenship and Immigration Services.

e. *Affected public who will be asked or required to respond: Primary:* Individuals and Households.

f. *An estimate of the total number of respondents:* 1,700 respondents at 9 minutes per response, and 3 minutes for recordkeeping.

g. *Total Annual Reporting Burden:* 340 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: December 28, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–31099 Filed 12–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form G–1145; Extension of an Existing Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review; Form G–1145, E–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 to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on October 16, 2009, at 74 FR 53284, allowing for a 60-day public comment period. USCIS did not receive any comments.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until February 1, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), USCIS Desk Officer. Comments may be

submitted to: USCIS, Chief, Regulatory Products Division, Clearance Office, 111 Massachusetts Avenue, NW., Washington, DC 20529–2210. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at 202–395–5806 or via e-mail at *oira_submission@omb.eop.gov.*

When submitting comments by e-mail, please make sure to add OMB Control No. 1615–0109 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* E-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: December 28, 2009.

Stephen Tarragon,

Deputy Chief, Regulatory Products Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E9–31056 Filed 12–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Cancellation of Customs Broker Licenses

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General Notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses and all associated permits are cancelled without prejudice.

Name	License No.	Issuing port
Aston International Inc	9054	New York.
Bonn International Inc	21037	Los Angeles.
Elite Customs Brokers Inc	4039	New York.
Michael De Luca	3398	New York.
Robert W. Cisco, Customs Brokers Inc	22587	New Orleans.

Dated: December 24, 2009.

Daniel Baldwin,

Assistant Commissioner, Office of International Trade.

[FR Doc. E9–31077 Filed 12–30–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2483–09; DHS Docket No. USCIS 2009–26]

RIN 1615–ZA91

Extension of the Designation of Sudan for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security (DHS).

ACTION: Notice.

SUMMARY: This Notice announces that the Secretary of Homeland Security (Secretary) has extended the designation of Sudan for temporary protected status (TPS) for 18 months from its current expiration date of May 2, 2010, through November 2, 2011. This Notice also sets forth procedures necessary for nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) with TPS to re-register and to apply for an extension of their employment authorization documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). Re-registration is limited to persons who previously registered for TPS under the designation of Sudan and whose applications have been granted or remain pending. Certain nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions.

New EADs with a November 2, 2011, expiration date will be issued to eligible TPS beneficiaries who timely re-register and apply for EADs.

DATES: The extension of the TPS designation of Sudan is effective May 3, 2010, and will remain in effect through November 2, 2011. The 60-day re-registration period begins December 31, 2009, and will remain in effect until March 1, 2010. To facilitate processing of applications, applicants are strongly encouraged to apply as soon as possible after the start of the 60-day re-registration period beginning December 31, 2009.

FOR FURTHER INFORMATION CONTACT: TPS Operations Program Manager, Status and Family Branch, Office of Service Center Operations, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2060, telephone (202) 272–1533. This is not a toll-free call. Further information will also be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov. Note:* The phone number provided here is solely for questions regarding this TPS notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check My Case Status online at the USCIS Web site listed above, or call the USCIS National Customer Service Center at 1–800–375–5283 (TTY 1–800–767–1833).

SUPPLEMENTARY INFORMATION:

Abbreviations and Terms Used in This Document

Act—Immigration and Nationality Act
ASC—USCIS Application Support Center
CPA—Comprehensive Peace Agreement
DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
GOS—Government of Sudan
IDPs—Internally Displaced Persons
JEM—Justice and Equality Movement
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration Related Unfair Employment Practices
SAF—Sudan Alliances Forces
Secretary—Secretary of Homeland Security
SLM/A—Sudanese Liberation Movement/Army
TPS—Temporary Protected Status
UN—United Nations
USCIS—U.S. Citizenship and Immigration Services

What Is Temporary Protected Status?

Section 244(b)(1) of the Immigration and Nationality Act, 8 U.S.C. 1254a(b)(1) (the Act), authorizes the Secretary of Homeland Security, after consultation with appropriate agencies of the government, to designate a foreign State (or part thereof) for Temporary Protected Status (TPS). TPS is an immigration status granted to eligible nationals of a designated country (or to persons without nationality who last habitually resided in the designated country) who are temporarily unable to safely return to their home country because of ongoing armed conflict, environmental disaster, or other extraordinary and temporary conditions. During the period for which the Secretary has designated a country for TPS, TPS beneficiaries are eligible to remain in the United States and may obtain work authorization, so long as they continue to meet the terms and conditions of their TPS status. The granting of TPS does not lead to permanent resident status. When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS (unless that status has since expired or been terminated) or to any other status they may have obtained while registered for TPS.

What Authority Does the Secretary of Homeland Security Have To Extend the Designation of Sudan for TPS?

Section 244(b)(1) of the Act, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate agencies of the government, to designate a foreign State (or part thereof) for TPS.[1] The Secretary may then grant TPS to eligible nationals of that foreign State (or aliens having no nationality who last habitually resided in that State). Section 244(a)(1)(A) of the Act, 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of the TPS designation, the Secretary, after consultation with appropriate agencies of the government, must review the conditions in a foreign State designated for TPS to determine whether the conditions for the TPS designation continue to be met and, if so, must determine the length of an extension of the TPS designation. Section 244(b)(3)(A), (C) of the Act, 8 U.S.C. 1254(b)(3)(A), (C). If the Secretary determines that the foreign State no longer meets the conditions for the TPS designation, the Secretary must terminate the designation. Section 244(b)(3)(B) of the Act, 8 U.S.C. 1254(b)(3)(B).

Why Was Sudan Initially Designated for TPS?

On November 4, 1997, the Attorney General designated Sudan for TPS based on an ongoing armed conflict and extraordinary and temporary conditions within that country. *See* 62 FR 59737; *see also* section 244(a)(b)(1)(A), (C) of the Act, 8 U.S.C. 1254a(b)(1)(A), (C).

When Was the TPS Designation for Sudan Extended?

Following the initial designation of Sudan for TPS in 1997, the Attorney General and later, the Secretary, have extended—or re-designated and extended—TPS for Sudan a total of 11 times, including this extension. These extensions, or re-designations with extensions, occurred on the following dates. On November 3, 1998, the Attorney General extended the designation for 12 months, determining that the conditions warranting such designation continued to be met. 63 FR 59337.

On November 9, 1999, the Attorney General extended and re-designated Sudan for an additional 12 months based upon the ongoing armed conflict and extraordinary and temporary conditions within Sudan which had worsened. 64 FR 61128.

After that date, the Attorney General and then the Secretary of Homeland Security extended the TPS designation of Sudan four times, determining in each instance that the conditions warranting the designation continued to be met. 65 FR 67407 (Nov. 9, 2000); 66 FR 46031 (Aug. 31, 2001); 67 FR 55877 (Aug. 30, 2002); 68 FR 52410 (Sept. 3, 2003).

On October 7, 2004, the Secretary extended and re-designated Sudan for TPS due to the intensification of the ongoing armed conflict in the Darfur region and the extraordinary and temporary conditions resulting from the ongoing conflict. 69 FR 60168.

After October 2004, the Secretary extended the TPS designation of Sudan three times, determining in each instance that the conditions warranting the designation continued to be met. 70 FR 52429 (Sept. 2, 2005); 72 FR 10541 (May 3, 2007); 73 FR 47606 (August 14, 2008). Today's announcement is the eleventh extension of TPS for Sudan.

Why Is the Secretary Extending the TPS Designation for Sudan Through November 2, 2011?

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002 (''HSA''), Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the Immigration and Nationality Act describing functions transferred under the HSA from the Department of Justice to the Department of Homeland Security ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (2003) (codifying HSA, tit. XV, § 1517).

Sudan. Based on this review, the Secretary has determined that an 18-month extension is warranted because the armed conflict is ongoing, and the extraordinary and temporary conditions that prompted the October 7, 2004, re-designation persist.

In 2005, the government of Sudan (GOS) and the Sudan People's Liberation Movement/Army (SPLM/A) signed a Comprehensive Peace Agreement (CPA). The Government of National Unity was formed in September 2005, and a government of Southern Sudan was established in October 2005. However, the overall security situation in Sudan remains fragile and unpredictable. The CPA does not cover the Darfur region of Western Sudan.

Since early 2003, armed conflict has persisted between the GOS and GOS-supported militia groups and two principal Darfuri opposition groups—the Sudanese Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM). Furthermore, violence against civilians has continued, with reports of killings, disappearances, arbitrary arrests and detention, forced population movements, rape, slavery, forced labor, forced conscription of children, and severely restricted freedom of assembly, association, religion, speech, and movement.

Although the Darfur Peace Agreement was signed over three years ago, in May 2006, the situation in Darfur remains serious. Attacks on villages in Darfur noticeably increased in 2008, with between 270,000 and 300,000 people displaced during the year. Despite the signing of a confidence-building agreement between the GOS and JEM and the scheduling of peace talks, fighting in Muhajeria and Shearia broke out in February 2009, driving over 15,000 people to Zam Zam Camp in the northern part of the war-torn area.

According to the United Nations (UN), between January and mid-May 2009, violence displaced approximately 137,000 more individuals in Darfur. Of Darfur's estimated population of 6.3 million, 4.7 million are in need of assistance. In addition, of the 6.3 million, 2.7 million are internally displaced people (IDPs) unable to return to their homes. In April 2009, the UN estimated that more than one million people in Darfur were at risk of losing food, water, and shelter following the expulsion of 13 international aid groups by the GOS. An estimated 130–150 people die monthly from violence in Darfur.

In Southern Sudan, violence has increased in comparison to 2008. Over the past year, the security situation has deteriorated. Between January and June 2009, more than 214,000 people were displaced within southern Sudan due to the conflict. Inter-ethnic and clan clashes and violence over land and cattle remain common. Over 1,000 people have died in such clashes this year. Death rates in Southern Sudan now outnumber those in Darfur.

In Eastern Sudan, the political and security situation remained relatively calm during the UN Security Council reporting period between April 17, 2009, and June 30, 2009. This calm period was due, in part, to the Eastern Sudan Peace Agreement between GOS and rebels from the Eastern Front. However, a number of issues have not been fully addressed. These issues include the growing poverty and economic marginalization, security vulnerabilities, as well as the Eastern Front splitting into three groups. Furthermore, in February 2009, fighting erupted in Malakal, Upper Nile State, between the rebel group Sudan Alliances Forces (SAF) that operates in Eastern Sudan and the SPLA. Casualties were estimated at a minimum of 62 dead (at least 31 of whom were civilians) and 94 wounded (at least 21 of whom were civilians).

Based upon review of country conditions, the Secretary has determined, after consultation with the appropriate Government agencies, that the conditions that prompted the designation of Sudan for TPS continue to be met. *See* section 244(b)(3)(A) of the Act, 8 U.S.C. 1254a(b)(3)(A). An ongoing armed conflict and extraordinary and temporary conditions in Sudan prevent aliens who are nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) from returning in safety. The Secretary also finds that it is not contrary to the national interest of the United States to permit aliens who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* section 244(b)(1)(C) of the Act. On the basis of these findings and determinations, the Secretary concludes that the designation of Sudan for TPS should be extended for an additional 18-month period. *See* section 244(b)(3)(C) of the Act. There are approximately 700 nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) who are eligible for TPS under this extended designation.

What Actions Should Qualifying Aliens Take Pursuant to This Notice?

To maintain TPS, a national of Sudan (or an alien having no nationality who last habitually resided in Sudan) who was granted TPS and who has not had TPS withdrawn or who has a pending application for TPS must re-register for TPS during the 60-day re-registration period from December 31, 2009 until March 1, 2010. To re-register, aliens must follow the filing procedures set forth in this Notice. For instructions on this extension, please refer to the following information in this notice, which includes filing and eligibility requirements for TPS and EADs. Information concerning the extension of the designation of Sudan for TPS will also be available at local USCIS offices upon publication of this Notice and on the USCIS Web site at *http://www.uscis.gov.*

Notice of Extension of the TPS Designation of Sudan

By the authority vested in me as Secretary of Homeland Security under section 244 of the Immigration and Nationality Act, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate government agencies, that the conditions that prompted re-designation of Sudan for temporary protected status (TPS) on October 7, 2004, continue to be met. *See* section 244(b)(3)(A) of the Act, 8 U.S.C. 1254a(b)(3)(A). I have also determined that it is not contrary to the national interest of the United States to permit aliens who meet the eligibility requirements of TPS to remain in the United States temporarily. *See* section 244(b)(1)(C) of the Act. On the basis of these determinations, I am extending the TPS designation of Sudan for 18 months from May 3, 2010, through November 2, 2011.

Janet Napolitano,

Secretary.

Temporary Protected Status Filing Requirements

Do I Need to Re-Register for TPS If I Currently Have Benefits Through the Designation of Sudan for TPS, and Would Like to Maintain Them?

Yes. If you already have received TPS benefits through the TPS designation of Sudan, your benefits will expire on May 2, 2010. All TPS beneficiaries must comply with the re-registration requirements, and submit any required biometric services fee and Employment Authorization Document (EAD) application fee (if an EAD is desired), or requests for waivers of those fees, as described in this Notice in order to maintain TPS benefits through November 2, 2011. TPS benefits include temporary protection against removal from the United States and employment authorization during the TPS designation period. Section 244(a)(1) of

the Act, 8 U.S.C. 1254a(a)(1). Failure to re-register without good cause will result in the withdrawal of your temporary protected status and possibly your removal from the United States. Section 244(c)(3)(C) of the Act, 8 U.S.C. 1254a(c)(3)(C).

If I Am Currently Registered for TPS or Have a Pending Application for TPS, How Do I Re-Register To Renew My Benefits for the Duration of the Extension Period?

Please submit the proper forms and fees according to Tables 1 and 2 below. The following are some helpful tips to keep in mind when completing your application:

- All applicants are strongly encouraged to pay close and careful attention when filling out the required forms to help ensure that their dates of birth, alien registration numbers, spelling of their names, and other required information is correctly entered on the forms.
- All questions on the required forms should be fully and completely answered. Failure to fully complete each required form may result in a delay in processing of your application.
- Aliens who have previously applied for TPS, but whose applications remain pending, should follow the filing instructions in this Notice if they wish to renew their temporary treatment benefits.
- All TPS re-registration applications submitted without the required fees will be returned to applicants.
- All fee waiver requests should be filed in accordance with 8 CFR 244.20.
- If you received an EAD during the most recent registration period, please submit a photocopy of the front and back of your EAD.

TABLE 1—APPLICATION FORMS AND APPLICATION FEES

If	And	Then
You are re-registering for TPS	You are applying for an extension of your EAD valid through November 2, 2011	You must complete and file Form I–765, Application for Employment Authorization, with the fee of $340 or a fee waiver request. You must also submit Form I–821, Application for Temporary Protected Status, with no application fee. *See* separate biometric services fee requirement below.
You are re-registering for TPS	You are NOT applying for renewal of your EAD	You must complete and file Form I–765 with no fee and Form I–821 with no application fee. *See* separate biometric services fee requirement below. NOTE: DO NOT check any box for the question "I am applying for" listed on Form I–765, as you are NOT requesting an EAD benefit.
You are applying for TPS as a late initial registrant (*see* below) and you are between the ages of 14 and 65 (inclusive)	You are applying for a TPS-related EAD	You must complete and file Form I–821 with the $50 application fee or fee waiver request. You must also submit Form I–765 with the fee of $340 or a fee waiver request.
You are applying for TPS as a late initial registrant and are under age 14 or over age 65	You are applying for a TPS-related EAD	You must complete and file Form I–821 with the $50 application fee or fee waiver request. You must also submit Form I–765 with no fee.
You are applying for TPS as a late initial registrant, regardless of age	You are NOT applying for an EAD	You must complete and file Form I–821 with the $50 application fee or fee waiver request. You must also submit Form I–765 with no fee. NOTE: DO NOT check any box for the question "I am applying for" listed on Form I–765, as you are NOT requesting an EAD benefit.
Your previous TPS application is still pending	You are applying to renew your temporary treatment benefits (*i.e.,* an EAD with category "C–19" on its face)	You must complete and file Form I–765 with the fee of $340 or a fee waiver request. You must also submit Form I–821 with no application fee.

Certain applicants must also submit a Biometric Service Fee (See Table 2).

TABLE 2—BIOMETRIC SERVICE FEE

If	And	Then
You are 14 years of age or older	1. You are re-registering for TPS, or 2. You are applying for TPS under the late initial registration provisions, or 3. Your TPS application is still pending and you are applying to renew temporary treatment benefits (*i.e.*, EAD with category "C–19" on its face)	You must submit a Biometric Service fee of $80 or a fee waiver request.

TABLE 2—BIOMETRIC SERVICE FEE—Continued

If	And	Then
You are younger than 14 years of age	1. You are applying for an EAD, or 2. You are NOT applying for an EAD	You do NOT need to submit a Biometric Service fee.

What Editions of Form I–821 and Form I–765 Should I Submit?

Only versions of Form I–821 dated October 17, 2007 (Rev. 10/17/07), or later, will be accepted. Only versions of Form I–765 dated May 27, 2008 (Rev. 5/27/08), or later, will be accepted. The revision date can be found in the bottom right corner of the form. The proper forms can be found on the Internet at *http://www.uscis.gov* or by calling the USCIS forms hotline at 1–800–870–3676.

Where Should I Submit My Application for TPS?

Mail your application for TPS to the proper address in Table 3:

TABLE 3—MAILING ADDRESSES

U.S. Postal Service deliveries	Non-U.S. Postal Service deliveries
U.S. Citizenship and Immigration Services, Attn: TPS Sudan, P.O. Box 8677, Chicago, IL 60680–8677.	U.S. Citizenship and Immigration Services, Attn: TPS Sudan, 131 S. Dearborn—3rd Floor, Chicago, IL 60603–5517.

If an Immigration Judge or the Board of Immigration Appeals (BIA) granted you TPS, you must submit evidence of the grant of TPS (such as an order from the Immigration Judge) with your first re-registration application to USCIS following the TPS grant. In addition, when you receive your receipt notice (Form I–797) for your first re-registration application, you will need to send an e-mail to *Tpsijgrant.vsc@dhs.gov* that includes the following information:

- Your name;
- Your date of birth;
- The receipt number for your re-registration;
- Your A-number; and
- The date you were granted TPS.

If you were granted TPS by an Immigration Judge or the BIA and have already registered with USCIS during a previous period, you do not need to submit evidence of the judge's or BIA's TPS grant again. However, please keep your copy available in case USCIS should request to see your evidence again.

Please note that the e-mail address *Tpsijgrant.vsc@dhs.gov* is solely for re-registration applicants who were granted TPS by Immigration Judges or by the Board of Immigration Appeals to notify USCIS of their grant of TPS. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check My Case Status available at the USCIS Web site, or call the USCIS National Customer Service Center.

Can I File My Application Electronically?

If you are filing for re-registration and *do not* need to submit supporting documentation (*see* Table 4) with your application, you may file your application electronically. To file your application electronically, follow directions on the USCIS Web site at: *http://www.uscis.gov*.

How will I Know if I Need To Submit Supporting Documentation with My Application Package?

See Table 4 below to determine if you need to submit supporting documentation.

TABLE 4—WHO SHOULD SUBMIT SUPPORTING DOCUMENTATION?

If	Then
One or more of the questions listed in Part 4, Question 2 of Form I–821 applies to you	You must submit an explanation, on a separate sheet(s) of paper, and/or additional documentation. Depending on the nature of the question(s) you are addressing, additional documentation alone may suffice, but usually a written explanation will also be needed.
You were granted TPS by an Immigration Judge or the Board of Immigration Appeals (BIA)	You must include evidence of the grant of TPS (such as a final order from the Immigration Judge or decision of the BIA) with your first re-registration application package.

How do I Know If I am Eligible for Late Initial Registration?

In order to be eligible for late initial registration, you must:

(1) Be a national of Sudan (or an alien who has no nationality and who last habitually resided in Sudan);

(2) Have continuously resided in the United States since October 7, 2004;

(3) Have been continuously physically present in the United States since October 7, 2004; and

(4) Be both admissible as an immigrant, except as provided under section 244(c)(2)(A) of the Act, and not ineligible for TPS under section 244(c)(2)(B) of the Act. *See* 8 CFR 244.2.

Additionally, you must be able to demonstrate that during the registration period for the most recent re-designation of TPS for Sudan (from October 7, 2004 to April 5, 2005), you:

(1) Were a nonimmigrant or had been granted voluntary departure status or any relief from removal;

(2) Had an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from

removal or change of status pending or subject to further review or appeal;

(3) Were a parolee or had a pending request for re-parole; or

(4) Are the spouse or child of an alien currently eligible to be a TPS registrant.

An applicant for late initial registration must file an application for late registration no later than 60 days after the expiration or termination of the conditions described above. *See* 8 CFR 244.2(g). All late initial registration applications for TPS, pursuant to the designation of Sudan, should be submitted to the Chicago, Illinois address listed in table 3 above.

Are Certain Aliens Ineligible for TPS?

Yes. There are certain criminal and terrorism-related inadmissibility grounds that render an alien ineligible for TPS. *See* section 244(c)(2)(A)(iii) of the Act, 8 U.S.C. 1254a(c)(2)(A)(iii). Further, aliens who have been convicted of any felony or two or more misdemeanors committed in the United States are ineligible for TPS under section 244(c)(2)(B)(i) of the Act, 8 U.S.C. 1254a(c)(2)(B)(i), as are aliens described in section 208(b)(2)(A) of the Act, 8 U.S.C. 1158(b)(2)(A) (describing the bars to asylum). *See* section 244(c)(2)(B)(ii) of the Act, 8 U.S.C. 1254a(c)(2)(B)(ii).

If I Currently Have TPS, Can I Lose My TPS Benefits?

Yes, you can lose your TPS benefits. TPS and related benefits will be withdrawn if you:

(1) Are not eligible for TPS,

(2) Fail to timely re-register for TPS without good cause, or

(3) Fail to maintain continuous physical presence in the United States.

See sections 244(c)(3)(A)–(C) of the Act, 8 U.S.C. 1254a(c)(3)(A)–(C).

Does TPS Lead to Lawful Permanent Residence?

No. TPS is a temporary benefit. Having been granted TPS does not, of itself, provide an alien with a basis for seeking permanent resident status. A TPS beneficiary who would like to become a permanent resident must qualify for this status based on a family relationship, employment-based classification, or other generally available basis for immigration, and must be otherwise admissible as an immigrant and meet all other eligibility requirements in accordance with the immigration laws.

If I Am Currently Covered Under TPS, What Status Will I Have if My Country's TPS Designation Is Terminated?

When a country's TPS designation is terminated, you will maintain the same immigration status that you held prior to obtaining TPS (unless that status has since expired or been terminated), or any other status you may have acquired while registered for TPS. Accordingly, if you held no lawful immigration status prior to being granted TPS and did not obtain any other status during the TPS period, you will revert to unlawful status upon the termination of the TPS designation. Once the Secretary determines that a TPS designation should be terminated, aliens who had TPS under that designation, and who do not hold any other lawful immigration status, must plan for their departure from the United States.

May I Apply for Another Immigration Benefit While Registered for TPS?

Yes. Registration for TPS does not prevent you from applying for nonimmigrant status, filing for adjustment of status based on an immigrant petition, or applying for any other immigration benefit or protection. Section 244(a)(5) of the Act, 8 U.S.C. 1254a(a)(5). For the purposes of change of status and adjustment of status, an alien is considered to be in, and maintaining, lawful status as a nonimmigrant during the period in which he or she is granted TPS. *See* section 244(f)(4) of the Act, 8 U.S.C. 1254a(f)(4).

However, if an alien has periods of time when he or she had no lawful immigration status before, or after, the alien's time in TPS, those period(s) of unlawful presence *may* negatively affect that alien's ability to adjust to permanent resident status or be granted other immigration benefits, depending on the circumstances. *See, e.g.*, section 212(a)(9)(B) of the Act, 8 U.S.C. 1182(a)(9)(B) (unlawful presence ground of inadmissibility that is triggered by a departure from the United States). In some cases, the unlawful presence ground of inadmissibility, or certain other grounds of inadmissibility, may be waived when an alien applies for adjustment or change of status.

How Does an Application for TPS Affect My Application for Asylum or Other Immigration Benefits?

An application for TPS does not affect an application for asylum or any other immigration benefit. Denial of an application for asylum or any other immigration benefit does not affect an alien's TPS eligibility, although the grounds for denying one form of relief may also be grounds for denying TPS. For example, a person who has been convicted of a particularly serious crime is not eligible for asylum or TPS. *See* sections 244(b)(2)(A)(ii) and 244(c)(2)(B)(ii) of the Act, 8 U.S.C. 1254a(b)(2)(A)(ii) and 8 U.S.C. 1254a(c)(2)(B)(ii).

Can Nationals of Sudan (or Aliens Having No Nationality Who Last Habitually Resided in Sudan) Who Entered the United States after October 7, 2004, File for TPS?

No. To be eligible for benefits under this extension, nationals of Sudan (or aliens having no nationality who last habitually resided in Sudan) must have continuously resided and have been continuously physically present in the United States since October 7, 2004, the date of the most recent designation of Sudan for TPS. *See* section 244(c)(1) of the Act, 8 U.S.C. 1254a(c)(1); 69 FR 60168.

How Will I Know if I Have To Report to an Application Support Center (ASC) to Submit Biometrics?

USCIS will mail you a notice with instructions as to whether or not you are required to appear at an ASC for biometrics collection. To increase efficiency and improve customer service, USCIS will, whenever possible, reuse previously-captured biometrics and will conduct necessary security checks using those biometrics, such that you may not be required to appear at an ASC. Due to systems limitations, it may not be possible in every case to reuse biometrics.

However, even if you do not need to attend an ASC appointment, you are required to pay the separate biometrics fee or submit an appropriately supported fee waiver request if you are age 14 or older. *See* 8 CFR 244.6. This fee will help cover the USCIS costs associated with use and maintenance of collected biometrics (such as fingerprints) for FBI and other background checks, identity verification, and document production.

What Documents Should I Bring to My ASC Appointment?

When you report to an ASC, you must bring the following documents:

(1) Your receipt notice for your re-registration application;

(2) Your ASC appointment notice; and

(3) Your current EAD.

If no further action is required for your case, you will receive a new EAD valid through November 2, 2011, by mail. If your case requires further resolution, USCIS will contact you in writing to explain what additional information, if any, is necessary to resolve your case. If your application is subsequently approved, you will receive a new EAD in the mail with an expiration date of November 2, 2011.

Failure to appear at an ASC for a required ASC appointment will result in denial of your case due to abandonment unless you submit an address change notification (see instructions below) or a rescheduling request prior to your appointment.

What if My Address Changes after I File My Re-Registration Application?

If your address changes after you file your application for re-registration, you must complete and submit Form AR–11 by mail or electronically. The mailing address is: U.S. Citizenship and Immigration Services, Change of Address, P.O. Box 7134, London, KY 40742–7134.

Form AR–11 can also be filed electronically by following the directions on the USCIS Web site at: *http://www.uscis.gov*. To facilitate processing your address change on your TPS application, you may call the USCIS National Customer Service Center at 1–800–375–5283 (TTY 1–800–767–1833) to request that your address be updated on your application. Please note that calling the USCIS National Customer Service Center does *not* relieve you of your burden to properly file a Form AR–11 with USCIS.

Will My Current EAD that is Set To Expire on May 2, 2010, Automatically Be Extended for Six Months?

No. This Notice does not automatically extend previously-issued EADs. DHS has announced the extension of the TPS designation of Sudan and established the re-registration period at an early date to allow sufficient time for DHS to process EAD requests prior to the May 2, 2010, expiration date. You must apply during the 60-day re-registration period. Failure to apply during the re-registration period without good cause will result in a withdrawal of your TPS benefits. DHS *strongly* encourages you to file as early as possible within the re-registration period.

May I Request an Interim EAD at My Local District Office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at district offices.

What Documents May a Qualified Individual Show to His or Her Employer as Proof of Employment Authorization and Identity When Completing Form I–9?

After May 2, 2010, a TPS beneficiary under TPS for Sudan who has timely re-registered with USCIS as directed under this Notice and obtained a new EAD valid through November 2, 2011, may present his or her new valid EAD to an employer as proof of employment authorization and identity. Employers may not accept previously issued EADs that are no longer valid.

Individuals also may present any other legally acceptable document or combination of documents listed on the Form I–9 as proof of identity and employment eligibility.

Note to Employers

Employers are reminded that the laws requiring employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth re-verification requirements. For questions, employers may call the USCIS Customer Assistance Office at 1–800–357–2099. Employers may also call the U.S. Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) Employer Hotline at 1–800–255–8155. Employees or applicants may call the OSC Employee Hotline at 1–800–255–7688 for information regarding the automatic extension. Additional information is available on the OSC Web site at *http://www.usdoj.gov/crt/osc/index.html*.

[FR Doc. E9–30831 Filed 12–30–09; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–51]

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: December 31, 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: December 22, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–30714 Filed 12–30–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Glen Canyon Dam Adaptive Management Program

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Development of Experimental Protocol for High-Flow Releases from Glen Canyon Dam under the Authority of the Secretary of the Interior (Secretary), Development of Environmental Assessment, and Notice of Public Meeting.

SUMMARY: On December 10, 2009, Secretary of the Interior Ken Salazar announced that the Department of the Interior (Department) would initiate development of a High-Flow Experimental Protocol (Protocol) for releases from Glen Canyon Dam as part of the ongoing implementation of the Glen Canyon Dam Adaptive Management Program (AMP). High-flow experimental releases have been undertaken in the past and will be further analyzed and implemented pursuant to the direction of the Secretary to assess the ability of such releases to protect, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established. As part of the AMP, the Department's effort to develop the Protocol is a component of its efforts to comply with the requirements and obligations established by the Grand Canyon Protection Act of 1992 (Pub. L. 102–575) (GCPA).

The AMP was established by, and has been implemented pursuant to the Secretary of the Interior's 1996 Record of Decision on the Operation of Glen

Canyon Dam, in order to comply with monitoring and consultation requirements of the GCPA. The AMP includes a Federal advisory committee known as the Adaptive Management Work Group (AMWG), a technical work group, a scientific monitoring and research center, and independent review panels. The AMWG makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam consistent with the GCPA.

This **Federal Register** notice provides the public with initial information regarding the anticipated development and purpose of the High-Flow Experimental Protocol, notice of the Department's commitment to analyze the Protocol pursuant to the National Environmental Policy Act (NEPA), as well as information regarding an upcoming AMWG public meeting that will address, in part, the development of the Protocol. Additional information regarding the dates and times for the upcoming AMWG public meeting and the development of the Protocol will be provided in a future **Federal Register** notice, as well as through other methods of public involvement as the NEPA process is undertaken and the Protocol is developed and analyzed.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Ryan, Bureau of Reclamation, telephone (801) 524–3732; facsimile (801) 524–5499; e-mail at *protocol@usbr.gov.*

SUPPLEMENTARY INFORMATION: On December 10, 2009, Secretary of the Interior Ken Salazar directed the development of a protocol for conducting additional high-flow experiments from Glen Canyon Dam as part of the ongoing implementation of the Glen Canyon Dam AMP. The text of the Secretary's statement and further information on his direction can be found at *http://www.doi.gov.*

High-Flow Experimental Protocol and Sediment Resources

Sandbars are a primary component of the Colorado River ecosystem, and determining how sand conservation can be achieved in areas within Grand Canyon National Park downstream of Glen Canyon Dam is a high priority of the AMP and the Department of the Interior. Previous high-flow experiments from Glen Canyon Dam were conducted in 1996, 2004, and 2008. Experimental high flows mobilize sand stored in the main channel of the Colorado River to rebuild sandbars, beaches, and associated backwater habitats along shorelines. Sandbars provide key wildlife habitat, protect archeological sites and vegetation structure, and provide camping opportunities in Grand Canyon.

Each experimental release has added to the understanding of the river ecosystem below the dam and the impacts of high-flow releases. Following the initial test in 1996, experimental approaches linking high-flow releases from Glen Canyon Dam to downstream tributary sand inputs to Grand Canyon were developed by scientists working in collaboration with the AMP. *See e.g.,* 66 FR 7772, 7778 (January 25, 2001) (Riverflow Issues). One of the best tools available for rebuilding sandbars using dam operations is to release short-duration high flows after tributary floods deposit new sand into the main channel of the Colorado River. Development and implementation of the Protocol builds on information developed in the previous three high-flow experiments, and will be designed to further evaluate the hypothesis that repeated high-flow releases conducted under conditions of sand enrichment in Grand Canyon may result in cumulative increases in sandbar area and volume. The Protocol constitutes the next logical step in adaptive management with respect to high flow testing.

Anticipated Approach Regarding Development of High-Flow Experimental Protocol

The Department intends to develop the High-Flow Experimental Protocol through a public process pursuant to NEPA, through the development of an Environmental Assessment (EA). The Protocol is anticipated to be a multi-year, multi-experiment approach and will be based on the best available scientific information developed through the AMP as well as other sources of relevant information. For example, in early 2010, it is anticipated that the U.S. Geological Survey will publish detailed information that provides a full and thorough analysis of the results of the most recent high-flow experimental release conducted in March 2008. It is anticipated that the Protocol will address such factors as the appropriate number of experiments, the appropriate sand input ''triggering'' for conducting future experiments, the timing and duration of high-flow releases to optimize sand conservation, the appropriate interval between high-flow releases, as well as the anticipated approach to monitoring the results and effectiveness of the experimental actions, among other resource issues.

The Department is currently developing a tribal consultation policy for matters related to the Glen Canyon Dam AMP. The Department will continue to consult with local affected tribes, including through the tribal consultation policy, to ensure the AMP and the Protocol take into account the United States' trust responsibility to the tribes and their natural resources. There will be a consistent and ongoing effort to consult with the tribes in development of the Protocol, and in implementation of any subsequent related decisions.

Consistent with the provisions of 43 CFR 46.305 (public involvement in the environmental assessment process), the Department ''must, to the extent practicable, provide for public notification and public involvement when an environmental assessment is being prepared.'' This **Federal Register** notice is the first of many steps that the Department intends to take to ensure public input in the development of the Protocol and the NEPA process. The Department will next provide additional information on the Protocol and the EA process at a public AMWG meeting in Phoenix, Arizona, on February 3–4, 2010. Additional information regarding this upcoming AMWG meeting (including times, location, and agenda items) will be provided to the public in an upcoming **Federal Register** notice. The AMWG meeting is intended to provide scoping information for the EA process. Although scoping is not required for the preparation of an EA (CEQ regulations at 40 CFR 1501.7 specifically reference the preparation of an environmental impact statement), the Department recognizes and encourages the use of scoping where appropriate as it does represent a form of public involvement. *See* 43 CFR 46.305(a)(2), 73 FR 61292, 61306 (Oct. 15, 2008).

Further information regarding the development of the High-Flow Experimental Protocol, the EA process, and other relevant information will also be made available to the public through the AMP's Web site which may be accessed at *http://www.usbr.gov/uc/rm/amp/.*

Dated: December 22, 2009.

Anne Castle,

Assistant Secretary—Water & Science.

[FR Doc. E9–31050 Filed 12–30–09; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Emergency Review: Comment Request

December 24, 2009.

The Department of Labor has submitted the following information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35) and 5 CFR 1320.13. OMB approval has been requested by December 31, 2009. A copy of this ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.* Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—EBSA, Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax: 202–395–6974 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov.* Comments and questions about the ICR listed below should be received 5 days prior to the requested OMB approval date.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: Employee Benefits Security Administration.

Title of Collection: Notice Requirements of the Health Care Continuation Coverage—American Recovery and Reinvestment Act of 2009 Revision.

OMB Control Number: 1210–0123.

Frequency of Collection: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Total Estimated Number of Respondents: 2.7 million.

Total Estimated Number of Responses: 8.5 million

Total Estimated Annual Burden Hours: 0.

Total Net Estimated Annual Costs Burden (other than hourly costs): $6.8 million.

Description: On December 19, 2009, President Obama signed the Department of Defense Appropriations Act of 2010 (Pub. L. 111–118), which extends the availability of the health care continuation coverage premium reduction provided for COBRA and other health care continuation coverage as required by the American Recovery and Reinvestment Act (ARRA) of 2009 (Pub. L. 111–5). Assistance eligible individuals now can be eligible for the subsidy if they incur an involuntary termination of employment triggering a COBRA election opportunity by February 28, 2010. Before the extension, Assistance Eligible Individuals had to experience an involuntary termination of employment by December 31, 2009. The length of the premium assistance period also is extended from 9 months to 15 months.

ARRA, as amended, retained the requirement that the Secretary of Labor (the Secretary), in consultation with the Secretaries of the Treasury and Health and Human Services, develop model notices. These models are for use by group health plans and other entities that, pursuant to ARRA, as amended, must provide notices of the availability of premium reductions and additional election periods for health care continuation coverage. The ICR relates to the issuance of the model notices.

Why are we requesting Emergency Processing? If the Department were required to comply with standard PRA clearance procedures, it would not be able to publish the model notices on a timely basis.

Dated: December 24, 2009.

Joseph S. Piacentini,

Acting PRA Clearance Officer.

[FR Doc. E9–30995 Filed 12–30–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Class Exemption 88–59, Residential Mortgage Financing Arrangements

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption (PTE) 88–59. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice or at *http://www.RegInfo.gov.*

DATES: Written comments must be submitted on or before March 1, 2010.

ADDRESSES: Direct all written comments to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

PTE 88–59 provides an exemption from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (Code) for transactions in which an employee benefit plan provides mortgage financing to purchasers of residential dwelling units, provided specified conditions are met. Among other conditions, PTE 88–59 requires

that adequate records pertaining to exempted transactions be maintained for the duration of the pertinent loan. This recordkeeping requirement constitutes an information collection within the meaning of the PRA, for which the Department has obtained approval from the Office of Management and Budget (OMB) under OMB Control No. 1210–0095. The OMB approval is currently scheduled to expire on April 30, 2010.

II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB approval of the information collection contained in PTE 88–59. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval of the information collection contained in PTE 88–59. No change to the existing ICR is proposed or made at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 88–59; Residential Mortgage Financing Arrangements.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0095.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 1,785.

Responses: 1,785.

Estimated Total Burden Hours: 744.

III. Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: December 24, 2009.

Joseph A. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–30997 Filed 12–30–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request; HDCI 2 Survey of Group Health Plans

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This program helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on a proposed extension of an information collection entitled the Health Disclosure and Claims Issues Project Survey (HDCI 2 Survey). A copy of the information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted on or before March 1, 2010.

ADDRESSES: Direct all written comments to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5716, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In 1999, the Department conducted a pilot project under which approximately 200 group health plans were investigated for compliance with Part 7 of the Employee Retirement Income Security Act of 1974 (ERISA). In 2001, the Department initiated the Health Disclosure and Claims Issues: Fiscal Year 2001 Compliance Project, which sought to increase compliance through investigations and improve the Department's ability to provide effective compliance assistance by assessing more comprehensively the extent and nature of compliance with Part 7 of ERISA among group health plans. As a result of that project, the Department broadened its compliance assistance efforts through a combination of publications, outreach, self-audit materials, and other compliance tools. As a follow-up to the Fiscal Year 2001 Compliance Project, the Department proposed to conduct a second project, the HDCI 2 Survey, which was intended to measure changes in compliance with Part 7 of ERISA and to improve the effectiveness of future compliance assistance efforts. As part of the HDCI 2 Survey, the Department proposed to conduct a narrow scope telephone survey for the sole purpose of identifying an appropriate sample of ERISA-covered single-employer group health plans in two categories: (1) Plans sponsored by firms with 3–99 employees, and (2) plans sponsored by firms with 100 or more employees. OMB approved the HDCI 2 Survey on April 27, 2007, under OMB Control Number 1210–0129, which currently is scheduled to expire on April 30, 2010.

II. Current Actions

This notice requests comments on an extension of OMB's approval of the information collections included in the HDCI 2 Survey. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration.

Title: HDCI 2 Survey of Group Health Plans.

OMB Number: 1210–0129.

Affected Public: Business or other for-profit; not-for-profit organizations.

Total Respondents: 5,000.

Total Responses: 5,000.

Frequency: Once.

Average Time per Response: 5 minutes.

Estimated Total Annual Hour Burden: 417 hours.

Estimated Total Annual Cost Burden: $0.

III. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submission of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR submitted for OMB approval. They will also become a matter of public record.

Dated: December 24, 2009.

Joseph A. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–30998 Filed 12–30–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request; Final Rule on Statutory Exemption for Cross-Trading of Securities

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on a proposed extension of the current approval of information collection provisions incorporated in the regulation pertaining to the statutory exemption for cross-trading of securities. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice or at *http://www.RegInfo.gov.*

DATES: Written comments must be submitted on or before March 1, 2010.

ADDRESSES: Direct all written comments to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Interim Final Rule on Statutory Exemption for Cross-Trading of Securities implements the content requirements for the written cross-trading policies and procedures required under section 408(b)(19)(H) of ERISA, as added by section 611(g) of the Pension Protection Act of 2006, Public Law 109–280 (PPA). Section 611(g)(1) of the PPA created a new statutory exemption, added to section 408(b) of ERISA as subsection 408(b)(19), that exempts from the prohibitions of sections 406(a)(1)(A) and 406(b)(2) of ERISA those cross-trading transactions involving the purchase and sale of a security between an account holding assets of a pension plan and any other account managed by the same investment manager, provided that certain conditions are satisfied. Section 611(g)(3) of the PPA further directed the Secretary of Labor to issue regulations, within 180 days after enactment, regarding the content of the policies and procedures to be adopted by an investment manager to satisfy the conditions of the new statutory exemption.

The Department issued a final cross-trading regulation on October 7, 2008. OMB approved the ICR at the proposed rule stage on April 27, 2007, under control number 1210–0130, which expires on April 30, 2010. The final rule did not implement any substantive or material change to the information collection; therefore, no change was made to the ICR, and no further OMB review was required. The public is not required to respond to an information collection unless it displays a valid control number. No change to the existing ICR is being proposed or made at this time.

II. Desired Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Action

This notice requests comments on an extension of OMB's approval of the information collections included in 29 CFR 2550.408b–19. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Final Rule on Statutory Exemption for Cross-Trading of Securities.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0130.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 1,600.

Responses: 15,000.

Estimated Total Burden Hours: 17,000.

Estimated Total Burden Cost (Operating and Maintenance): $58,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: December 24, 2009.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–31000 Filed 12–30–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Request for Public Comment; Prohibited Transaction Class Exemption 80–83; Employee Benefit Plan Purchase of Securities Benefiting Party in Interest Issuer

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection provisions of Prohibited Transaction Class Exemption (PTE) 80–83. A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted on or before March 1, 2010.

ADDRESSES: Direct all written comments to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

PTE 80–83 provides an exemption from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (Code) for transactions in which an employee benefit plan purchases securities when the proceeds from such purchase may be used to reduce or retire a debt owed by a party in interest with respect to such plan, provided that specified conditions are met. Among other conditions, PTE 80–83 requires that adequate records pertaining to an exempted transaction be maintained for six years. The Department has approval from the Office of Management and Budget (OMB) for this information collection requirement under OMB Control No. 1210–0064. This approval is currently scheduled to expire on March 31, 2010.

II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB approval of the information collection contained in PTE 80–83. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval of the information collection contained in PTE 80–83. No change to the existing ICR is proposed or made at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 80–83; Employee Benefit Plan Purchase of Securities Benefiting Party in Interest Issuer.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0064.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 25.

Responses: 25.

Estimated Total Burden Hours: 2 hours.

III. Desired Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR submitted to OMB; they will also become a matter of public record.

Dated: December 24, 2009.

Joseph A. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–31001 Filed 12–30–09; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request; Prohibited Transaction Class Exemption 75–1; Employee Benefit Plan Security Transactions With Broker-Dealers, Reporting Dealers and Banks

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This program helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on a proposed extension of the current approval of information collection provisions incorporated in the Prohibited Transaction Class Exemption (PTE) 75–1, pertaining to securities and other related transactions with broker-dealers, reporting dealers and banks. A copy of the information

collection request (ICR) can be obtained by contacting the office shown in the **ADDRESSES** section of this notice or at *http://www.RegInfo.gov.*

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before March 1, 2010.

ADDRESSES: Direct all written comments to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

PTE 75–1 provides exemptions from certain prohibited transaction provisions of the Employment Retirement Income Security Act of 1974 (ERISA), and the Internal Revenue Code of 1986 (Code) for specified types of transactions between employee benefit plans and broker-dealers, reporting dealers and banks relating to securities purchases and sales, provided specified conditions are met. The exempted transactions include an employee benefit plan's purchase of securities from broker-dealers' inventories of stocks, from underwriting syndicates in which a plan fiduciary is a member, from banks, from reporting dealers, and from a market-maker even if a market-maker is a plan fiduciary. The exempted transactions also include, under certain conditions, a plan's accepting an extension of credit from a broker-dealer for the purpose of facilitating settlement of a securities transaction. Among other conditions, PTE 75–1 requires that a party seeking to rely on the exemption with respect to a transaction maintain adequate records of the transaction for a period of six years. The Department has obtained approval from the Office of Management and Budget (OMB) for this information collection under OMB Control No. 1210–0092. This approval is currently scheduled to expire on April 30, 2010.

II. Current Actions

This notice requests public comment pertaining to the Department's request for extension of OMB approval of the information collection contained in PTE 75–1. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval of the information collection contained in PTE 75–1. No change to the existing ICR is proposed or made at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Prohibited Transaction Class Exemption 75–1; Employee Benefit Plan Security Transactions with Broker-Dealers, Reporting Dealers and Banks.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0092.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Respondents: 9,750.

Responses: 9,750.

Estimated Total Burden Hours: 1,625.

Estimate Total Burden Cost: $0.

III. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR submitted to OMB; they will also become a matter of public record.

Dated: December 24, 2009.

Joseph A. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. E9–30999 Filed 12–30–09; 8:45 am]

BILLING CODE 4510–29–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2009–29; Order No. 368]

Postal Product Price Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to change prices for a Global Direct contract. This notice provides an opportunity for the public to comment.

DATES: Comments are due: January 5, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Commenters who cannot submit their views electronically should contact the person identified in ''FOR FURTHER INFORMATION CONTACT'' by telephone for advice on alternatives to electronic filing.

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

SUPPLEMENTARY INFORMATION: On December 18, 2009, the Postal Service filed a notice that prices for the Global Direct contract at issue in the above-captioned proceeding will change as contemplated by the contract's terms.[1] The Notice includes three attachments: (1) A redacted version of the letter to the customer with the amended prices (Attachment 1); (2) a certified statement of compliance with 39 U.S.C. 3633(a) (Attachment 2); and (3) an application for non-public treatment for the material filed under seal (Attachment 3).

In Order No. 216, the Commission concluded that certain costs for these types of contracts are based on objective, external factors and out of the Postal Service's discretion.[2] Such objective, external factors are, in the case of Global Direct, exchange rate fluctuations and changes in the amount Canada Post Corporation charges the Postal Service for services. *Id.* at 7. For rate changes based on these types of objective, external factors, the Commission allowed that the Postal Service could file the changes on a ''notice-type basis.'' *Id.*

The Postal Service filed the Notice because it plans on changing rates for the Global Direct contract at issue in this docket. It is unclear, however,

[1] Notice of United States Postal Service of Change in Prices in Accordance with Order No. 216, December 18, 2009 (Notice).

[2] PRC Order No. 216, Order Concerning Filing of Additional Global Direct Contracts Negotiated Service Agreement, May 15, 2009 (Order No. 216).

whether the planned increase is only the result of ''objective, external factors'' contemplated by Order No. 216. If the increase is based on other terms of the contract that are not ''objective, external factors,'' *i.e.*, based on Article 9, paragraph 2, of the contract, then it must be subject to the usual requirements of a competitive rate change set forth in 39 CFR 3015.5.

Because the basis for the price change in the Notice is not clear, the Commission reopens Docket No. CP2009–29 to review the proposed price change and give interested persons the opportunity to comment on whether the Postal Service's proposed rate increase is based on ''objective, external factors.'' If the change is based on such factors, Commission review may be unnecessary under the terms of Order No. 216. Comments may also address, if appropriate, whether the filings in the captioned docket are consistent with the policies of 39 U.S.C. 3632, 3633, or 3652 and 39 CFR part 3015 and 39 CFR 3020, subpart B. Comments are due no later than January 5, 2010.

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

It is ordered:

1. The Commission reopens Docket No. CP2009–29 for consideration of the issues raised in this order.
2. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.
3. Comments by interested persons in this proceeding are due no later than January 5, 2010.
5. The Secretary shall arrange for publication of this Notice in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. E9–31034 Filed 12–30–09; 8:45 am]

BILLING CODE 7710–FW–S

POSTAL REGULATORY COMMISSION

[Docket No. CP2009–36; Order No. 369]

Postal Product Price Changes

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to change prices for a Direct Entry Parcels contract. This notice provides an opportunity for the public to comment.

DATES: Comments are due: January 5, 2010.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Commenters who cannot submit their views electronically should contact the person identified in ''FOR FURTHER INFORMATION CONTACT'' by telephone for advice on alternatives to electronic filing.

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

SUPPLEMENTARY INFORMATION:

I. Postal Service Filing
II. Comments
III. Ordering Paragraphs

I. Postal Service Filing

On December 21, 2009, the Postal Service filed a notice of a change in prices under the Direct Entry Parcels contract.[1]

Background. On July 31, 2009, the Commission issued Order No. 264 adding Direct Entry Parcels 1 (MC2009–26 and CP2009–36) to the Competitive Product List.[2] In that order, the Commission noted that the Direct Entry Parcels 1 contract ''includes provisions that would permit price changes during the 1–year term of the contract.'' *Id.* at 9. Price changes could result either from changes in the prices charged by Canada Post Corporation for Xpresspost, or from changes in costs incurred by the Postal Service relative to a specified threshold. *Id.* at 10. Order No. 264 directed the Postal Service to file a notice of any such price changes with the Commission prior to their effective date. *Id.*

Notice. The Postal Service states that the price changes it is proposing are ''not the sort of automatic change[s] based on external, objective factors for which the Commission has permitted a relatively streamlined, notice-type filing procedure.'' Notice at 1, n.1.[3] The Postal Service's Notice includes (1) A redacted copy of the notice to the customer of new prices and supporting documentation establishing compliance with 39 U.S.C. 3633 and 39 CFR 3015.5;''[4] and (2) the certified statement required by 39 CFR 3015.5(c)(2).[5] Non-redacted copies of the customer notice and the certified statement have been filed under seal. The Notice also includes an application for non-public treatment of the non-redacted documents.[6]

II. Comments

Interested persons may submit comments on the Postal Service's December 21, 2009 filing no later than January 5, 2010. The public portion of the filing can be accessed via the Commission's Web site *(http://www.prc.gov).*

The Commission appoints Emmett Rand Costich to serve as the Public Representative in this proceeding.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2009–36 to consider the price changes proposed in the Postal Service's December 21, 2009 filing.
2. Pursuant to 39 U.S.C. 505, Emmett Rand Costich is appointed to serve as officer of the Commission to represent the interests of the general public in these proceedings.
3. Comments by interested persons in these proceedings are to be filed no later than January 5, 2010.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. E9–31073 Filed 12–30–09; 8:45 am]

BILLING CODE 7710–FW–S

[1] Notice of United States Postal Service of Change in Prices, December 21, 2009 (Notice).

[2] Docket Nos. MC2009–26 and CP2009–36, Order Concerning Direct Entry Parcels, International Return Service and Harmonization Service Negotiated Service Agreements, July 31, 2009 (Order No. 264).

[3] Footnote 1 of the Notice refers to PRC Order No. 216, Docket No. CP2009–2, Order Concerning Filing of Additional Global Direct Contracts Negotiated Service Agreement, May 15, 2009, at 7 (Order No. 216). Order No. 216 permitted the Postal Service to make notice-type filings for non-discretionary price changes under Global Direct Contracts due to exchange rate fluctuations and Canada Post Corporation price changes.

[4] Attachment 1 to the Notice.

[5] Attachment 2 to the Notice.

[6] Attachment 3 to the Notice.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Public Access Policies for Science and Technology Funding Agencies Across the Federal Government

AGENCY: Office of Science and Technology Policy (OSTP), Executive Office of the President.

ACTION: Notice; extension of comment period.

SUMMARY: On December 9, 2009, the Office of Science and Technology Policy (OSTP) within the Executive Office of the President, published a notice requesting input from the community regarding enhancing public access to archived publications resulting from

research funded by Federal science and technology agencies. That notice stated that the RFI would be active from December 10, 2009 to January 7, 2010. The purpose of this document is to extend that comment period to allow comments until January 21, to accommodate potential respondents who may find it difficult to complete their responses by the original deadline because of the intervening holidays. Respondents are invited to respond online via the Public Access Policy Forum at *http://www.whitehouse.gov/open*, or may submit responses via electronic mail. Responses will be re-posted on the online forum. Instructions and a timetable for daily blog topics during this period are described at *http://www.whitehouse.gov/open.*

DATES: Comments must be received by January 21, 2010.

ADDRESSES: Submit comments by one of the following methods:

Public Access Policy Forum: http://www.whitehouse.gov/open.

Via e-mail: publicaccess@ostp.gov.

Mail: Office of Science and Technology Policy, Attn: Open Government Recommendations, 725 17th Street, Washington, DC 20502.

Comments submitted in response to this notice could be made available to the public online or by alternative means. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you submit an e-mail comment, your e-mail address will be captured automatically and included as part of the comment that is placed in the public docket and made available on the Internet.

FOR FURTHER INFORMATION CONTACT: Dr. Diane DiEuliis, Assistant Director, Life Sciences, Office of Science and Technology Policy, Attn: Open Government, 725 17th Street, NW., Washington, DC 20502. 202–456–6059.

SUPPLEMENTARY INFORMATION:

I. Background

On his first day in office, the President issued a Memorandum on Transparency and Open Government that called for an ''unprecedented level of openness in government'' and the rapid disclosure of one of our nation's great assets—information. Moreover, the Administration is dedicated to maximizing the return on Federal investments made in R&D. Consistent with this policy, the Administration is exploring ways to leverage Federal investments to increase access to information that promises to stimulate scientific and technological innovation and competitiveness. The results of government-funded research can take many forms, including data sets, technical reports, and peer-reviewed scholarly publications, among others. This RFI focuses on approaches that would enhance the public's access to scholarly publications resulting from research conducted by employees of a Federal agency or from research funded by a Federal agency.

Increasing public access to scholarly publications resulting from federally funded research may enhance the return on federal investment in research in the following ways:

(a) More timely, easier, and less costly access to scholarly publications resulting from federally funded research for commercial and noncommercial scientists has the potential to promote advances in science and technology, thereby enhancing the return on federal investment in research;

(b) Creating an easily searchable permanent electronic archive of scholarly publications resulting from federally funded research has the potential to allow cross-referencing, continuous long-term access, and retrieval of information whose initial value may only be theoretical, but may eventually have important applications;

(c) Ensuring that the federal agencies that support this research can access the published results has the potential to promote improved cross-government coordination of government funding, and thus improved management of the federal research investments;

(d) More timely, easier, and less costly access to scholarly publications resulting from federally funded research for educators and students, and ''end users'' of research, such as clinicians, patients, farmers, engineers, and practitioners in virtually all sectors of the economy, has the potential to promote the diffusion of knowledge.

The Executive Branch is considering ways to enhance public access to peer reviewed papers arising from all federal science and technology agencies. One potential model, implemented by the National Institutes of Health (NIH) pursuant to Division G, Title II, Section 218 of Public Law 110–161 (*http://publicaccess.nih.gov/*) requires that all investigators funded by the NIH submit an electronic version of their final, peer-reviewed manuscript upon acceptance for publication no later than 12 months after the official date of publication. Articles collected under the NIH Public Access Policy are archived in PubMed Central and linked to related scientific information contained in other NIH databases. More information about PubMed Central is available: *http://www.pubmedcentral.nih.gov/about/faq.html.*

The NIH model has a variety of features that can be evaluated, and there are other ways to offer the public enhanced access to peer-reviewed scholarly publications. The best models may influenced by agency mission, the culture and rate of scientific development of the discipline, funding to develop archival capabilities, and research funding mechanisms.

II. Invitation To Comment

Input is welcome on any aspect of expanding public access to peer reviewed publications arising from federal research. Questions that individuals may wish to address include, but are not limited to, the following (please respond to questions individually):

1. How do authors, primary and secondary publishers, libraries, universities, and the federal government contribute to the development and dissemination of peer reviewed papers arising from federal funds now, and how might this change under a public access policy?

2. What characteristics of a public access policy would best accommodate the needs and interests of authors, primary and secondary publishers, libraries, universities, the federal government, users of scientific literature, and the public?

3. Who are the users of peer-reviewed publications arising from federal research? How do they access and use these papers now, and how might they if these papers were more accessible? Would others use these papers if they were more accessible, and for what purpose?

4. How best could Federal agencies enhance public access to the peer-reviewed papers that arise from their research funds? What measures could agencies use to gauge whether there is increased return on federal investment gained by expanded access?

5. What features does a public access policy need to have to ensure compliance?

6. What version of the paper should be made public under a public access policy (e.g., the author's peer reviewed manuscript or the final published version)? What are the relative advantages and disadvantages to different versions of a scientific paper?

7. At what point in time should peer-reviewed papers be made public via a public access policy relative to the date a publisher releases the final version? Are there empirical data to support an optimal length of time? Should the delay period be the same or vary for

levels of access (e.g., final peer reviewed manuscript or final published article, access under fair use versus alternative license), for federal agencies and scientific disciplines?

8. How should peer-reviewed papers arising from federal investment be made publicly available? In what format should the data be submitted in order to make it easy to search, find, and retrieve and to make it easy for others to link to it? Are there existing digital standards for archiving and interoperability to maximize public benefit? How are these anticipated to change?

9. Access demands not only availability, but also meaningful usability. How can the Federal government make its collections of peer-reviewed papers more useful to the American public? By what metrics (e.g., number of articles or visitors) should the Federal government measure success of its public access collections? What are the best examples of usability in the private sector (both domestic and international)? And, what makes them exceptional? Should those who access papers be given the opportunity to comment or provide feedback?

III. Deadline Extension

OSTP received more than 150 substantive responses in the first week of this public forum. OSTP also received several requests to extend the deadline for comments because of the time constraints inherent in the holiday season. As a result, OSTP will extend the deadline for comments through January 21, 2010.

Dated: December 22, 2009.

M. David Hodge,

Operations Manager.

[FR Doc. E9–30725 Filed 12–30–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

American Recovery and Reinvestment Act Public Transportation on Indian Reservations Program Project Selections and Tribal Transit Program Fiscal Year (FY) 2009 Project Selections

Correction

In notice document E9–30197 beginning on page 67302 in the issue of Friday, December 18, 2009, make the following corrections:

On page 67303, before the file line, three photo pages were meant to publish. They are printed in their entirety below:

FEDERAL TRANSIT ADMINISTRATION

***Table 1*: American Recovery and Reinvestment Act Tribal Transit Program Allocations**

State	ID Number	Tribe	Award Amount
AK	D2009-ERTR-001	Manley Village Council	$140,000
AK	D2009-ERTR-002	Tetlin Tribe	$120,000
AK	D2009-ERTR-003	Crooked Creek	$115,698
AK	D2009-ERTR-004	Seldovia Village Tribe	$475,000
AK	D2009-ERTR-005	Asa'carsarmiut Tribe	$223,000
AZ	D2009-ERTR-006	The Navajo Nation	$2,200,000
CA	D2009-ERTR-007	Reservation Transportation Authority	$1,125,000
CA	D2009-ERTR-008	Susanville Indian Rancheria	$327,174
ID	D2009-ERTR-009	Shoshone-Bannock Tribes	$264,700
ID	D2009-ERTR-010	Coeur D'Alene Tribe	$1,500,000
ID	D2009-ERTR-011	Nez Perce	$311,303
KS	D2009-ERTR-012	Prairie Band Potawatomi Nation	$186,417
MI	D2009-ERTR-013	Nottawaseppi Huron Band of the Potawatomi	$240,000
MN	D2009-ERTR-014	Red Lake Public Transit System	$594,268
MN	D2009-ERTR-015	Mille Lacs Band of Ojibwe	$200,000
MS	D2009-ERTR-016	Mississippi Band of the Choctaw	$192,000
MT	D2009-ERTR-017	Fort Belknap Indian Community	$340,000
MT	D2009-ERTR-018	Confederated Salish & Kootenai Tribes	$358,471
NC	D2009-ERTR-019	Eastern Band of Cherokee Indians	$2,000,000
ND	D2009-ERTR-021	Standing Rock Public Transportation	$500,000
ND	D2009-ERTR-022	Turtle Mountain Band of Chippewa Indians	$311,000
NE	D2009-ERTR-023	Winnebago	$235,030
NM	D2009-ERTR-024	Ohkay Owingey	$156,000
NM	D2009-ERTR-025	Pueblo of Laguna	$200,000
NV	D2009-ERTR-026	Reno-Sparks Indian Colony's	$328,668
OK	D2009-ERTR-027	The Miami Tribe of Oklahoma	$473,277
OK	D2009-ERTR-028	Seminole Nation of Oklahoma	$330,169
OK	D2009-ERTR-029	Cheyenne & Arapaho Tribes	$419,301
OK	D2009-ERTR-030	Choctaw Nation of Oklahoma's	$480,374
OR	D2009-ERTR-031	Confederated Tribes of Warm Springs	$235,802
SC	D2009-ERTR-032	Catawaba Indian Nation	$240,000
SD	D2009-ERTR-033	Oglala Sioux Tribe	$350,000
WA	D2009-ERTR-020	Tulalip Tribe's	$126,748
WA	D2009-ERTR-034	Spokane Tribe of Indians	$255,000
WA	D2009-ERTR-035	Kalispel Tribe of Indians	$335,600
WA	D2009-ERTR-036	Quinalt Tribe of The Quinault Reservation	$398,000
WA	D2009-ERTR-037	The Confederated Tribes of the Yakama Nation	$112,000
WI	D2009-ERTR-038	Lac Courte Oreilles	$200,000
WY	D2009-ERTR-039	Shoshone and Arapahoe Tribes	$400,000
TOTAL			**$17,000,000**

FEDERAL TRANSIT ADMINISTRATION

Table 2: **Fiscal Year (FY) 2009 Tribal Transit Program Allocations**

State	ID Number	Tribe	Award Amount
AK	D2009-TRTR-001	Anvik Department of Transportation	$25,000
AK	D2009-TRTR-002	Gwichyaa Zhee Gwich'in Tribal Government	$25,000
AK	D2009-TRTR-003	Kasigluk Department of Transportation	$25,000
AK	D2009-TRTR-004	Nome Eskimo Community	$25,000
AK	D2009-TRTR-005	Tlingit & Haida Central Council	$25,000
AK	D2009-TRTR-006	Tetlin Tribe	$216,470
AK	D2009-TRTR-007	Manley Village Council	$127,730
AK	D2009-TRTR-008	Crooked Creek	$55,227
AK	D2009-TRTR-009	Chickaloon Native Village	$291,931
AK	D2009-TRTR-010	Seldovia Village Tribe	$200,000
AK	D2009-TRTR-011	Sitka Tribe of Alaska	$269,791
AK	D2009-TRTR-012	Gulkana Village	$288,500
AZ	D2009-TRTR-013	Havasuapai Tribe	$222,813
AZ	D2009-TRTR-014	Cocopah Indian Tribe	$247,440
CA	D2009-TRTR-015	Reservation Transportation Authority	$370,082
CA	D2009-TRTR-016	Susanville Indian Rancheria	$220,554
CA	D2009-TRTR-017	Bishop Tribal Council	$76,424
CA	D2009-TRTR-018	Blue Lake Rancheria	$231,000
ID	D2009-TRTR-019	Shoshone-Bannock Tribes	$350,000
ID	D2009-TRTR-020	Coeur D'Alene Tribe	$225,000
KS	D2009-TRTR-021	Kickapoo Tribe in Kansas	$25,000
KS	D2009-TRTR-022	Prairie Band Potawatomi Nation	$360,000
MN	D2009-TRTR-023	The Red Lake Band of Chippewa Indians	$468,263
MN	D2009-TRTR-024	Leech Lake Reservation Tribal Council	$473,503
MT	D2009-TRTR-025	Chippewa Cree Tribe of the Rocky Boy's Reservation	$300,000
NC	D2009-TRTR-026	Eastern Band of Cherokee Indians	$190,000
ND	D2009-TRTR-028	Standing Rock Public Transportation	$234,000
NE	D2009-TRTR-029	Winnebago	$707,796
NE	D2009-TRTR-030	Santee Sioux Nation	$270,682
NM	D2009-TRTR-031	Pueblo of Acoma	$25,000
NM	D2009-TRTR-032	Pueblo of Laguna	$287,398
NM	D2009-TRTR-033	Ohkay Owingey	$120,000
NM	D2009-TRTR-034	Sandoval County Transit	$439,500
NV	D2009-TRTR-035	Reno-Sparks Indian Colony's	$373,985
NY	D2009-TRTR-036	Seneca Nation of Indian	$25,000
OK	D2009-TRTR-037	Seminole Nation of Oklahoma	$500,000
OK	D2009-TRTR-038	The Chickasaw Nation	$350,000
OK	D2009-TRTR-039	The Miami Tribe of Oklahoma	$414,547
OK	D2009-TRTR-040	Citizen Potawatomi Nation	$271,326
OK	D2009-TRTR-041	Ponca Tribal Transit	$257,326
OK	D2009-TRTR-042	Cherokee Nation	$204,855
OK	D2009-TRTR-043	Muscogee (Creek) Nation	$225,000
OK	D2009-TRTR-044	Choctaw Nation of Oklahoma	$165,583
OK	D2009-TRTR-045	Cheyenne & Arapaho Tribes	$400,000
OK	D2009-TRTR-046	Delaware Nation	$188,270
OK	D2009-TRTR-047	Kiowa Tribe of OK	$214,000
OR	D2009-TRTR-048	Confederated Tribes of the Umatilla	$304,940
SD	D2009-TRTR-049	Oglala Sioux Tribe	$250,000
SD	D2009-TRTR-050	Yankton Sioux Tribe	$117,371
SD	D2009-TRTR-051	Lower Brule Sioux Tribe	$318,168
WA	D2009-TRTR-027	Tulalip Tribe's	$151,216
WA	D2009-TRTR-052	Port Gamble S'Klallam	$25,000
WA	D2009-TRTR-053	Cowlitz Indian Tribe	$205,184
WA	D2009-TRTR-054	Jamestown S'Klallam Tribe	$78,280
WA	D2009-TRTR-055	Snoqualmie Indian Tribe	$334,909

WA	D2009-TRTR-056	Kalispell Tribe of Indians	$417,896
WA	D2009-TRTR-057	Confederated Tribes and Bands of The Yakama Nation	$1,000,000
WA	D2009-TRTR-058	Lummi Nation's	$260,510
WA	D2009-TRTR-059	Quinault Tribe of The Quinault Reservation	$200,000
WI	D2009-TRTR-060	Red Cliff Band of Lake Superior Chippewa's	$127,530
WI	D2009-TRTR-061	Lac Courte Oreilles	$200,000
TOTAL			**$15,000,000**

[FR Doc. Z9–30197 Filed 12–30–09; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35337]

Paul Didelius—Continuance in Control Exemption—YCR Corporation

Paul Didelius (applicant), a noncarrier, has filed a verified notice of exemption to continue in control of YCR Corporation (YCR), upon YCR's becoming a Class III rail carrier.

Currently, applicant owns 100 percent of noncarrier, LRY, LLC D.B.A. Lake Railway (LRY). LRY concurrently filed two notices of exemption to lease and operate: (1) 62.21 miles of railroad owned by Union Pacific Railroad Company, consisting of: (a) Part of the Modoc Subdivison, extending from milepost 445.6 near MacArthur, CA, to milepost 506.1, near Perez, CA, and (b) part of the Lakeview Branch, extending from milepost 456.89 to milepost 458.60 at Alturas, CA; and (2) 54.45 miles of railroad owned by Lake County, OR, extending from milepost 458.60 at Alturas, to milepost 513.05, at Lakeview, OR. Once consummation occurs, on or after January 1, 2010, LRY will become a Class III carrier.[1]

YCR, a new corporation owned in part by applicant (49%)[2] and Stan Patterson (51%) has been established for the purpose of leasing and operating a line of railroad owned by Yakima County, WA. The subject line extends between Wesley Junction (Toppenish) and White Swan, WA, a distance of approximately 20.56 miles. The line was formerly operated by Washington Central Railroad Company (WCRC) and Yakima County acquired the line after WCRC was authorized to abandon it. On December 16, 2009, YCR filed an application for a modified certificate of public convenience and necessity in STB Finance Docket No. 35336, *YCR Corporation—Modified Rail Certificate,* wherein YCR seeks to lease and operate the line.

This transaction cannot be consummated until January 17, 2010, the effective date of the exemption (30 days after the exemption is filed).[3]

Applicant states that: (1) The rail line to be acquired by YCR does not connect with any other railroad in its corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail line with any other railroad in its corporate family;[4] and (3) the transaction does not involve a Class I rail carrier.

Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than January 8, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35337, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, 1750 K Street, NW., Suite 200, Washington, DC 20006.

Board decisions and notices are available on our Web site at: *"http://www.stb.dot.gov."*

Decided: December 24, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. E9–31037 Filed 12–30–09; 8:45 am]

BILLING CODE 4915–01–P

[1] *See* STB Finance Docket No. 35250, *LRY, LLC D.B.A. Lake Railway—Lease and Operation Exemption—Union Pacific Railroad Company* and STB Finance Docket No. 35250 (Sub-No. 1), *LRY LLC D.B.A. Lake Railway—Lease and Operation Exemption—Rail Line in Lake County, OR.* The notices were served and published in the **Federal Register** on December 18, 2009 (74 FR 67304–5).

[2] According to applicant, as President of YCR, he is in a position to control YCR.

[3] Applicant states in the notice that he plans to consummate the transaction on or about January 16, 2010.

[4] YCR will operate a rail line in south central Oregon and LRY will operate rail lines in northeastern California and southwestern Oregon. According to applicant, YCR and LRY lines are 380 miles apart.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0183; Notice 2]

Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

Ford Motor Company (Ford) has determined that certain complete model year 2007–2008 Ford Expedition and Lincoln Navigator multipurpose passenger vehicles (MPV) built with the Limousine Builders Package and certain complete 2008 model year Ford Crown Victoria Police Interceptor (CVPI) passenger cars built with two front bucket seats did not fully comply with paragraph S4.3(b) of 49 CFR 571.110 (Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims, for Motor Vehicles With a GVWR of 4,536 Kilograms (10,000 Pounds) or Less).* Ford has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Ford has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was

published, with a 30-day public comment period, on December 19, 2008, in the **Federal Register** (73 FR 77874). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at: *http://www.regulations.gov/*. Then follow the online search instructions to locate docket number ''NHTSA–2008–0183.''

For further information on this decision, contact Mr. John Finneran, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–0645, facsimile (202) 366–7097.

Affected are approximately 233 model year 2007–2008 Ford Expedition and Lincoln Navigator MPVs with the Limousine Builders Package (built from September 6, 2006 through March 12, 2008, at Ford's Michigan Truck Plant) and approximately 34,682 model year 2008 Ford Crown Victoria Police Interceptor passenger cars equipped with two front bucket seats (built from June 27, 2007, through May 7, 2008, at Ford's St. Thomas Assembly Plant).

Paragraph S4.3 of FMVSS No. 110 requires in pertinent part:

S4.3 Placard. Each vehicle, except for a trailer or incomplete vehicle, shall show the information specified in S4.3(a) through (g), and may show, at the manufacturer's option, the information specified in S4.3(h) and (i), on a placard permanently affixed to the driver's side B-pillar. In each vehicle without a driver's side B-pillar and with two doors on the driver's side of the vehicle opening in opposite directions, the placard shall be affixed on the forward edge of the rear side door. If the above locations do not permit the affixing of a placard that is legible, visible and prominent, the placard shall be permanently affixed to the rear edge of the driver's side door. If this location does not permit the affixing of a placard that is legible, visible and prominent, the placard shall be affixed to the inward facing surface of the vehicle next to the driver's seating position. This information shall be in the English language and conform in color and format, not including the border surrounding the entire placard, as shown in the example set forth in Figure 1 in this standard. At the manufacturer's option, the information specified in S4.3(c), (d), and, as appropriate, (h) and (i) may be shown, alternatively to being shown on the placard, on a tire inflation pressure label which must conform in color and format, not including the border surrounding the entire label, as shown in the example set forth in Figure 2 in this standard. The label shall be permanently affixed and proximate to the placard required by this paragraph. The information specified in S4.3 (e) shall be shown on both the vehicle placard and on the tire inflation pressure label (if such a label is affixed to provide the information specified in S4.3(c), (d), and, as appropriate, (h) and (i)) may be shown in the format and color scheme set forth in Figures 1 and 2 * * *

(b) Designated seated capacity (expressed in terms of total number of occupants and number of occupants for each front and rear seat location) * * *

In its petition, Ford explained that the noncompliances with FMVSS No. 110 exist due to errors on the tire and loading information placards that it affixed to the vehicles. Ford described the noncompliances as incorrect listing of designated seating positions on the tire and loading information placard. Specifically:

1. Expedition and Navigator vehicles with the Limo Builders Package are built with only two front seats. No rear seats are installed. The tire information placard identifies the seating capacity as five total (two front; three rear) or seven total (two front; five rear), instead of two total (two front; zero rear).

2. CVPI passenger cars with two front bucket seats—the designated seating capacity was incorrectly identified as six total (three front; three rear) instead of five total (two front; three rear).

Ford also explained its belief that in each of these cases the number of seats and the number of safety belts installed in the vehicle will clearly indicate to the customers the actual seating capacity. Ford also declared its belief that NHTSA has reached a similar conclusion that the presence of seat belts will alert the operators to the number of seating positions in any row of seating. Ford specifically details its reasoning as follows:

In the case of the Expedition and Navigator vehicles built with the Limo Builders Package are equipped with only two front seats and two sets of safety belts when delivered to the Qualified Vehicle Modifier (QVM). When the QVM completes the modifications to the vehicles, the final number of seating positions will be specified on the label required to be affixed by the QVM.

In the case of the CVPI vehicles that are equipped with front bucket seats, the seats are separated by approximately 11 inches and Ford believes that nearly all of these vehicles will have a center console (typically used to mount police equipment such as lap top computers, communications radios, siren and lighting controls, etc.) installed by the aftermarket upfitters who perform police vehicle conversions.

Ford stated that in all cases, the weight capacity, the tire size designation and the cold tire inflation pressure data listed on the tire and loading information placard is correct for the vehicles on which they are installed. Ford additionally stated that because the weight capacity is accurate, it believes that there is no potential for vehicle overloading due to the incorrect value in the designated seating capacity.

Ford also stated that it was not aware of any field or owner complaints of misunderstanding of the actual number of seats in these vehicles.

Ford also has informed NHTSA that it has corrected the problem that caused these errors so that they will not be repeated in future production.

Subsequent to submitting the petition Ford has additionally informed the agency that none of the subject vehicles could have been newly purchased by the general public. The subject Ford Expedition and Lincoln Navigator MPVs were sold only to Qualified Vehicle Modifiers (QVM) approved by Ford. These modifiers were provided with specific instructions by Ford to install new tire information labels if the information on the labels installed by Ford are not accurate prior to the first retail sale of a vehicle. The modifications normally performed by QVM require them to install supplementary certification labels. See 49 CFR 567.7. The subject Ford CVPI passenger cars could only be ordered by government agencies and normally have police equipment mounted on the center console by vehicle modifiers as directed by the purchasing agencies.

In summation, Ford states that it believes that the noncompliances are inconsequential to motor vehicle safety and that no corrective action is warranted.

NHTSA Decision

NHTSA agrees with Ford that this noncompliance will not have an adverse effect on vehicle safety. In the agency's judgment, the presence of seat belts in the subject vehicles will alert vehicle users to the number of intended seating positions. The presence or absence of the large center console between the front bucket seats of the CVPI vehicles should alert vehicle users to the absence of seating positions. Because the QVM normally add additional seating to the vehicles they alter it is likely that they will be replacing the labels originally placed on the Ford Expedition and Lincoln Navigator vehicles by Ford. If the QVM do not add additional seating, the absence of rear seats in the Expedition and Navigator vehicles with the Limo Builders Package should alert vehicle users to the absence of seating positions.

In consideration of the foregoing, NHTSA has decided that Ford has met its burden of persuasion that the subject FMVSS No. 110 labeling noncompliances are inconsequential to motor vehicle safety. Accordingly, Ford's petition is granted and the

petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 23, 2009.

Claude Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E9–31080 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35333]

Burlington Shortline Railroad, Inc. d/b/a Burlington Junction Railway—Lease and Operation Exemption—BNSF Railway Company

Burlington Shortline Railroad, Inc. d/b/a Burlington Junction Railway (BJRY), a Class III carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and to operate, pursuant to a lease agreement (Agreement) entered into on December 4, 2009, with BNSF Railway Company (BNSF), approximately 3.5 miles of BNSF's rail line (the Valley Park Lines), and currently operated by Missouri and Valley Park Railroad (MVPR),[1] between milepost 18.36 and milepost 20.50, near West Valley Park, St. Louis County, MO.[2]

BJRY states that the Valley Park Lines connect with BNSF's Cuba Subdivision Main Line at milepost 18.36. BJRY also states that its Agreement does not prohibit BJRY from interchanging with other carriers. The Agreement does contain a provision requiring BJRY to remit supplemental rent to BNSF for each carload originating or terminating on the Valley Park Lines that is interchanged with a carrier other than BNSF. Accordingly, BJRY has concurrently filed with its notice a complete version of the Agreement, marked ''confidential'' and submitted under seal pursuant to 49 CFR 1104.14(a) and 1150.43(h)(1)(ii).

BJRY certifies that its projected annual revenues as a result of this transaction would not result in BJRY becoming a Class II or Class I rail carrier and further certifies that its projected revenues will not exceed $5 million.

BJRY states that it intends to assume operation of the Valley Park Lines and related properties on or about January 30, 2010. The earliest this transaction may be consummated is January 14, 2010, the effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than January 7, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35333, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on James H.M. Savage, Of Counsel, John D. Heffner, PLLC, 1750 K Street, NW., Suite 200, Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: December 24, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. E9–31038 Filed 12–30–09; 8:45 am]

BILLING CODE 4915–01–P

[1] MVPR's operations on the Valley Park Lines will terminate on January 29, 2010.

[2] The rail properties being leased consist of industrial trackage and yard office buildings located on the South Side of BNSF's Cuba Subdivision Main Line, including all of BNSF's trackage and other improvements located adjacent to BNSF's Main Line, and an office building owned by BNSF located at 2150 Bowles Avenue, in Fenton, MO.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34554 (Sub-No. 12)]

Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company

Pursuant to a modified written trackage rights agreement dated December 15, 2009, BNSF Railway Company (BNSF) has agreed to extend the December 31, 2009 expiration date of the local trackage rights granted to the Union Pacific Railroad Company (UP)[1] over a BNSF line of railroad extending from BNSF milepost 579.3 near Mill Creek, OK, to BNSF milepost 631.1 near Joe Junction, TX, a distance of approximately 52 miles.[2]

The transaction is scheduled to be consummated on January 22, 2010.

The purpose of this transaction is to modify the temporary trackage rights exempted in STB Finance Docket No. 34554 (Sub-No. 10) to further extend the expiration date to on or about December 18, 2010. The modified trackage rights will permit UP to continue to move loaded and empty ballast trains for use in its maintenance-of-way projects.

As a condition to this exemption, any employee affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the

[1] UP submits that the trackage rights being granted here are only temporary rights, but, because they are ''local'' rather than ''overhead'' rights, they do not qualify for the Board's class exemption for temporary trackage rights at 49 CFR 1180.2(d)(8). *See Railroad Consolidation Procedures,* 6 S.T.B. 910 (2003). Therefore, UP concurrently has filed a petition for partial revocation of this exemption in STB Finance Docket No. 34554 (Sub-No. 13), *Union Pacific Railroad Company–Temporary Trackage Rights Exemption–BNSF Railway Company,* wherein UP requests that the Board permit the proposed local trackage rights arrangement described in the present proceeding to expire on or about December 18, 2010, as provided in the parties' agreement. That petition will be addressed by the Board in a separate decision.

[2] The trackage rights were originally granted in *Union Pacific Railroad Company–Temporary Trackage Rights Exemption–The Burlington Northern and Santa Fe Railway Company,* STB Finance Docket No. 34554 (STB served Oct. 7, 2004). Subsequently, the parties filed notices of exemption several times based on their agreements to extend expiration dates of the same trackage rights. *See* STB Finance Docket No. 34554 (Sub-No. 2) (decision served February 11, 2005); STB Finance Docket No. 34554 (Sub-No. 4) (decision served March 3, 2006); STB Finance Docket No. 34554 (Sub-No. 6) (decision served January 12, 2007); STB Finance Docket No. 34554 (Sub-No. 8) (decision served January 4, 2008); and STB Finance Docket No. 34554 (Sub-No. 10) (decision served January 8, 2009). Because the original and subsequent trackage rights notices were filed under the class exemption at 49 CFR 1180.2(d)(7), under which trackage rights normally remain effective indefinitely, in each instance the Board granted partial revocation of the class exemption to permit the authorized trackage rights to expire. *See* STB Finance Docket No. 34554 (Sub-No. 1) (decision served November 24, 2004); STB Finance Docket No. 34554 (Sub-No. 3) (decision served March 25, 2005); STB Finance Docket No. 34554 (Sub-No. 5) (decision served March 23, 2006); STB Finance Docket No. 34554 (Sub-No. 7) (decision served March 13, 2007); STB Finance Docket No. 34554 (Sub-No. 9) (decision served March 20, 2008); and STB Finance Docket No. 34554 (Sub-No. 11) (decision served March 11, 2009). At the time of the extension authorized in STB Finance Docket No. 34554 (Sub-No. 10), the parties anticipated that the authority to allow the rights to expire would be exercised by December 31, 2009. However, the parties filed on December 18, 2009 in STB Finance Docket No. 34554 (Sub-No. 12) their most recent notice of exemption to allow the trackage rights to be extended to on or about December 18, 2010, which we are addressing here.

exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by January 9, 2010 (7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34554 (Sub-No. 12), must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room #1920, Chicago, IL 60606.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: December 23, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–30880 Filed 12–30–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35328]

The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.

Pursuant to a written supplemental trackage rights agreement dated December 1, 2009 (Second Supplemental Agreement), CSX Transportation, Inc. (CSXT), has agreed to broaden the existing non-exclusive, limited overhead trackage rights granted to The Indiana Rail Road Company (INRD) over CSXT's line of railroad between the connection of CSXT and INRD trackage at Sullivan, IN, at approximately CSXT milepost OZA 204.5, and the connection between CSXT's line and tracks leading to the Oaktown Fuels Mine No. 1 LLC loading facility at Oaktown, IN (Oaktown Mine), at approximately CSXT milepost OZA 219.05, a distance of approximately 14.5 miles (Line).[1] According to INRD, the purpose of the transaction is to broaden the use INRD can make of its existing trackage rights over the Line, permitting INRD to use the trackage rights to move loaded coal trains and empty hopper trains between: (1) The Oaktown Mine and Duke Energy's Wabash River generating station near Terre Haute, IN, and Hoosier Energy's Merom generating station at Merom, IN; and (2) the Sunrise Mine at Carlisle, IN, and the Wabash River generating station and Indianapolis Power & Light's generating station at Petersburg, IN. INRD states that the broadened trackage rights will contribute to the economy and efficiency of operations by permitting INRD to serve the Merom and Wabash River generating stations from the mines in single-line service, and to serve the Petersburg generating station in interline service.[2]

The transaction is scheduled to be consummated on or after January 15, 2010, the effective date of the exemption (30 days after the exemption was filed).

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Stay petitions must be filed by January 8, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35328, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John Broadley, John H. Broadley & Associates, P.C., 1054 31st Street, NW., Suite 200, Washington, DC 20007.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: December 23, 2009.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. E9–30895 Filed 12–30–09; 8:45 am]

BILLING CODE 4915–01–P

[1] INRD states that Second Supplemental Agreement modifies the original trackage rights previously granted to INRD in *The Indiana Rail Road Company—Amended Trackage Rights Exemption—CSX Transportation, Inc.,* STB Finance Docket No. 35137 (STB served May 22, 2008), which pertains to CSXT's grant of non-exclusive, limited local trackage rights to INRD between milepost OZA 204.5 and OZA 214.5, and first supplemented in *The Indiana Rail Road Company—Trackage Rights Exemption—CSX Transportation, Inc.,* STB Finance Docket No. 35287 (STB served Sep. 2, 2009), which pertains to CSXT's grant of non-exclusive, limited overhead trackage rights to INRD between milepost OZA 204.5 and OZA 219.05.

[2] INRD will interchange with the Indiana Southern Railroad Company (ISRR) at Beehunter, IN, and ISRR will deliver the coal to Petersburg.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0167; Notice 2]

Volvo Cars of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

Volvo Cars of North America, LLC (Volvo), has determined that certain model year 2003–2009 multipurpose passenger vehicles (MPV) did not fully comply with paragraphs S4.4.2(a) and 4.4.2(c) of 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims for Motor Vehicles With a GVWR of 4,536 Kilograms (10,000 pounds) or Less.* Volvo has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports.*

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, Volvo has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on November 17, 2008 in the **Federal Register** (73 FR 67926). No comments were received.

To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/.* Then follow the online search instructions to locate docket number ''NHTSA–2008–0167.''

For further information on this decision, contact Mr. John Finneran, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–0645, facsimile (202) 366–7097.

Affected are approximately 201,914 model years 2003–2009 XC90 MPV manufactured from August 5, 2002 through March 28, 2008, and 14,147 model years 2008–2009 XC70 MPV manufactured from May 21, 2007 through March 28, 2008. Paragraphs S4.4.2(a) and 4.4.2(c) of FMVSS No. 110 require in pertinent part:

S4.4.2. Rim markings for vehicles other than passenger cars. Each rim or, at the option of the manufacturer in the case of a single-piece wheel, each wheel disc shall be marked with the information listed in S4.4.2(a) through (e), in lettering not less than 3 millimeters in height, impressed to a depth, or at the option of the manufacturer, embossed to a height of not less than 0.125 millimeters. The information listed in S4.4.2(a) through (c) shall appear on the outward side. In the case of rims of multi-piece construction, the information listed in S4.4.2(a) through (e) shall appear on the rim base and the information listed in S4.4.2(b) and (d) shall also appear on each other part of the rim.

(a) A designation that indicates the source of the rim's published nominal dimensions, as follows:

(1) ''T'' indicates The Tire and Rim Association.

(2) ''E'' indicates The European Tyre and Rim Technical Organization.

(3) ''J'' indicates Japan Automobile Tire Manufacturers Association, Inc.

(4) ''L'' indicates ABPA (Brazil), a.k.a. Associacao Latino Americana De Pneus E Aros.

(5) ''F'' indicates Tire and Rim Engineering Data Committee of South Africa (Tredco).

(6) ''S'' indicates Scandinavian Tire and Rim Organization (STRO).

(7) ''A'' indicates The Tyre and Rim Association of Australia.

(8) ''I'' indicates Indian Tyre Technical Advisory Committee (ITTAC).

(9) ''R'' indicates Argentine Institute of Rationalization of Materials, a.k.a. Instituto Argentino de Racionalizacion de Materiales, (ARAM).

(10) ''N'' indicates an independent listing pursuant to S4.1 of Sec. 571.139 or S5.1(a) of Sec. 571.119 * * *

(c) The symbol DOT, constituting a certification by the manufacturer of the rim that the rim complies with all applicable Federal motor vehicle safety standards.

In its petition, Volvo described the noncompliance as the omission of two markings from the subject vehicles' wheels, the certification symbol (''DOT'') and the designation symbol (in this case ''E'') which indicates the source of the rims' published nominal dimensions.

Volvo argues that this noncompliance is inconsequential to motor vehicle safety for the following reasons: apart from S4.4.2(a) and S4.4.2(c), the subject rims contain all information required within FMVSS No. 110; the tires and rims of the affected vehicles are properly matched, and are appropriate for the load-carrying characteristics of these vehicles; the information on the wheel provides users with the information necessary to ensure that the wheel is mounted on the appropriate vehicle; and the omission of the ''DOT–E'' stamping will not result in misapplication of the wheels. Also, the rim markings and vehicle labeling, which are used to identify the correct replacement rim, both contain the correct and complete size of rims installed on the subject vehicles.

Volvo stated that it is unaware of any accidents or injuries or customer complaints related to the lack of these markings and that the missing markings do not affect the performance of the wheels or the tire and wheel assemblies.

In addition, Volvo states that it has corrected the problem that caused these errors so that they will not be repeated in future production and that it believes that because the noncompliance is inconsequential to motor vehicle safety that no corrective action is warranted.

NHTSA Decision

The purpose of the labeling requirements in paragraphs S4.4.2(a) and S4.4.2(c) of FMVSS No. 110 is to provide safe operation of vehicles by ensuring that vehicles are equipped with rims of appropriate size and type designation mounted with compatible tires of appropriate size and load rating.

The purpose of the ''DOT'' marking is to certify that the rims comply with all applicable standards, the failure to mark rims with a DOT symbol is considered a violation of 49 U.S.C. 30115, *Certification*, which does not require notification or remedy. Consequently, that portion of Volvo's inconsequentiality petition is moot.

While NHTSA strongly encourages manufacturers to include the designation symbol required by S4.4.2(a), its omission does not prevent the proper matching of tires and rims in this unique situation because sufficient information about rim size is available from other markings on the rims as well as information available from the certification label required by 49 CFR Part 567 and the vehicle placard (tire information label) required by FMVSS No. 110 that are present on the affected vehicles. In addition, the omitted marking does not affect the ability to identify the rims in the event of recall and is not likely to have any affect on motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that Volvo has met its burden of persuasion that the failure to provide the designation symbol, as required by paragraph S4.4.2(a) of FMVSS No. 110, is inconsequential to motor vehicle safety. Accordingly, Volvo's application is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8 otherwise required by the subject noncompliance.

Issued on: December 23, 2009.

Claude Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E9–31079 Filed 12–30–09; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 24, 2009.

The Department of the Treasury will submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before February 1, 2010 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0115.

Type of Review: Extension of a currently approved collection.

Title: Miscellaneous Income.

Form: 1099–MISC.

Description: Form 1099–MISC is used by payers to report payments of $600 or more of rents, prizes and awards, medical and health care payments, nonemployee compensation, and crop insurance proceeds, $10 or more of royalties, any amount of fishing boat proceeds, certain substitute payments, golden parachute payments, and an indication of direct sales of $5,000 or more.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 24,639,062 hours.

OMB Number: 1545–0160.

Type of Review: Extension of a currently approved collection.

Title: Annual Information Return of Foreign Trust With a U.S. Owner.

Form: 3520–A.

Description: Section 6048(b) requires that foreign trusts with at least one U.S. beneficiary must file an annual information return on Form 3520–A. The form is used to report the income and deductions of the foreign trust and

provide statements to the U.S. owners and beneficiaries. IRS uses Form 3520–A to determine if the U.S. owner of the trust has included the net income of the trust in it's gross income.

Respondents: Individuals and Households.

Estimated Total Burden Hours: 21,700 hours.

OMB Number: 1545–0231.

Type of Review: Revision of a currently approved collection.

Title: Credit for Alcohol Used as Fuel.

Form: 6478.

Description: IRC section 38(b)(3) allows a nonrefundable income tax credit for businesses that sell or use alcohol. Small ethanol producers also receive a nonrefundable credit for production of qualified ethanol. Form 6478 is used to figure the credits.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 23,793 hours.

OMB Number: 1545–1181.

Type of Review: Extension of a currently approved collection.

Title: Required Payment or Refund Under Section 7519.

Form: 8752.

Description: This form is used to verify that partnerships and S corporations that have made a section 444 election have correctly reported the payment required under section 7519.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 565,920 hours.

OMB Number: 1545–2014.

Type of Review: Extension of a currently approved collection.

Title: TD 9452; Application of Separate Limitations to Dividends from Non-controlled Section 902 Corporations.

Description: The American Jobs Creation Act of 2004 amended the foreign tax credit treatment of dividends from non-controlled section 902 corporations effective for post 2002 tax year and the GOZA permitted taxpayers to elect to defer the effective date of these amendments until post 2002 tax years. These regulations require a taxpayer making the GOZA election to file a statement to such effect with its next tax return, and they require certain shareholders wishing to make tax elections on behalf of their controlled foreign corporations or non-controlled section 902 corporations to execute a joint consent (that is retained by one shareholder) and attach a statement to the company's return.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 25 hours.

OMB Number: 1545–2019.

Type of Review: Extension of a currently approved collection.

Title: TD 9451—Guidance Necessary to Facilitate Business Election Filing; Finalization of Controlled Group Qualification Rules (TD 9329).

Description: This document contains a final regulation that provides guidance to taxpayers for determining which corporations are included in a controlled group of corporations. This regulation is being published to replace an expiring temporary regulation.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 262,500 hours.

OMB Number: 1545–2147.

Type of Review: Extension of a currently approved collection.

Title: RP 2009–37—Internal Revenue Code Section 108(i) Election.

Description: The law allows taxpayers to defer for 5 years taxation of certain income arising in 2009 or 2010. Taxpayers then must include the deferred amount in income ratably over 5 years. The election statement advises that a taxpayer makes the election and the election and information statements provide information necessary to track the income. Respondents are C corporations and other persons in a business that reacquire debt instruments. This revenue procedure provides the exclusive procedures for taxpayers to make an election to defer recognizing discharge of indebtedness income (cancellation of debt, or COD income) under § 108(i) of the Internal Revenue Code.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 300,000 hours.

OMB Number: 1545–2148.

Type of Review: Extension of a currently approved collection.

Title: Form 8928—Return of Certain Excise Taxes Under Chapter 43 of the Internal Revenue Code.

Form: 8928.

Description: Form 8928 is used by employers, group health plans, HMOs, and third party administrators to report and pay excise taxes due for failures under sections 4980B, 4980D, 4980E, and 4980G.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 2,348 hours.

OMB Number: 1545–2150.

Type of Review: Extension of a currently approved collection.

Title: NOT–1114195–09, Manufacturers' Certification of Specified Plug-in Electric Vehicles.

Description: The American Recovery and Reinvestment Act of 2009 provides, under § 30 of the Internal Revenue Code, a credit for certain new specified plug-in electric drive vehicles. This notice provides procedures for a vehicle manufacturer to certify to the IRS that a vehicle meets the statutory requirements for the credit, and to certify the amount of the credit available with respect to the motor vehicle. The notice also provides guidance to taxpayers who purchase motor vehicles regarding the conditions under which they may rely on the vehicle manufacturer's certification.

Respondents: Businesses or other for-profits.

Estimated Total Burden Hours: 250 hours.

Clearance Officer: R. Joseph Durbala (202) 622–3634, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 6129, Washington, DC 20224.

OMB Reviewer: Shagufta Ahmed (202) 395–7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9–31059 Filed 12–30–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 24, 2009.

The Department of the Treasury will submit the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the publication date of this notice. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before February 1, 2010 to be assured of consideration.

Community Development Financial Institutions Fund

OMB Number: 1559–0021.

Type of Review: Revision.

Title: Financial Assistance (FA) and Technical Assistance Component Application—CDFI Program.

Form: CDFI–0001.

Description: The CDFI Fund provides financial assistance in the form of grants, loans, equity investments and deposits to community development financial institutions providing capital and financial services to underserved markets.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 20,000 hours.

Clearance Officer: Ashanti McCallum, (202) 622–9018, Community Development Financial Institutions Fund, Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005.

OMB Reviewer: Shagufta Ahmed, (202) 395–7873, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Celina Elphage,

Treasury PRA Clearance Officer.

[FR Doc. E9–31061 Filed 12–30–09; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 22, 2009.

The Department of Treasury is planning to submit the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. A copy of the submission may be obtained by contacting the Departmental Office (DO) Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Ave., NW., Suite 11010, Washington, DC 20220.

DATES: Written comments should be received on or before March 1, 2010 to be assured of consideration.

Office of Small and Disadvantaged Business Utilization (OSDBU)

OMB Number: 1505–0220.

Type of Review: Extension without change of a currently approved collection.

Title: Electronic Capability Statement.

Description: The Electronic Capability Statement will be used by firms that wish to do business with the Department of the Treasury. The form will capture key information such as NAICS, contract and subcontract award information, and past performance. The information will be stored in a database. The database will be used by OSDBU, Treasury Acquisition staff and the Troubled Asset Relief Program to conduct research when searching for small businesses to perform on Treasury contracts.

Respondents: Businesses or other for-profit institutions.

Estimated Total Reporting Burden: 54 hours.

DO Clearance Officer: Robin Byrd, Department of Treasury, OSDBU, 1500 Pennsylvania Ave., NW., Washington, DC 20220; (202) 622–8213

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. E9–30679 Filed 12–30–09; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

First Federal Bank of California, FSB Santa Monica, CA; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision (OTS) has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for First Federal Bank of California, FSB, Santa Monica, California (OTS No. 01792), on December 18, 2009.

Dated: December 23, 2009.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. E9–30951 Filed 12–30–09; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Peoples First Community Bank Panama City, FL; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision (OTS) has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for Peoples First Community Bank, Panama City, Florida (OTS No. 07939), on December 18, 2009.

Dated: December 23, 2009.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. E9–30953 Filed 12–30–09; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

New South Federal Savings Bank Irondale, AL; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision (OTS) has duly appointed the Federal Deposit Insurance Corporation as sole Receiver for New South Federal Savings Bank, Irondale, Alabama (OTS No. 08083), on December 18, 2009.

Dated: December 23, 2009.

By the Office of Thrift Supervision.

Sandra E. Evans,

Federal Register Liaison.

[FR Doc. E9–30955 Filed 12–30–09; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning January 1, 2010, and ending on June 30, 2010, the prompt payment interest rate is 3¼ per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to Dorothy Dicks, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328. A copy of this Notice is available at *http://www.treasurydirect.gov.*

DATES: Effective January 1, 2010, to June 30, 2010.

FOR FURTHER INFORMATION CONTACT: Mike Linder, Director, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 480–5125; Dorothy Dicks, Reporting Team Leader, Federal Borrowings Branch, Division of

Accounting Operations, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 480–5115; Paul Wolfteich, Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, (202) 504–3705; or Brenda L. Hoffman, Attorney-Advisor, Office of the Chief Counsel, Bureau of the Public Debt, (202) 504–3706.

SUPPLEMENTARY INFORMATION: An agency that has acquired property or services from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act of 1982, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under § 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of interest. Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. *Id.* ''The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.'' 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning January 1, 2010, and ending on June 30, 2010, is 3¼ per centum per annum.

Nancy Fleetwood,

Fiscal Assistant Secretary (Acting).

[FR Doc. E9–31008 Filed 12–28–09; 11:15 am]

BILLING CODE 4810–39–P

Federal Register

Thursday,
December 31, 2009

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 648

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment 16; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0808071078–81093–01]

RIN 0648–AW72

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Amendment 16

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement measures in Amendment 16 to the NE Multispecies Fishery Management Plan (FMP). Amendment 16 was developed by the New England Fishery Management Council (Council) as part of the biennial adjustment process in the FMP to update status determination criteria for all regulated NE multispecies or ocean pout stocks; to adopt rebuilding programs for NE multispecies stocks newly classified as being overfished and subject to overfishing; and to revise management measures, including significant revisions to the Sector management measures, necessary to end overfishing, rebuild overfished regulated NE multispecies and ocean pout stocks, and mitigate the adverse economic impacts of increased effort controls. Amendment 16 would also implement new requirements for establishing acceptable biological catch (ABC), annual catch limits (ACLs), and accountability measures (AMs) for each stock managed under the FMP, pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Finally, this action would add Atlantic wolffish to the list of species managed by the FMP. This action is necessary to address the results of the most recent stock assessment that indicates that several additional NE multispecies regulated species are overfished and subject to overfishing, and that stocks currently classified as overfished require additional reductions in fishing mortality to rebuild by the end of their rebuilding periods.

DATES: Comments must be received by January 20, 2010. **ADDRESSES**: You may submit comments, identified by 0648–AW72, by any of the following methods:

- *Electronic submissions:* Submit all electronic public comments via the Federal *eRulemaking Portal: http://www.regulations.gov.*
- *Fax:* (978) 281–9135.
- *Mail:* Paper, disk, or CD–ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on the Proposed Rule for NE Multispecies Amendment 16.''

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 16, its Regulatory Impact Review (RIR), and a draft of the Final Environmental Impact Statement (FEIS) are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. NMFS prepared an Initial Regulatory Flexibility Act (IRFA) analysis, which is summarized in the Classification section of this proposed rule. The EIS/RIR/IRFA is also accessible via the Internet at *http://www.nefmc.org/nemulti/index.html.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be submitted to the Regional Administrator at the address above and to David Rostker, Office of Management and Budget (OMB), by e-mail at *David_Rotsker@omb.eop.gov,* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Douglas W. Christel, Fishery Policy Analyst, phone: 978–281–9141, fax: 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The FMP specifies management measures for 15 species of NE multispecies in Federal waters off the New England and Mid-Atlantic coasts, including both large-mesh and small-mesh species. Small-mesh species include silver hake (whiting), red hake, offshore hake, and ocean pout, while large-mesh species include Atlantic cod, haddock, yellowtail flounder, pollock, American plaice, witch flounder, white hake, windowpane flounder, Atlantic halibut, winter flounder, and redfish. Large-mesh species are further divided into 19 individual stocks, that, along with ocean pout are collectively referred to as groundfish. A major overhaul of the FMP occurred in 2004 with implementation of Amendment 13 and the establishment of rebuilding programs for all large-mesh stocks managed by the FMP, including specification of status determination criteria for each stock.

Amendment 13, which became effective May 1, 2004 (April 27, 2004; 69 FR 22906), established two different strategies for rebuilding (an adaptive strategy and a phased rebuilding strategy), and a rebuilding plan for each overfished stock was developed in accordance with one of the two strategies. Under the adaptive rebuilding strategy, the fishing mortality rate (F) was held at a level intended to produce maximum sustainable yield (F_{MSY}) from 2004 through 2008, and then subsequently reduced to the level required to rebuild by the selected end-date of the relevant rebuilding period for that stock. In contrast, under the phased rebuilding strategy, F was allowed to remain above F_{MSY} at the start of the rebuilding period in 2004, and then was to be reduced sequentially in 2006 and 2009. Eight stocks (Gulf of Maine (GOM) cod, Georges Bank (GB) haddock, GOM haddock, Southern New England (SNE)/Mid-Atlantic (MA) winter flounder, GB yellowtail flounder, redfish, windowpane flounder (southern stock), and ocean pout) are managed under the adaptive rebuilding strategy, while five stocks (GB cod, Cape Cod (CC)/GOM yellowtail flounder, SNE/MA yellowtail flounder, American plaice, and white hake) are managed under the phased rebuilding strategy.

Amendment 13 also established a biennial adjustment process whereby the Council would review the FMP and make any changes to management measures necessary to achieve the goals and objectives of the FMP. This adjustment process provides for an update of the scientific information regarding the status of the stocks, and an evaluation of the effectiveness of the regulations. The biennial review scheduled to occur in 2008, with necessary changes to the FMP to be

implemented in 2009, included a peer-reviewed benchmark assessment and a review of the biological reference points (stock status determination criteria) for each stock. This planned assessment of the biological reference points (Groundfish Assessment Review Meeting, (GARM III)) was also part of the adaptive rebuilding strategy described above, which sought to evaluate the more fundamental scientific information mid-way through the rebuilding period for most stocks. GARM III, completed in August 2008, included a series of meetings over the course of 1 year. GARM III evaluated the underlying data and models utilized for assessment of the NE multispecies regulated species and ocean pout stocks, evaluated the biological reference points, established new reference points, assessed the biomass and fishing mortality status of the NE multispecies regulated species and ocean pout stocks in 2007, and provided examples of the Fs that would be expected to rebuild overfished stocks.

GARM III concluded that 11 stocks were still subject to overfishing (*i.e.,* F was above F_{MSY}), and that 11 stocks were overfished (*i.e.,* biomass levels were less than one half of the biomass at MSY (B_{MSY})), with 9 stocks classified as both overfished and subject to overfishing. A final determination on the status of pollock could not be made until the fall 2008 survey data were available, as the status of this species is based on the 3-yr centered average of the fall biomass indices. Such data were available in January 2009, and indicated that pollock is overfished. GARM III also indicated that some stocks improved in status from the previous assessment (GARM II), with GOM haddock and GB haddock classified as rebuilt in 2000 and 2006, respectively, and GOM cod expected to be rebuilt by 2009.

The Council began development of Amendment 16 in 2006 with the intent of implementing any necessary revisions to management measures based upon the results of GARM III by the start of fishing year (FY) 2009 on May 1, 2009. On November 6, 2006, a notice of intent to prepare a supplemental EIS and hold scoping meetings designed to solicit public input on any revisions to management measures necessary to continue rebuilding overfished NE multispecies regulated species and ocean pout stocks was published in the **Federal Register** (November 6, 2006; 71 FR 64941). The Council continued to develop Amendment 16 for implementation in FY 2009 until a presentation by the NMFS Northeast Fisheries Science Center (NEFSC) regarding preliminary estimates of 2006 stock size and F at the June 2008 Council meeting indicated that draft effort control measures under development for Amendment 16 were not targeting the correct stocks. Based on this information, the Council decided to wait until the receipt of the final GARM III assessment results in September 2008 to continue development of Amendment 16. The Council subsequently developed a revised schedule for development for Amendment 16, which postponed implementation of Amendment 16 until the start of FY 2010 on May 1, 2010. In addition, the Council voted on September 4, 2008, to request that NMFS implement an interim action for the duration of FY 2009 (May 1, 2009–April 30, 2010), and recommended a specific suite of management measures for the interim action. A proposed rule to implement interim management measures published on January 16, 2009 (74 FR 2959), with final interim measures published on April 13, 2009 (74 FR 17030) and effective on May 1, 2009.

Based upon the final results of GARM III, the Council adopted draft management measures and an associated draft EIS (DEIS) at its February 2009 meeting. A notice of availability for the DEIS, which analyzed the impacts of all of the measures under consideration in Amendment 16, was published on April 24, 2009 (74 FR 18705), with public comments accepted through June 8, 2009. Final measures for Amendment 16 were adopted by the Council at its June 2009 meeting, with revisions to the discard provisions adopted at its September 2009 meeting. A notice of availability for Amendment 16, including the FEIS, as submitted by the Council for review by the Secretary of Commerce (Secretary), was published in the **Federal Register** on October 23, 2009 (74 FR 54773). The comment period on the Amendment 16 and its associated FEIS ends on December 22, 2009. In addition to the implementing measures proposed in this rule, Amendment 16 contains changes to status determination criteria and other aspects of the management program, such as an ABC control rule and potential sector contributions, that are not reflected in regulations, but that are summarized below.

Proposed Measures

Amendment 16 proposes a large number of changes to the management regime for the NE multispecies fishery, including revisions/additions to existing regulations. This proposed rule also includes revisions to regulations that are not specifically identified in Amendment 16, but that are necessary to effectively implement the provisions in Amendment 16, or to correct errors in, or clarify, existing provisions. A description of the proposed management measures follows.

1. Incorporation of Atlantic Wolffish Into the FMP

Section 304(e) of the Magnuson-Stevens Act requires either the Council or the Secretary to develop a fishery management plan or proposed regulations to end overfishing and rebuild a stock within 2 years of notice that the fishery is overfished. Atlantic wolffish was recently determined to be overfished by the Data Poor Working Group, with notice provided to the Council in February 2009. Because this species is occasionally caught by both the commercial and recreational NE multispecies fisheries, Amendment 16 proposes to incorporate Atlantic wolffish into the FMP. Accordingly, the term ''regulated species'' would be revised to include large-mesh species, ocean pout, and Atlantic wolffish. Status determination criteria, a rebuilding plan, and management measures to rebuild this stock are also proposed in Amendment 16.

2. Status Determination Criteria

Amendment 16 proposes to update the status determination criteria for existing NE multispecies regulated species and ocean pout stocks based upon the best available scientific information regarding stock status resulting from GARM III. In addition, because Amendment 16 would add Atlantic wolffish to the FMP, biological reference points would be established for this species. Based upon the results of GARM III, biological reference points have been revised from those adopted in Amendment 13. Stock status determinations were updated relative to the revised reference points. In summary, the F at 40 percent of maximum spawning potential (F40% MSP) was used as a proxy for F_{MSY} for most of the age-based stocks. Spawning stock biomasses at maximum sustainable yield (SSB_{MSY}) were calculated using F40% MSP, with an assumption on the recruitment that should occur at SSB_{MSY}. Changes to the status determination criteria are more fully discussed in Section 4.2 of Amendment 16, and in Section 1 of the GARM III report. Table 1 lists the proposed revised status determination criteria, and numerical estimates of these parameters are listed in Table 2.

TABLE 1—DESCRIPTION OF THE PROPOSED REVISED STATUS DETERMINATION CRITERIA

Species	Stock	Biomass target (B_{target})	Minimum biomass threshold	Maximum fishing mortality threshold
Cod	GB	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Cod	GOM	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Haddock	GB	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Haddock	GOM	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Yellowtail flounder	GB	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Yellowtail flounder	SNE/MA	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Yellowtail flounder	CC/GOM	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
American plaice		SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Witch flounder		SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Winter flounder	GB	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Winter flounder	GOM	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Winter flounder	SNE	SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Redfish		SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F50% MSP.
White hake		SSB_{MSY}:SSB/R (40% MSP)	½ B_{target}	F40% MSP.
Pollock		External	½ B_{target}	Relative F at replacement.
Windowpane flounder	Northern	External	½ B_{target}	Relative F at replacement.
Windowpane flounder	Southern	External	½ B_{target}	Relative F at replacement.
Ocean pout		External	½ B_{target}	Relative F at replacement.
Atlantic halibut		Internal	½ B_{target}	$F_{0.1}$.
Atlantic wolffish		SSB_{MSY}: SSB/R(40% MSP)	½ B_{target}	F40% MSP.

TABLE 2—NUMERICAL ESTIMATES FOR THE PROPOSED UPDATED STATUS DETERMINATION CRITERIA

Species	Stock	Biomass target (B_{target}) in mt	Minimum biomass threshold (½ B_{target}) in mt	Maximum fishing mortality threshold (F_{MSY} or proxy)	MSY in mt
Cod	GB	148,084	74,042	0.25	31,159
Cod	GOM	58,248	29,124	0.24	10,014
Haddock	GB	153,329	76,664	0.35	33,604
Haddock	GOM	5,900	2,950	0.43	1,360
Yellowtail flounder	GB	43,200	21,600	0.25	9,400
Yellowtail flounder	SNE/MA	27,400	13,700	0.25	6,100
Yellowtail flounder	CC/GOM	7,790	3,895	0.24	1,720
American plaice		21,940	10,970	0.19	4,011
Witch flounder		11,447	5,724	0.20	2,352
Winter flounder	GB	16,000	8,000	0.26	3,500
Winter flounder	GOM	3,792	1,896	0.28	917
Winter flounder	SNE	38,761	19,380	0.25	9,742
Redfish		271,000	135,500	0.04	10,139
White hake		56,254	28,127	0.13	5,800
Pollock*		2.00 kg/tow	1.00 kg/tow	5.65 c/i	11,320
Windowpane flounder*	Northern	1.4 kg/tow	0.7 kg/tow	0.50 c/i	700
Windowpane flounder*	Southern	0.34 kg/tow	0.17 kg/tow	1.47 c/i	500
Ocean pout*		4.94 kg/tow	2.47 kg/tow	0.76 c/i	3,754
Atlantic halibut		49,000	24,500	0.07	3,500
Atlantic wolffish		1747–2202	400–500	<0.35	278–311

*Estimates of F_{MSY} or proxy for these stocks use an index-based method to evaluate stock status and are based on a moving average, calculated as described in GARM III. Values presented in this table for these stocks represent catch (landings plus discards in 1,000's mt) per survey index of relative biomass (kg/tow) for that stock.

3. Rebuilding Programs

According to GARM III, two NE multispecies stocks have achieved their target biomass levels and are no longer considered overfished; the GB haddock stock was rebuilt in 2006, while GOM haddock was rebuilt in 2000. However, GARM III, and the subsequent data available for pollock, also indicated that several other NE multispecies stocks are now overfished; these stocks are witch flounder, GB winter flounder, northern windowpane flounder, and pollock. As a result, the Council is proposing new rebuilding programs for these stocks under Amendment 16, assuming the rebuilding programs will begin in FY 2010. For witch flounder and GB winter flounder, the proposed rebuilding programs would rebuild these stocks by 2017, with a 75-percent probability of success. The rebuilding programs proposed for pollock and northern windowpane flounder would rebuild these stocks by 2017, but because status determination criteria for these stocks are based upon survey indices, a probability of success cannot be calculated at this time.

Analysis by the Data Poor Working Group indicated that Atlantic wolffish is overfished. However, because the life history of this species is not well understood, there is considerable uncertainty in the evaluation of stock status and stock projections. As a result, it is not possible to determine a rebuilding period or a rebuilding F for this species at this time, although measures to reduce F for this stock are proposed under Amendment 16, as outlined below.

Amendment 13 established a phased rebuilding strategy for SNE/MA winter

flounder that would evaluate the rebuilding progress in 2008 and adjust the rebuilding F in 2009 to achieve rebuilding by 2014. Based upon GARM III data, projections indicate that this stock is unlikely to rebuild by 2014 in the absence of any fishing mortality, but would likely rebuild between FYs 2015 and 2016. Since this stock is caught as non-targeted catch in other large-mesh fisheries, small-mesh fisheries, and the scallop dredge fishery, the only way to achieve zero F would be to eliminate all fishing activity in the SNE/MA winter flounder stock area, including fisheries for scallops, summer flounder, and other non-groundfish species. This would entail closing several important fisheries from off Cape Cod, MA to the Maryland coast. Hundreds of millions of dollars in yield would be sacrificed for a relatively small change, if any, in the projected rebuilding period for this stock. The Council considers this unnecessary and impracticable, since, even without any fishing mortality, this stock could not be rebuilt within the Amendment 13 timelines (*i.e.,* by 2014) and is projected to be rebuilt between FYs 2015 and 2016. Instead, Amendment 16 proposes to prohibit possession and landings of SNE/MA winter flounder, which would result in achieving a F as close to zero as practicable. In addition, Amendment 16 would require all non-Sector vessels fishing within two restricted gear areas to use selective gear to minimize the catch of SNE/MA winter flounder and other stocks. Although the benefits of these restricted gear areas are uncertain and have not been used to contribute to the F reductions of the proposed action, any decrease in F associated with these requirements would only increase the probability that rebuilding under the proposed measures would occur between FYs 2015 and 2016. With the implementation of management measures proposed under Amendment 16, including the proposed measures that affect the catch of SNE/MA winter flounder, this stock will no longer be subject to overfishing. There is considerable scientific uncertainty associated with the assessment for this stock, as recruitment observed between 2004 and 2008 was less than half of that assumed when the rebuilding plan and associated management measures were developed under Amendment 13. This suggests that differences between projected and observed recruitment patterns and other factors will influence when this stock is rebuilt. Projections of stock status under a F of zero are similar to those using a F of as close to zero as practicable, as proposed under this action, indicating that there is little difference between when this stock is expected to rebuild under either scenario (see Section 7.2.1.1.3.1 of the Amendment 16 FEIS). Therefore, to impose a complete closure of commercial and recreational fisheries in the SNE/MA winter flounder stock area and still not achieve the objectives of rebuilding this stock by 2014 is contrary to the objectives of the Magnuson-Stevens Act and would result in severe economic impacts without biological benefits. Further, section 304(e)(7) of the Magnuson-Stevens Act recognizes that an FMP may not always make adequate progress to achieving rebuilding objectives and allows time for revisions to be made to make adequate progress toward rebuilding overfished stocks. This action is thus designed to eliminate targeting of this stock and to reduce discards in other trawl fisheries in order to reduce F to the extent practicable, without delaying the projected rebuilding of this stock. As a result, the rebuilding target listed in Table 3 for this stock should be interpreted as ''as close to zero as practicable,'' rather than zero.

Previous stock assessments for Atlantic halibut were insufficient to calculate a rebuilding F. As a result, although the stock was classified as overfished, no target F was calculated. GARM III included an analytic assessment for this species that was able to calculate a rebuilding F shown in Table 3 and an end date for rebuilding of 2055, based upon the biology of this species.

The GARM III review of GOM winter flounder indicated that it is highly likely that the stock is overfished. However, due to the high degree of uncertainty of the assessment, the GARM III review panel suggested that the assessment could not be used to provide management advice or stock projections. As a result, a formal rebuilding program has not been developed for this stock under Amendment 16, although rebuilding for this stock is expected to result from measures proposed under Amendment 16 to rebuild other stocks. This stock will continue to be monitored and, should additional information lead to a determination that the stock is overfished, a formal rebuilding program would be developed in a subsequent action.

4. ABC Control Rule and Mortality Reductions Necessary To Achieve Rebuilding Targets

Management measures proposed in this action are designed to reduce F to the target F for each stock, as specified in Table 3. Two factors contribute to determining the target F under Amendment 16: The ABC control rule specified by the Council's Scientific and Statistical Committee (SSC), and the F necessary to rebuild overfished stocks within the rebuilding period ($F_{rebuild}$). The ABC control rule proposed by the SSC was adopted by the Council at its June 2009 meeting and would replace the MSY control rule in Amendment 13. The ABC control rule would specify that the ABC for each stock should be determined as the catch at 75 percent of F_{MSY}, and that, if the catch at 75 percent of F_{MSY} would not achieve the mandated rebuilding requirements, ABC should be based upon $F_{rebuild}$. For stocks that cannot be rebuilt within existing rebuilding periods, the ABC should be based upon incidental bycatch, including a reduction in the existing bycatch rate. Finally, for stocks with unknown status, ABC would be determined on a case-by-case basis by the SSC.

Because GARM III assessed the status of the stocks through 2007, to calculate $F_{rebuild}$ it is necessary to estimate the F resulting from measures in place for 2008 and 2009. Catch data for FY 2008 are available, along with estimates of F resulting from measures implemented by the 2009 interim action. Projections were run to determine rebuilding F targets using an estimate of 2008 F based upon available catch data, as well as the assumptions regarding expected F resulting from interim measures in 2009. Table 3 lists the percentage change in F necessary to achieve the target F (either $F_{rebuild}$ or the catch at 75 percent of F_{MSY}), as appropriate, from F estimated for FY 2008. Mortality reductions for several stocks are not available because the assessments for these stocks did not produce reliable estimates of F that could be used in projection models to estimate $F_{rebuild}$.

TABLE 3—SUMMARY OF REDUCTIONS IN F NECESSARY TO ACHIEVE THE TARGET F IN 2010 FOR EACH STOCK

Species	Stock	2007 F	Targeted F (either $F_{rebuild}$ or 75 of F_{MSY})	F_{msy}	2008 F from 2008 Catch Data	Change in F necessary to achieve $F_{rebuild}$ using catch and F 2008
Cod	GB	0.300	0.184	0.2466	0.410	−55
Cod	GOM	0.456	0.18	0.237	0.300	−40
Haddock	GB	0.230	0.26	0.350	0.079	229
Haddock	GOM	0.350	0.32	0.430	0.250	28
Yellowtail flounder	GB	0.289	0.109	0.254	0.130	−16
Yellowtail flounder	SNE/MA	0.413	0.072	0.254	0.120	−40
Yellowtail flounder	CC/GOM	0.414	0.18	0.239	0.289	−38
American plaice	GB/GOM	0.090	0.14	0.190	0.099	41
Witch flounder		0.290	0.15	0.200	0.296	−49
Winter flounder	GB	0.280	0.20	0.260	0.131	49
Winter flounder	GOM	0.417	N/A	0.283	0.317	N/A
Winter flounder	SNE/MA	0.649	0.000	0.248	0.265	−100
Redfish		0.005	0.03	0.038	0.008	275
White hake	GB/GOM	0.150	0.084	0.125	0.065	29
Pollock	GB/GOM	10.464	4.245	5.66	15.516	−73
Windowpane flounder	Northern	1.960	N/A	0.50	N/A	N/A
Windowpane flounder	Southern	1.850	N/A	1.47	N/A	N/A
Ocean Pout		0.380	N/A	0.760	N/A	N/A
Atlantic halibut		0.065	0.044	0.073	0.060	−27
Atlantic wolffish		N/A	N/A	N/A	N/A	N/A

5. ABC/ACL Specifications and Distribution Process

The recent reauthorization of the Magnuson-Stevens Act required fishery management councils to establish a mechanism for specifying ACLs for each managed fishery such that overfishing does not occur in the fishery, and measures to ensure accountability. NMFS revised the National Standard 1 Guidelines to assist Councils in complying with the new requirements (January 16, 2009; 74 FR 3178), which were used by the Council in developing both the ABC/ACL process and the associated AMs in Amendment 16.

ABC/ACL Specifications Process

According to the Magnuson-Stevens Act, ACLs developed by a Council for a particular fishery may not exceed the fishing level recommendations of the Council's SSC or other peer-review process. The Magnuson-Stevens Act requires that ACLs must take effect in FY 2010 for fisheries subject to overfishing, and in FY 2011 for all other fisheries. Because several stocks managed under the FMP are subject to overfishing, Amendment 16 proposes a process to specify ABCs and ACLs for the NE multispecies fishery for implementation in FY 2010.

Under Amendment 16, ABCs/ACLs would be developed as part of the biennial adjustment process established in the FMP (a complete description of the ABC/ACL specification process is in Section 4.2.1 of the Amendment 16 FEIS). The Groundfish Plan Development Team would develop recommendations for setting an ABC, ACL, and overfishing level (OFL) for each stock for each of the next 3 years following the implementation of the biennial adjustment, or yearly for stocks managed by the U.S./Canada Resource Sharing Understanding (Understanding) (currently, GB yellowtail flounder, Eastern GB cod, and Eastern GB haddock) through a specifications package. These recommendations would be based upon the ABC control rule, as described above; updated information regarding the status of each stock, including $F_{rebuild}$ for overfished stocks; recommendations of the Transboundary Management Guidance Committee (TMGC) for appropriate catch levels for stocks managed by the Understanding; and any other guidance provided by the SSC. The ABCs developed through the process would be distributed among the various segments of the fishery that catch NE multispecies. These sub-ABCs would then be reduced to account for management uncertainty to derive how the overall ACL for each stock is divided into various sub-components of the fishery, as described further below. The PDT would develop an informal document that describes how these recommendations were developed, including estimates of scientific and management uncertainty considered by the PDT, whether different levels of management uncertainty were applied to different components of the fishery, and whether total allowable catches (TACs) have been exceeded during previous fishing years. The SSC would then approve the PDT's ABC recommendations or provide alternative ABC recommendations, describing elements of scientific uncertainty used to develop its recommendations, and offer any other recommendations regarding ACLs or other relevant issues. The Council would then consider the recommendations of the SSC, PDT, and TMGC and adopt ABCs and ACLs for each stock. As required by the Magnuson-Stevens Act, the Council must adopt ACLs that are equal to or lower than the ABC recommended by the SSC, taking into account management uncertainty. The Council would adopt the ABC/ACL specifications and submit them to NMFS by December 1, for approval and implementation in a manner consistent with the Administrative Procedure Act.

The numeric ABCs and ACLs developed pursuant to this process are not codified in this proposed rule and will be specified in a separate future rulemaking. The Council is currently developing an ABC/ACL specifications package to be implemented concurrently with the provisions contained in this proposed rule for Amendment 16 management measures at the start of FY 2010 on May 1, 2010. The measures proposed in Amendment 16 are intended to achieve, but not exceed, the ABCs and ACLs established for FYs 2010–2012. The ABCs and ACLs for 2013 and beyond would be specified according to the process described above, unless otherwise modified through a future Council action.

ACL Distribution

As noted above, the PDT would recommend distributing the ABC among the various segments of the fishery that catch NE multispecies regulated species and ocean pout, and reducing such sub-ABCs to account for management uncertainty for each individual sub-component of the fishery that catch such stocks based upon the catch available to U.S. fishermen, as further described below and as described in detail in Section 4.2.1.3 of the Amendment 16 FEIS. These sub-components of the fishery include vessels operating in state waters that catch regulated species and ocean pout, but do not hold Federal NE multispecies permits; other non-specified sub-components of the fishery that may catch regulated species and ocean pout as bycatch when prosecuting other fisheries (*i.e.,* exempted fisheries and fisheries for exempted species); vessels participating in the Atlantic sea scallop fishery that catch yellowtail flounder stocks as bycatch; vessels participating in the Atlantic herring fishery that catch haddock as bycatch; and catch of regulated species and ocean pout by the commercial and recreational NE multispecies fisheries. Some sub-components of the fishery would not be subject to any automatic AMs under Amendment 16 and would, thus, be allocated sub-components of the ACL. The sub-components of the fishery that are subject to AMs would be allocated sub-ACLs for each stock of regulated species and ocean pout that they catch. These distributions, and the stocks that are allocated to the recreational fishery, could be revised through the framework adjustment process established in the existing regulations.

Catch by vessels operating in state waters that do not hold Federal NE multispecies permits is outside of the jurisdiction of the FMP, but is included in the overall ABC for NE multispecies regulated species and ocean pout stocks. As a result, such catch must be accounted for, but would not be monitored outside of the biennial adjustment process for assessment purposes. The estimates of such catch would be adjusted pursuant to the biennial adjustment process specified above. For GOM cod and GOM haddock, this state-waters catch would be deducted from the sub-ACL available to the commercial fishery (*i.e.,* vessels issued a limited access NE multispecies permit or open access NE multispecies Handgear B permit). The sub-ACL available to recreational vessels would include catch of GOM cod and GOM haddock in both state waters and Federal waters, and any associated recreational AMs would be triggered by the cumulative catch of such stocks by all recreational vessels.

The sub-components of the fishery that are not subject to AMs include vessels fishing in exempted fisheries that occur in Federal waters (*e.g.,* the northern shrimp exempted fishery and the Cultivator Shoal whiting fishery exemption) and vessels targeting exempted species (*e.g.,* the summer flounder fishery in SNE)—fisheries that are not allowed to land NE multispecies regulated species or ocean pout and that have demonstrated very low NE multispecies bycatch—as well as the Atlantic sea scallop fishery, which catches yellowtail flounder as bycatch. If catch from such fisheries exceeds the amount allocated, AMs would be developed and implemented in a separate future management action to prevent the overall ACL for each stock from being exceeded, pursuant to the biennial review or framework adjustment process established in the existing regulations.

The ACLs for all three stocks of yellowtail flounder would be reduced to account for projected yellowtail flounder bycatch in the Atlantic sea scallop fishery. The level of yellowtail flounder bycatch in the scallop fishery would vary from year-to-year, based upon scallop and NE multispecies abundance, the rotational management program specified for the scallop fishery, and other factors. At a minimum, the yellowtail flounder sub-component of the ACL allocated to the scallop fishery would be consistent with the incidental catch amounts specified for closed area access programs specified in the current regulations (*e.g.,* at least 10 percent of the GB yellowtail flounder ACL would be specified to account for closed area access programs on GB, when open under the rotational management program). Similar to the other non-specified sub-components of the ACL described above, with the exception of GB yellowtail flounder, yellowtail flounder bycatch in the scallop fishery would initially be treated as a sub-component of the ACL, rather than a sub-ACL, and, therefore, would not be subject to any specific AMs under Amendment 16. The existing regulations regarding the Understanding require that any overages of the TACs managed by the Understanding would be deducted from the available U.S. portion of the appropriate TAC during the following year. Therefore, any overages of the U.S. portion of the GB yellowtail flounder TAC, including those by the scallop fishery, would be deducted from the U.S. portion of the GB yellowtail flounder TAC during the following year. The Council is currently developing Amendment 15 to the Atlantic Sea Scallop FMP, which is expected to develop AMs for the catch of yellowtail flounder in the scallop fishery. If such measures are implemented, the yellowtail flounder bycatch in the scallop fishery would then become classified as a sub-ACL controlled by an appropriate AM.

In 2006, Framework Adjustment 43 to the FMP (August 15, 2006; 71 FR 46871) specified that 0.2 percent of the GOM and GB haddock target TACs would be allocated to the Atlantic herring fishery to accommodate haddock bycatch. Amendment 16 would maintain this allocation, but update it to reflect that 0.2 percent of the GOM and GB haddock ACL would be allocated to the Atlantic herring fishery. This allocation would be considered a sub-ACL. The existing regulations already contain AMs in the form of elimination of the directed herring fishery in particular areas, and haddock possession restrictions once this sub-ACL is projected to be caught. Because the existing regulations combine catches from both stocks of haddock, this haddock sub-ACL allocated to the herring fishery is not currently monitored on a stock-specific basis.

Finally, the ACL for each NE multispecies regulated species and ocean pout stock would be allocated to the NE multispecies commercial and recreational fisheries. With the exception of GOM cod and GOM haddock, as noted below, the ACL for each NE multispecies regulated species and ocean pout stock would be allocated to the commercial NE multispecies fishery. This would be further divided between vessels participating in approved Sectors and those fishing under the provisions for the common pool (*i.e.,* those vessels not participating in an approved Sector), as described further in Item 14 of this preamble. An allocation for a particular stock would not be made to the recreational fishery if it is determined that, based upon available information, the ACLs for NE multispecies regulated species and ocean pout stocks are not being fully harvested by the NE multispecies fishery, or if the recreational harvest, after accounting for state-waters catch as described above, is less than 5 percent of the overall catch for a particular stock. If a stock is allocated to the recreational fishery, the distribution of the available ACLs for these stocks between the commercial and recreational fisheries would be determined based upon the average proportional catch of each component

for each stock during FYs 2001 through 2006. Based upon these criteria, only two NE multispecies stocks would be allocated to the recreational fishery at this time: GOM cod and GOM haddock.

6. AMs

As described in Item 5 of this preamble, Councils must establish measures that prevent overfishing and ensure accountability in each fishery. AMs are management controls that are intended to prevent ACLs from being exceeded, or to correct/mitigate overages if they occur. Amendment 16 would implement AMs for both the commercial and recreational fisheries, as described below, including separate AMs for Sector vessels, vessels fishing in the common pool, and private recreational and charter/party vessels. Under Amendment 16, if the overall ACL for a stock is exceeded, the AMs applicable to the NE multispecies fishery, including those specified for Sector, common pool, and recreational and charter/party vessels, would be triggered, as specified below.

Sector AMs

Since Sectors were first implemented in 2004 under Amendment 13, Sectors have provided an alternative to DAS and trip limits for managing the catch of particular stocks. Similarly, Amendment 16 would specify alternative AMs for common pool vessels and those participating in Sectors. Amendment 16 would prohibit Sector vessels from fishing in a particular stock area unless that Sector is allocated or acquires quota for all NE multispecies regulated species or ocean pout stocks allocated to Sectors and caught in that stock area. In addition, Amendment 16 would require that Sector vessels cease fishing in a particular stock area if the Sector exceeds its allocation of any NE multispecies regulated species or ocean pout stocks caught in a particular stock area. While Sectors could balance such overages through acquiring allocation from another Sector, any overages at the end of the FY would be deducted from that Sector's allocation during the subsequent FY. As described below for the AMs effective if the overall ACL for a particular stock is exceeded, the catch used to determine an individual Sector's overage would include catch by each Sector's vessels, as well as catch by other sub-components of the fishery. If either the catch of a particular stock by a Sector's vessels alone, or the catch of a particular stock by a Sector's vessels added to a Sector's portion of the overall ACL overage caught by other sub-components of the fishery exceeds the amount of that stock's ACL allocated to an individual Sector, the amount of the overage would be deducted from that Sector's allocation for that stock during the following FY. If a Sector disbands following an overage, or does not have sufficient allocation to cover the overage, an appropriate DAS or Sector share penalty or fishing prohibition would apply to each individual participating vessel during the subsequent FY, as further described in Item 14 of this preamble. If a Sector exceeds its allocations multiple times or by a large amount, the Sector operations plan or monitoring program may be insufficient to control fishing effort and could justify disapproval of the Sector in future years. These measures are intended to ensure that Sectors avoid exceeding their allocations. If Sector allocations are exceeded, appropriate measures would be taken to either balance the overage or address it through penalties in the following FY.

Common Pool AMs

Common pool vessels would be subject to two types of AMs: A differential DAS counting AM during FYs 2010 and 2011, and a hard-TAC AM overlaid upon the DAS effort controls in FY 2012 and beyond. This transition from a DAS AM to a hard-TAC AM reflects the Council's intent to transition from an effort control fishery to one managed through hard TACs. This transition also would enable monitoring systems and service providers to prepare for the increase in infrastructure and personnel necessary to accommodate the influx of higher volumes of catch data and the need to monitor greater numbers of offloads, as further described below.

Under the proposed differential DAS counting AM, if the NMFS Regional Administrator projects that the sub-ACL available to common pool vessels for each NE multispecies regulated species or ocean pout stock would be exceeded or underharvested by the end of the FY, based upon catch data available through January of that year, a differential DAS counting factor would be applied to each Category A DAS used in the stock area for which the sub-ACL was exceeded or underharvested, during the following FY. The catch used in this projection would include catch by common pool vessels as well as a projection of the catch by other sub-components of the fishery. If either the catch of a particular stock by common pool vessels alone, or the catch of a particular stock by common pool vessels plus the common pool's portion of any catch from other sub-components of the fishery that cumulatively exceed the overall ACL is projected to exceed the common pool's allocation for a particular stock, the differential DAS counting AM would be triggered for the following FY. This projection would be updated after the end of the FY to help determine if the catch by other sub-components of the fishery are accurately estimated for the purposes of determining whether the differential DAS counting AM is triggered. The areas in which differential DAS counting would apply are defined further in this proposed rule. Of particular note is the differential DAS counting area applicable to Atlantic wolffish. The Council added Atlantic wolffish to the FMP, but neither specifically exempted Atlantic wolffish from the differential DAS counting AM, nor specified the differential DAS counting areas applicable to this species when it adopted Amendment 16. An assessment of recent catches by Council staff during the development of the Amendment 16 FEIS indicated that this species is primarily landed from inshore waters of both the GOM and GB. Therefore, this proposed rule would impose differential DAS counting in the Inshore GOM and Inshore GB Differential DAS Counting Areas if the Atlantic wolffish ACL is projected to be caught.

The Amendment 16 DEIS indicates that the exact areas associated with this AM may be modified in the FEIS ''to be consistent with the overall effort control program so that a complex mosaic of DAS counting areas is avoided as much as possible.'' The differential DAS counting areas initially proposed in the DEIS have, therefore, been revised based upon consultation with the Groundfish PDT and the Chairman of the Groundfish Oversight Committee. Consistent with the intent of Amendment 16, these areas have been modified to better reflect the broad stock reporting areas described in further detail in Item 8 of this preamble, and the existing boundaries of the U.S./Canada Management Area. Specifically, an Inshore GB Differential DAS Counting Area was created to reflect the Inshore GB Broad Stock Area (*i.e.,* statistical area 521) and the numerous stocks that are found within this area; the Inshore GOM Differential DAS Counting Area boundaries were moved north to intersect with the coastline of Maine, and west to create the Inshore GB Differential DAS Counting Area; the Offshore GOM Differential DAS Counting Area boundary was moved north to completely cover the coastline of Maine, and the southern boundary was moved north to create the Inshore

GB Differential DAS Counting Area; the Offshore GB Differential DAS Counting Area boundary was moved north and west to better match the boundaries of the U.S./Canada Management Area; and the SNE differential DAS counting area boundary was moved west to have the area entirely outside of the U.S./Canada Management Area. NMFS is particularly interested in soliciting public comments on the creation of an Inshore GB Differential DAS Area. As originally proposed in the Amendment 16 DEIS, the waters east of Cape Cod, including the shipping lanes known as ''the Channel,'' were divided between the Inshore and Offshore GOM Differential DAS Counting Areas. Because this area overlaps with the GOM, GB, and SNE stock areas for certain species, and includes both deep and shallow water, none of the originally proposed differential DAS counting areas would be completely adequate to cover the full ranges of some species. Thus, this proposed rule would treat this area separately. Accordingly, if a stock is caught inside/outside of the Inshore GB Differential DAS Counting Area, multiple areas would be subject to differential DAS counting. For example, CC/GOM yellowtail flounder is caught in both the Inshore GOM and the Inshore GB Differential DAS Counting Areas. If catch by common pool vessels exceeds the CC/GOM yellowtail flounder sub-ACL for this fishery, both areas would be subject to differential DAS counting during the following FY.

The differential DAS counting factor that would apply would be based upon the projected proportion of the sub-ACL that is expected to be caught by common pool vessels plus the common pool's portion of any overage of the overall ACL for any stock caused by excessive catch by other sub-components of the fishery, if appropriate, rounded to the nearest even tenth, as listed in Table 4. If it is projected that catch in a particular FY will exceed or underharvest the sub-ACLs for several NE multispecies regulated species or ocean pout stocks within a particular stock area, the Regional Administrator would apply the most restrictive differential DAS counting factor within that particular stock area. For example, if it were projected that common pool vessels will be responsible for catch that is 1.2 times the GOM cod sub-ACL and 1.1 times the CC/GOM yellowtail flounder sub-ACL, the Regional Administrator would apply a differential DAS counting factor of 1.2 to any Category A DAS fished by common pool vessels only within the Inshore GOM Stock Area during the following FY (*i.e.,* Category A DAS would be charged at a rate of 28.8 hr for every 24 hr fished, or 1.2 times 24-hr DAS counting). If it is projected that common pool vessels will underharvest all stocks within a particular stock area by at least 10 percent and that the overall ACL for a particular stock is not exceeded by all sub-components of the fishery, the Regional Administrator would reduce the rate at which DAS are counted to allow the fishery to achieve the ACLs for all stocks within that area. For example, if the common pool catches 0.65 times the CC/GOM yellowtail flounder sub-ACL and 0.80 times the sub-ACL for all other stocks within the Inshore GOM Differential DAS Counting Area, the Regional Administrator would apply a differential DAS factor of 0.80 to all Category A DAS used only in the Inshore GOM Differential DAS Counting Area during the following FY (*i.e.,* Category A DAS would be charged at a rate of 19.2 hr for every 24 hr fished, or 0.80 times 24-hr DAS counting). If the Regional Administrator determines that similar DAS adjustments are necessary in all stock areas (either to reduce or to increase effort), the Regional Administrator would adjust the ratio of Category A: Category B DAS to reduce/increase the number of Category A DAS available, based upon the amount of the overage or underage, rather than applying a differential DAS counting factor to all Category A DAS used in all stock areas.

Any differential DAS counting factor implemented in FY 2012 for any ACL overages in a particular stock area during FY 2011 would be applied against the DAS counting rate implemented in that stock area for FY 2011. While unlikely, it is possible that, even if the differential DAS counting AM is triggered in a particular stock area due to excessive catch of one or more ACLs in that stock area in FY 2010, the catch of stocks within that stock area could exceed ACLs during FY 2011, as well. If this were to happen, it would suggest that the differential DAS counting rate that was implemented as a result of excessive catch in FY 2010 was insufficient to prevent the ACLs specified for FY 2011 from being exceeded. Therefore, while Amendment 16 does not specifically address this possibility, it stands to reason that any differential DAS counting factor applied to DAS fished in a particular stock area during FY 2012 to account for the excessive catch in FY 2011 should be applied to the DAS rate charged during FY 2011, even if a differential DAS counting rate was implemented in that stock area during FY 2011. For example, if a projection by the Regional Administrator concluded that 1.2 times the GOM cod ACL was caught during FY 2010, a differential DAS factor of 1.2 would be applied to any Category A DAS used in the Inshore GOM Stock Area during FY 2011 (*i.e.,* Category A DAS would be charged at a rate of 28.8 hr for every 24 hr fished, or 1.2 times 24-hr DAS counting). However, if even this higher DAS counting rate were insufficient to prevent the GOM cod ACL from being exceeded again in FY 2011 and 1.5 times the GOM cod ACL was caught during FY 2011, a differential DAS factor of 1.5 would be applied to the DAS charging rate during FY 2011 (*i.e.,* Category A DAS would be charged at a rate of 43.2 hr for every 24 hr fished ($1.2 \times 1.5 \times$ 24-hr DAS charge)). This would more accurately reflect the likely reduction in effort needed to prevent the ACL from being exceeded, and increase the likelihood that catch during FY 2012 would not exceed the ACL in that stock area and result in the trimester TAC area closures being triggered.

This differential DAS counting AM would not be triggered if the Regional Administrator conducts an analysis of the mixed-stock exception in 50 CFR 600.310(m) and determines that the mixed-stock exception is applicable. Pursuant to a court order in the case of *Commonwealth of Massachusetts and State of New Hampshire* v. *Carlos M. Gutierrez* (Case No. 06–cv–12110 (EFH) in the U.S. District Court, District of Massachusetts), NMFS conducted an analysis of the mixed-stock exception, under old and new guidelines on this subject, to determine if either provision was applicable to the development of Framework Adjustment 42 to the FMP. Based upon this analysis, NMFS concluded that the mixed-stock exception, under the old and new guidelines, was not a viable alternative for the Council or NMFS to consider or implement for overfished stocks addressed by Framework Adjustment 42 or for any future conservation or management measures related to overfished stocks. This analysis concluded that: (1) This provision creates an exception from the requirement to end overfishing, but does not eliminate the need to rebuild overfished stocks within rebuilding timeframes established consistent with the Magnuson-Stevens Act; (2) cannot be applied to overfished stocks pursuant to the National Standard 1 Guidelines; and (3) cannot be used to jeopardize the rebuilding programs of overfished stocks. Currently, at least 12 NE

multispecies regulated species or ocean pout stocks are overfished and 12 are subject to overfishing, with overfished stocks found in each of the differential DAS counting areas proposed under this AM. Because this AM is intended to prevent overfishing, applying the mixed-stock exception to avoid implementing differential DAS counting in any stock area due to an overage of the sub-ACL allocated to the common pool would likely lead to overfishing of already overfished stocks. Accordingly, NMFS has determined that the mixed-stock exception is neither applicable, nor justified under the proposed measures for this AM.

TABLE 4—DIFFERENTIAL DAS FACTOR APPLIED AS AN ACCOUNTABILITY MEASURE DURING FYS 2010/2011

Proportion of ACL caught	Differential DAS factor
0.5	0.5
0.6	0.6
0.7	0.7
0.8	0.8
0.9	No change.
1.0	No change.
1.1	1.1
1.2	1.2
1.3	1.3
1.4	1.4
1.5	1.5
1.6	1.6
1.7	1.7
1.8	1.8
1.9	1.9
2.0	2.0

Starting in FY 2012, common pool vessels would be subject to a hard-TAC AM. Under this AM, the sub-ACL available to common pool vessels for each NE multispecies regulated species or ocean pout stock would be apportioned into trimesters of 4 months duration, beginning at the start of the FY (*i.e.,* Trimester 1: May 1—August 31; Trimester 2: September 1—December 31; Trimester 3: January 1—April 30), as listed in Table 5. The distribution of these sub-ACLs into trimesters was based upon a preferred distribution of recent landing patterns, but would be adjusted through the biennial adjustment process to reflect the landing patterns of the most recent 5-yr period available at the time of each adjustment. If a trimester TAC is exceeded/underharvested, the overage/underage would be applied to the following trimester, with the exception that any underage could not be applied to the following FY's trimester TACs. With the exception of windowpane flounder, ocean pout, and Atlantic halibut, if the Regional Administrator projects that 90 percent of the trimester TAC for a NE multispecies regulated species or ocean pout stock will be caught, the Regional Administrator would close the area where the stock is predominantly caught to all NE multispecies common pool vessels using gear capable of catching that species, as listed in Table 6, for the remainder of that trimester. The areas proposed to be closed to particular gears are further described in this proposed rule, and are based upon the area that accounted for 90 percent of the catch of each stock according to available vessel trip report (VTR) data for calendar years 2006 through 2008. These areas differ slightly from those originally described in the Amendment 16 DEIS, as discussed further in Section 4.3.7.1.2 of the Amendment 16 FEIS. The Regional Administrator would be allowed to expand or narrow the closure areas based upon additional catch information, to reflect where each stock is actually caught. If the entire common pool sub-ACL for a particular stock is exceeded (*i.e.,* the common pool catch of that stock at the end of the FY exceeds all three trimester TACs for that stock combined, including the common pool's share of any overage of the overall ACL for a particular stock caused by excessive catch of that stock by vessels fishing in state waters outside of the FMP, exempted fisheries, or the scallop fishery), an amount equal to the overage would be deducted from the sub-ACL for that stock that is allocated to common pool vessels during the following year. Because a targeted fishery for windowpane flounder, ocean pout, and Atlantic halibut would be eliminated by the restrictive trip limits proposed by this action (*i.e.,* a prohibition on the retention of these stocks, or, in the case of halibut, a one-fish-per-trip restriction), the catch of these stocks would be monitored for the purposes of deducting overages, but would not trigger an area closure. Although Amendment 16 would not close particular areas when these trimester TACs for these stocks are harvested, it does include a trip limit adjustment for these stocks. Once 60 percent of the trimester TAC for any of these stocks is projected to be caught, the Regional Administrator would have the authority to specify a trip limit to prevent the trimester TAC or sub-ACL allocated to the common pool vessels from being exceeded. Because retention of these stocks is either prohibited or restricted to one fish per trip, such adjustments would not affect catch of these stocks until possession is once again allowed when the stocks rebuild. Although the Council proposes to add Atlantic wolffish to the FMP under Amendment 16, and would prohibit the possession of this species, the Council did not specifically exempt this species from the trimester TAC AM. Accordingly, this action proposes to include an Atlantic wolffish trimester TAC distribution and area closure for trawl and gillnet gear based upon available catch data, as summarized in Tables 5 and 6. Because Amendment 16 did not specifically address how to handle Atlantic wolffish, NMFS is specifically seeking public comment on the proposed Atlantic wolffish trimester TAC and closure area. Finally, the white hake trip limit would be reduced to 500 lb (227 kg) per DAS, up to 2,000 lb (907.2 kg) per trip. This is based upon a concern that the ACL for white hake would be small, even when the stock is rebuilt. Therefore, by reducing the white hake trip limit, the likelihood that the trimester TAC would be exceeded would be reduced, thereby minimizing the chance that a stock area would be closed due to excessive landings of white hake.

TABLE 5—PORTION OF COMMON POOL ACLS APPORTIONED TO EACH TRIMESTER UNDER THE COMMON POOL TRIMESTER TAC AM

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
GOM Cod	27	36	37
GB Cod	25	37	38
GOM Haddock	27	26	47
GB Haddock	27	33	40
CC/GOM Yellowtail flounder	35	35	30
GB Yellowtail flounder	19	30	52
SNE/MA Yellowtail flounder	21	37	42
GOM Winter flounder	37	38	25

TABLE 5—PORTION OF COMMON POOL ACLS APPORTIONED TO EACH TRIMESTER UNDER THE COMMON POOL TRIMESTER TAC AM—Continued

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
GB Winter flounder	8	24	69
SNE/MA Winter flounder	36	50	14
Witch flounder	27	31	42
American plaice	24	36	40
Pollock	28	35	37
Redfish	25	31	44
White hake	38	31	31
Northern Windowpane flounder	33	33	34
Southern Windowpane flounder	33	33	34
Ocean pout	33	33	34
Atlantic halibut	33	33	34
Atlantic wolffish	75	13	12

TABLE 6—GEAR/AREA PROHIBITIONS UNDER THE COMMON POOL TRIMESTER TAC AM

Species	Stock	Area/gear prohibited when TAC is caught	
		Statistical areas	Gear
Cod	GB	521,522,525,526,561	Trawl, gillnet, longline/hook.
	GOM	513,514,515	Trawl, gillnet, longline/hook.
Haddock	GB	521,522,561	Trawl, gillnet, longline/hook.
	GOM	512,513,514,515	Trawl, gillnet, longline/hook.
Yellowtail flounder	GB	522,525,561,562	Trawl, gillnet.
	SNE/MA	537,539,612,613	Trawl, gillnet.
	CC/GOM	514,521	Trawl, gillnet.
American plaice		512,513,514,515,521,522	Trawl.
Witch flounder		512,513,514,515,521,522	Trawl.
Winter flounder	GB	522,562	Trawl.
	GOM	514	Trawl, gillnet.
	SNE/MA	521,526,537,539,612,613	Trawl.
Redfish		513,514,515,521,522,561	Trawl.
White hake		511,512,513,514,515,521,522, 525,561,613,616	Trawl, gillnet, longline/hook.
Pollock		513,514,515,521,522,561	Gillnet, trawl, longline/hook.
Atlantic wolffish		513,514, 521,522	Trawl, gillnet.

To facilitate monitoring trimester TACs under the common pool trimester TAC AM, 20 percent of trips by common pool vessels would have their offloads monitored by an independent third-party service provider approved/certified by NMFS to provide such services. These service providers would be required to randomly deploy dockside monitors to monitor the offload of catch directly to a dealer, and roving monitors to monitor the offload of catch onto a truck for subsequent shipment to a dealer. To ensure coverage is randomly deployed, common pool vessels may only use one dockside monitoring service provider per fishing year. The costs associated with monitoring vessel offloads would be the responsibility of individual vessels. Vessels would be required to submit trip-start and trip-end hail reports to facilitate the deployment of such dockside/roving monitors, as further described in Item 14 of this preamble.

Recreational AMs

For the recreational fishery, once recreational catch information is available for the previous FY (expected by July), the Regional Administrator would evaluate whether recreational catch exceeded the recreational allocation for GOM cod or GOM haddock. For FY 2010, recreational catch would be compared to the recreational ACL for each stock for FY 2010. For FY 2011, the average recreational catch for FYs 2010 and 2011 would be compared to the average recreational ACL for each stock during FYs 2010 and 2011. Beginning with FY 2012, the 3-year average recreational catch would be compared to the most recent 3-year average of the recreational ACL for each stock.

Because there is a high degree of uncertainty associated with the number of recreational anglers and the amount of recreational catch between fishing years, the Council determined that it would be difficult to design an appropriate recreational AM in advance. In addition, the Council determined that there is a need to coordinate recreational measures with state management agencies represented on the Council in determining recreational AMs, as a large portion of recreational fishing activity occurs in state waters. Therefore, under Amendment 16, if it is determined that the recreational fishery has exceeded its allocation for GOM cod or haddock, NMFS would develop and implement the appropriate measures necessary to prevent the recreational fishery from exceeding the applicable sub-ACL in future years, in consultation with the Council. Appropriate AMs for the recreational fishery could include adjustments to fishing season, minimum fish size, or possession limits.

AMs if an Overall ACL for a Particular Stock Is Exceeded

As described above, several components of the fishery are allocated sub-ACLs for stocks managed by the FMP and are, therefore, subject to AMs. However, Amendment 16 also proposes

that AMs for the NE multispecies fishery must be sufficient to prevent overfishing on each stock as a whole. This means that, if catch by components of the fishery that are not subject to AMs at this time (*i.e.,* vessels fishing in state waters outside of the FMP, exempted fisheries, and the scallop fishery) exceed their allocations and the overall ACL for a particular stock is exceeded, the AMs applicable to the NE multispecies fishery described above, including those specified for Sector, common pool, and recreational and charter/party vessels, could be triggered to ensure that overfishing does not occur on the stock as a whole. Because catch data for components of the fishery that are not subject to AMs are not always available either within the FY, or at the end of the FY, NMFS would implement or adjust any AMs applicable to the NE multispecies fishery during the next FY, or as soon as practicable thereafter, once catch data for all such fisheries are available. If excessive catch by vessels fishing in state waters outside the FMP, exempted fisheries, or the scallop fishery exceeds these fisheries' individual allocations for a particular stock, but the overall ACL for a particular stock is not exceeded, then no AMs would be triggered in the NE multispecies fishery due to catch by such fisheries. However, if an individual component of the NE multispecies fishery exceeds its allocation of a particular stock, then the applicable AM for that component of the fishery would be triggered, even if the overall ACL for that stock is not exceeded.

If an overage of the overall ACL for a particular stock occurs, and there is an overage of the sub-component of the ACL allocated to vessels fishing in state waters outside the FMP, exempted fisheries, or the scallop fishery, the amount of the overage of the overall ACL would be divided among the entire NE multispecies fishery, including common pool vessels, approved Sectors, and private recreational and charter/party vessels, based upon each component's share of that stock's ACL available to the NE multispecies fishery. Each component's share of the ACL overage for a particular stock would then be added to the catch of that stock by each component of the NE multispecies fishery to determine if the resulting sum for each component of the fishery exceeds that individual component's share of that stock's ACL available to the NE multispecies fishery. If it does, that component would automatically be subject to the applicable AM. The following is an example to illustrate this calculation. For FY 2010, suppose there is an overall ACL of 1,000 mt of CC/GOM yellowtail flounder allocated across all fisheries. Five percent of the 1,000 mt (50 mt) is allocated to vessels fishing in state waters outside the FMP, exempted fisheries, and the Atlantic sea scallop fishery, while the remaining 95 percent (950 mt) is allocated to the NE multispecies fishery. The 950 mt allocated to the NE multispecies fishery is further divided between common pool vessels (allocated 200 mt), Sector 1 (allocated 450 mt), and Sector 2 (allocated 300 mt). In FY 2010, vessels fishing in state waters outside the FMP, exempted fisheries, and the scallop fishery cumulatively catch 300 mt of CC/GOM yellowtail flounder, exceeding their allocation by 250 mt (*i.e.,* 300 mt caught − 50 mt allocated). However, components of the NE multispecies fishery each caught less than or equal to their allocations for this stock, with common pool vessels catching 150 mt, Sector 1 vessels catching 450 mt, and Sector 2 vessels catching 300 mt. Cumulatively, the overall ACL for CC/GOM yellowtail flounder was exceeded by 200 mt based upon the catch of all fisheries (see Table 7 below). To determine how to distribute the overage of the overall ACL among the components of the NE multispecies fishery, it is necessary to first determine each component's share of that stock's ACL that is available to the NE multispecies fishery by dividing each component's allocation for that stock (*i.e.,* 200 mt to common pool vessels, 450 mt to Sector 1 vessels, and 300 mt to Sector 2 vessels) by the total amount allocated to the NE multispecies fishery (200 mt + 450 mt + 300 mt = 950 mt). In this example, the common pool is allocated 21 percent of the CC/GOM yellowtail flounder sub-ACL available to NE multispecies vessels (200 mt ÷ 950 mt), while Sector 1 is allocated 47 percent (450 mt ÷ 950 mt), and Sector 2 is allocated 32 percent of the CC/GOM yellowtail flounder sub-ACL available to NE multispecies vessels (300 mt ÷ 950 mt). Therefore, to determine whether the common pool and sector AMs would be triggered, 42 mt of the overage (21 percent times 200 mt overage) would be added to the actual common pool catch (150 mt), 94 mt of the overage (47 percent times the 200 mt overage) would be added to the actual catch by Sector 1 vessels (450 mt), and 64 mt of the overage (32 percent times the 200 mt overage) would be added to the actual catch by Sector 2 vessels of (300 mt). In this example, because vessels in both Sector 1 and Sector 2 caught their full allocation of CC/GOM yellowtail flounder, when the overage of the overall ACL was proportionally distributed among the components of the NE multispecies fishery, the total catch of CC/GOM yellowtail flounder by Sector 1 vessels exceeded its CC/GOM yellowtail flounder allocation by 94 mt (*i.e.,* 450 mt catch by Sector 1 vessels + 94 mt share of the overage = 544 mt, or a 94 mt overage of its allocation), while the total catch of CC/GOM yellowtail flounder by Sector 2 vessels exceeded its CC/GOM yellowtail flounder allocation by 64 mt (*i.e.,* 300 mt catch by Sector 2 vessels + 64 mt share of the overage = 364 mt, or a 64 mt overage of its allocation). Accordingly, the AMs for both sectors would be triggered, resulting in Sector 1's CC/GOM yellowtail flounder allocation being reduced by 94 mt, and Sector 2's CC/GOM yellowtail flounder allocation being reduced by 64 mt during FY 2011. However, when the common pool's share of the overage of the overall ACL (42 mt) was added to the common pool's catch of CC/GOM yellowtail flounder (150 mt), the total catch did not exceed the CC/GOM yellowtail flounder allocation to the common pool (42 mt + 150 mt < 200 mt). Therefore, the common pool would not be subject to the differential DAS counting AM in FY 2011 (see Table 7 below).

TABLE 7—EXAMPLE OF HOW AMS WOULD APPLY IF THE OVERALL ACL FOR A STOCK IS EXCEEDED BY OTHER SUB-COMPONENTS OF THE FISHERY

Component of the fishery	Share of ACL (%)	Amount of sub-ACL (mt)	Share of mults ACL (%)	Catch in FY 2010 (mt)	Overage (mt)	Distribution of exempted fisheries and scallop overage (mt)	Total catch plus exempted fisheries and scallop overage (mt)	Amount of sub-ACL exceeded after addition of overage (mt)
Sector 1	45	450	47	450	0	94	544	95
Sector 2	30	300	32	300	0	64	364	63
Common Pool	20	200	21	150	−50	42	192	−8
State Waters Fisheries, Exempted Fisheries, and the Scallop Fishery	5	50	NA	300	250	NA	NA	NA
Total	100	1,000	100	1,200	200	200	1,100	150

7. Issuance of Limited Access Multispecies and Atlantic Sea Scallop Permits

Currently, a vessel cannot be issued a limited access NE multispecies permit and a limited access Atlantic sea scallop permit at the same time, unless the scallop dredge vessel qualified for a limited access NE multispecies combination permit. In addition, vessels issued a limited access Atlantic sea scallop trawl permit and a limited access NE multispecies permit can not use scallop dredge gear unless it voluntarily relinquishes its limited access NE multispecies permit. Amendment 16 proposes to remove these restrictions and allow a vessel to be issued both a limited access NE multispecies permit and a limited access Atlantic sea scallop permit at the same time. In addition, this change would allow the owner of a vessel currently issued a limited access Atlantic sea scallop trawl permit to convert to a dredge gear permit without relinquishing his/her limited access NE multispecies permit. This provision is intended to increase the flexibility of vessel operations by eliminating restrictions that limit participation in both the Atlantic sea scallop fishery and the NE multispecies fishery by the same vessel and, thereby, increase the potential return on investments in both fisheries.

8. Recordkeeping and Reporting Requirements

VTRs

Under the current regulations, all operators of vessels issued a Federal fishing permit, with the exception of vessels issued an American lobster permit, must submit a VTR within 15 days after the end of the reporting month. These VTRs specify gear used, area fished, and amount of each species kept and discarded, as well as other pertinent information for each fishing trip. VTRs are used to apportion catch to stock areas for catch monitoring and stock assessment purposes. Current VTR submission requirements result in delays in receiving and processing VTRs, making them unusable for the timely monitoring of either Sector catch or ACLs at the stock level, both of which rely upon catch, area, and gear information contained in VTRs.

Neither Amendment 16, nor any other previous Council action in the FMP, specified the VTR submission requirements, but rather deferred specification of such requirements to NMFS. Because of the need for more real-time data to implement ABCs, ACLs, and Sector provisions under Amendment 16, NMFS is proposing to increase the reporting frequency for VTRs for all vessels issued a NE multispecies permit. The VTR submission requirements would change from requiring submission of VTRs within 15 days after the end of the reporting month to requiring that VTRs, including ''did not fish reports,'' be submitted by midnight of the first Tuesday following the end of the reporting week (*i.e.,* 0001 hr local time Sunday through 2400 hr local time the following Saturday). The date when fish are offloaded would dictate the reporting week for which the VTR must be submitted to NMFS, and any fishing activity during a particular reporting week (*i.e.,* starting a trip, landing, or offloading catch) would constitute fishing during that reporting week, and would eliminate the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel issued a NE multispecies permit begins a fishing trip on Wednesday, but returns to port and offloads its catch on the following Thursday (*i.e.,* after a trip lasting 8 days), the VTR for that fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (*i.e.,* a ''did not fish'' report) would not be required for either week. These measures would make the VTR submission requirements consistent with dealer report submission requirements and would increase the accuracy and timeliness of catch data available for monitoring and assessment purposes under this action.

Area Declarations

Amendment 16 proposes to establish four broad stock areas that encompass multiple statistical areas for the purposes of providing more accurate and timely data to apportion catch to individual stock areas, including providing area information for stock apportionment if VTR data are missing or delayed. Operators of all vessels issued a limited access NE multispecies permit that are fishing for NE multispecies under a NE multispecies DAS, under the provisions of a small vessel category (Category C) or Handgear A permit, or on a Sector trip would be required to declare their intent to fish in one or more of these broad stock areas via their vessel monitoring system (VMS) prior to each trip on which NE multispecies may be landed. In addition, all vessels would be required to submit the VTR serial number associated with the first page of the VTR for that trip, as instructed by the Regional Administrator. The VTR serial number would be used to link VTRs with dealer reports and VMS data to increase the accuracy of data used for monitoring catch.

Trip-level Catch Reports

If the operator of a limited access NE multispecies vessel, including vessels issued a limited access Handgear A permit, declares his/her intent to fish in multiple broad stock areas on the same

trip, as described above, the operator would be required to submit a trip-level catch report to NMFS via VMS that details the amount of each NE multispecies regulated species or ocean pout species kept (in pounds, landed weight) from each broad stock area on that trip prior to crossing the VMS demarcation line upon the return to port, as instructed by NMFS. This report would be required for such trips unless the vessel is required to submit a daily VMS catch report when operating in one of the special management programs (SMPs), as described further below. These reports would be used to provide more timely data on catch apportionment to stock areas until VTR data become available.

Amendment 16 proposes that vessels fishing in multiple broad stock areas would be required to submit daily VMS catch reports. However, Amendment 16 also provides NMFS with the ability to specify other reporting procedures to reduce unnecessary duplication. Therefore, as noted above, NMFS is proposing to require trip-level VMS catch reports instead of daily catch reports to minimize the reporting burden on vessels without compromising data available to accurately monitor NE multispecies regulated species and ocean pout catch. In addition, Amendment 16 would authorize NMFS to exempt a vessel participating in an approved Sector from the trip-level VMS catch reports when declaring its intent to fish in multiple broad stock areas to reduce unnecessary duplication. At this time, NMFS has determined that these trip-level catch reports are necessary to accurately monitor NE multispecies regulated species and ocean pout catch by all NE multispecies vessels, including those that are fishing under an approved Sector operations plan. If further review of available catch monitoring data indicates that trip-level catch reports are no longer necessary to accurately monitor NE multispecies regulated species and ocean pout catch, and duplicate other available catch data, NMFS may exempt Sector vessels from such reporting requirements during subsequent FYs.

SMP Reporting Requirements

Amendment 16 would maintain the existing reporting requirements for vessels that participate in a SMP (*i.e.,* SAPs, the U.S./Canada Management Area, and the Regular B DAS Program), unless otherwise noted below for vessels participating in an approved Sector. All of these programs require vessel operators to submit a daily VMS catch report detailing the amount of each species kept and discarded, the statistical area fished, the VTR serial number for that trip, and the date the fish were caught. In Framework Adjustment 42 (October 23, 2006; 71 FR 62156), the Council adopted, and NMFS approved, universal reporting requirements for SMPs to reduce complexity and increase data quality for the purposes of monitoring catch in these programs. As described above, Amendment 16 would also require all NE multispecies vessels to submit a trip-level catch report when fishing in multiple broad stock reporting areas. To maintain consistency with the Council's intent to streamline the reporting requirements and minimize the time and cost burden associated with such reporting requirements, NMFS proposes to revise the daily VMS catch report for SMPs to reflect the requirements outlined in the trip-level catch reports described above. This would eliminate the current requirement for vessel operators fishing in SMPs to report species discards and statistical area fished, but would require vessel operators to specify the VTR serial number or other universal trip ID specified by NMFS, the date fish were caught (applicable only for SMP trips), and the amount of each species kept in each broad stock reporting area.

Amendment 16 proposes that Sector vessels participating in SMPs would be required to comply with the SMP-specific reporting requirements, but would specifically provide the Regional Administrator with the authority to remove SMP-specific reporting requirements if it is determined that the reporting requirements are unnecessary. At this time, NMFS has determined that daily SMP-specific VMS catch reports for vessels participating in Sectors are unnecessary, because Sectors would be allocated ACE for most NE multispecies regulated species and ocean pout stocks and, therefore, would not be subject to any SMP-specific TACs or other restrictions on catch; would be responsible for ensuring that Sector allocations are not exceeded; and would provide sufficient information to monitor all Sector catch through the submission of weekly Sector catch reports described further in Item 14 of this preamble. Consistent with Amendment 16, NMFS is proposing to retain the authority to reinstate such reporting requirements if it is later determined that the weekly Sector catch reports are insufficient to adequately monitor catch by Sector vessels in SMPs. This exemption from the SMP reporting requirements for Sector vessels would not apply to vessels participating in the Closed Area (CA) I Hook Gear Haddock SAP. This SAP includes an overall haddock TAC that is applicable to both Sector and common pool vessels fishing in this SAP. Therefore, the existing requirement for Sector managers to provide daily catch reports by participating Sector vessels would be maintained.

Dealer Reporting and Record Retention Requirements

Because Amendment 16 would implement new requirements for dockside/roving monitors for common pool vessels beginning in FY 2012, and for Sector vessels beginning in FY 2010, as described in Items 6 and 14 of this preamble, respectively, the dealer reporting and record retention requirements currently specified in § 648.7(a) and (e), respectively, need to be revised to accommodate additional reporting requirements associated with these measures. Specifically, NMFS is proposing to require dealers to provide a copy of any dealer weigh-out documents or dealer receipts for a particular offloading event to dockside/roving monitors, allow the dockside/roving monitor to sign a copy of the official weigh-out document or dealer receipt retained by the dealer, or sign a dockside monitoring report provided by a dockside/roving monitor. In addition, this proposed rule would require vendors providing dockside/roving monitor services to retain and make available for review any records relating to fish offloaded and observed by dockside/roving monitors for 3 yr after the fish were first offloaded. This measure is intended to maintain consistency with existing record retention requirements and facilitate enforcement of measures proposed under Amendment 16.

Pre-Trip Observer Notification

To better monitor NE multispecies regulated species and ocean pout catch under Amendment 16, NMFS is likely to receive sufficient funding to increase observer coverage in the NE multispecies fishery for FY 2010 and, possibly, 2011. At this time, funding is likely available to observe up to 30 percent of common pool trips, and up to 38 percent of Sector trips. To ensure that NMFS can achieve targeted observer coverage levels, the NMFS Northeast Fisheries Observer Program (NEFOP) needs additional information to facilitate the deployment of observers on trips that would land NE multispecies regulated species and ocean pout. Therefore, based on the authority provided the Secretary to request additional information to

implement an FMP in sections 305(d) and 402(a) of the Magnuson-Stevens Act, NMFS is proposing to require that any vessel issued a limited access NE multispecies permit and fishing under a NE multispecies DAS or on a Sector trip provide NMFS with the vessel name, permit number, and Sector to which the vessel belongs, if applicable; contact name and telephone number for coordination of observer deployment; date, time, and port of departure; area to be fished; and gear type to be used at least 48 hr prior to departing port on any trip declared into the NE multispecies fishery. For trips lasting 48 hr or less, the vessel owner, operator, or manager would be able to make a weekly notification, rather than a separate notification prior to each trip. Such weekly notifications must occur by 0001 hr of the Friday preceding the week (Sunday through Saturday) that they intend to complete at least one NE multispecies DAS or Sector trip during the following week. Trip notification calls must be made no more than 10 days in advance of each fishing trip. NMFS would inform the vessel whether an observer has been assigned for that trip, or a waiver issued within 24 hr of notification. This pre-trip notification would fulfill the current and proposed observer notification requirements for trips into SMPs. However, if funding is no longer sufficient to provide high levels of observer coverage for the entire fishery, the Regional Administrator may eliminate this pre-trip notification requirement for all trips, as it would no longer be necessary to facilitate observer deployment for all NE multispecies vessels. If this occurs, the pre-trip observer notification requirements for trips into SMPs would remain in effect.

Public comment is sought specifically regarding: (1) Whether this 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 burden estimate; (2) ways to enhance the quality, utility, and clarity of the information to be collected; and (3) ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. In particular, NMFS is seeking comment on reporting requirements that were not specifically detailed in the Amendment 16 FEIS, but may be considered necessary to carry out Amendment 16 measures. These measures include the increased frequency of VTR submissions; pre-trip observer notification to facilitate observer deployment; and hail reports required for dockside and at-sea monitoring requirements specified in Items 6 and 15 of this preamble, respectively. Send comments on these or any other aspects of the collection of information to (enter office name) at the **ADDRESSES** above and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

9. Effort Controls

Amendment 16 proposes a number of revisions to existing effort controls, including revisions to NE multispecies DAS allocations, NE multispecies DAS accrual provisions, gear restricted areas, and trip limits, as described in further detail below. These effort controls would apply to vessels fishing under the provisions of the common pool.

When the Council adopted Amendment 16, the effort controls selected were expected to meet the necessary mortality reductions for all stocks, with the exception of SNE/MA winter flounder and northern windowpane flounder, as estimated by the Groundfish PDT based upon earlier guidance by the SSC regarding ABCs. As described above, Amendment 16 proposes to implement measures that would eliminate targeting of SNE/MA winter flounder and reduce discards in other trawl fisheries to reduce F on SNE/MA as close to zero as practicable. A similar approach is proposed for northern windowpane flounder, but a $F_{rebuild}$ cannot be calculated due to uncertainty in the assessment for this stock and, therefore, the effort controls described below would reduce F to the extent practicable.

DAS Allocation

Amendment 16 would revise the way NE multispecies DAS allocated to both common pool and Sector vessels would be distributed between Category A and Category B DAS, as originally implemented under Amendment 13. Starting in FY 2010, common pool vessels would have their DAS allocations distributed as follows: Category A DAS would represent 27.5 percent of a vessel's Amendment 13 DAS baseline, Category B Regular DAS would represent 36.25 percent of the Amendment 13 DAS baseline, and Category B Reserve DAS would represent 36.25 percent of the Amendment 13 DAS baseline. For example, a vessel with an Amendment 13 DAS baseline of 88 DAS would be allocated 24.2 Category A DAS, 31.9 Category B Regular DAS, and 31.9 Category B Reserve DAS. This represents a 50-percent reduction from each vessel's 2006 DAS allocation, or an approximately 32-percent reduction from each vessel's 2009 DAS allocation.

Amendment 16 would exempt Sector vessels from the DAS allocation reductions for common pool vessels because such vessels would be subject to hard TACs to control fishing effort. As a result, Amendment 16 would retain the existing 2009 DAS allocations for vessel's participating in a Sector for the purposes of participating in the monkfish fishery, a fishery that still requires the concurrent use of a NE multispecies DAS with a monkfish DAS for vessels issued a limited access Category C and D monkfish permit. If a vessel fishes in the common pool in one FY, but in an approved Sector during the next FY, its DAS allocation for each FY would reflect whether the vessel is fishing under the common pool, or participating in an approved Sector.

DAS Counting

Under Amendment 16, all NE multispecies DAS used by vessels fishing in the common pool would be counted in 24-hr increments, based upon the time called into the DAS program via VMS or the interactive voice response (IVR) system. For example, if a vessel fished 6 hr, it would be charged for 24 hr of DAS usage; a vessel that fished 25 hr would be charged for 48 hr of DAS usage. The existing differential DAS counting areas and minimum DAS charge for Day gillnet vessels (*i.e.,* the 3–15 DAS counting rule where Day gillnet vessels were charged 15 hr for any trip greater than 3 hr or less than or equal to 15 hr in duration, but actual time fished for any trip less than or equal to 3 hr or greater than 15 hr in duration) would be eliminated.

Although Amendment 16 would exempt vessels participating in a Sector from the requirement to use a NE multispecies DAS to land NE multispecies regulated species and ocean pout, vessels issued a limited access Category C or D monkfish permit would still be required to use a NE multispecies DAS to comply with the restrictions of the monkfish fishery. As a result, because Sector vessels would be exempt from the Amendment 16 NE multispecies DAS counting provisions for common pool vessels, Sector vessels issued a limited access Category C or D monkfish permit fishing under a monkfish DAS would be charged NE multispecies DAS to the nearest minute based upon the time called into the DAS program via VMS or the IVR call-in system. Similarly, Sector vessels fishing under the Day gillnet designation (*i.e.,* those vessels that return to port after setting their gillnets) would no longer be

subject to the existing NE multispecies Day gillnet DAS counting provisions, as described above for common pool DAS counting measures.

Restricted Gear Areas (RGAs)

Amendment 16 proposes two RGAs for common pool vessels. Both RGAs are intended to reduce the catch of flatfish species (predominantly SNE/MA winter flounder and SNE/MA yellowtail flounder) through the required use of selective gear in areas where these species are caught. Under Amendment 16, vessels fishing in either the Western GB RGA or the SNE RGA would be restricted to using the following gear: A haddock separator trawl, a Ruhle trawl, a rope trawl, longline/tub trawls, handgear, or sink gillnets. Tie-down gillnets would be allowed, provided the mesh is greater than or equal to 10 inches (25.4 cm). Gear other than those listed above would not be allowed on board when fishing within these RGAs. The Regional Administrator could approve the use of additional gear within these RGAs, provided the new gear meets the standards established for the approval of additional gear in SMPs. The existing gear performance standards would apply to gear used in these areas to ensure that selective gear is used properly (*e.g.,* restrictive trip limits for flatfish and other bottom-oriented species, such as 500 lb (226.8 kg) of all flatfish species combined, and zero lobsters). Common pool vessels fishing in the RGAs would be required to declare into these areas via VMS, as instructed by the Regional Administrator. In lieu of a VMS declaration, the Regional Administrator may authorize such vessels to obtain a letter of authorization (LOA) to fish in these RGAs. The minimum participation period for these LOAs would be 7 consecutive days, meaning that a vessel must agree to fish in these areas for a minimum of 7 consecutive days. If issued a LOA, a vessel must retain the LOA on board for the duration of the participation period. A vessel could fish inside and outside of these RGAs on the same trip, but would be subject to the most restrictive measures (gear, trip limits, etc.) for the areas fished for the entire trip. A vessel fishing outside of these areas could transit the RGAs, provided gear other than the selective gear specified above is properly stowed.

Both the areas and the gear required to be used in these areas are further defined in this proposed rule. NMFS based the proposed definition of the rope trawl upon the description of the net in the final report of the research project that designed and tested this net, referenced in the Amendment 16 FEIS, and consultations with the industry gear experts, research scientists, and vessel operators that designed the net. NMFS is specifically seeking public comment on the description of the rope trawl. The coordinates proposed for the SNE Multispecies RGA have been slightly revised from those proposed in Amendment 16 to more accurately outline the proposed areas and reflect the area adopted by the Council, as depicted in Figure 4 of the Amendment 16 FEIS, as it intersects with the coastline of Martha's Vineyard, MA.

Trip Limits

In conjunction with the DAS restrictions described above, the following changes to trip limits are proposed:

GOM cod: The possession limit would be increased to 2,000 lb (907.2 kg) per DAS, up to 12,000 lb (5,443.2 kg) per trip for vessels fishing under a NE multispecies DAS or under the Small Vessel permit exemption (Category C permit).

GB cod: The possession limit would be increased to 2,000 lb (907.2 kg) per DAS, up to 20,000 lb (9,072 kg) per trip for vessels fishing under a NE multispecies DAS or under the Small Vessel permit exemption. The existing trip limit for GB cod caught within the Eastern U.S./Canada Area or the Eastern U.S./Canada Haddock SAP would remain the same, at 500 lb (226.8 kg) per DAS, up to 5,000 lb (2,268 kg) per trip; and 1,000 lb (453.6 kg) per trip, respectively. Consistent with existing regulations, a vessel would need to declare its intent to fish exclusively within the GB Regulated Mesh Area (RMA) via VMS to be exempt from the GOM cod limit of 12,000 lb (5,443.2 kg) per trip.

Cod limit for Handgear A vessels: The possession limit would increase to 750 lb (340.2 kg) per trip, consistent with the automatic possession limit adjustment provision implemented under Amendment 13.

Cod limit for Handgear B vessels: The possession limit would increase to 200 lb (90.7 kg) per trip, consistent with the automatic possession limit adjustment provision implemented under Amendment 13.

CC/GOM and SNE/MA yellowtail flounder: The possession limit would increase to 250 lb (113.4 kg) per DAS, up to 1,500 lb (680.4 kg) per trip.

GB yellowtail flounder: There would be no possession limit specified for this stock at the beginning of the FY. However, the Regional Administrator could implement a possession limit either prior to, or during, the FY to prevent the available GB yellowtail flounder TAC specified for common pool vessels fishing in the U.S./Canada Management Area from being exceeded.

Atlantic halibut: The current trip limit of one fish per trip would be maintained.

SNE/MA winter flounder, windowpane flounder, ocean pout, and Atlantic wolffish: Landing of these stocks would be prohibited in any fishery.

In addition to the trip limits specified above, Amendment 16 proposes additional restrictions on the amount of fish that a vessel could land. Under Amendment 16, only one landing limit of regulated species could be landed in any 24-hr period by any vessel fishing under the common pool. If fishing in multiple stock areas, the most restrictive possession limit would apply to the entire trip. Because DAS used by common pool vessels would be counted in 24-hr increments, the existing cod running clock provision would be eliminated under Amendment 16. This provision allowed a vessel that fished only part of an additional DAS to land an additional day's worth of cod, provided the vessel declared the additional landings to NMFS so that up to an additional 24 hr of DAS could be charged for that trip.

GOM Haddock Sink Gillnet Pilot Program

Amendment 16 proposes to implement a pilot program that would allow common pool vessels to fish with 6-inch (15.24-cm) mesh stand-up sink gillnets (tie-down gillnets would be prohibited) in the GOM RMA between January 1 through April 30 of each year. Day gillnet vessels would not be able to fish with, possess, haul, or deploy more than 30 nets per trip, but Trip gillnet vessels would not be limited in the number of nets they could fish with, possess, haul, or deploy. Vessels participating in this program would be required to use Category A DAS for any fishing trip taken during the season specified for this program (*i.e.,* any trip between January 1 and April 30), regardless of whether catch is landed (*i.e.,* a Day gillnet vessel would be required to use Category A DAS to deploy gillnets). Participating vessels would be required to declare their intent to participate in this pilot program by October 1 of each year. The Regional Administrator would issue LOAs to participating vessels that must be carried on board during the season specified for this pilot program. In addition, vessels would be required to notify the NMFS Observer Program at least 48 hr prior to every trip under this pilot program to facilitate the

deployment of observers. This pilot program would be in place for FY 2010 through FY 2012, unless continued through a future Council action. The Regional Administrator could suspend participation in this pilot program by individual vessels or by all vessels if the program is determined to be inconsistent with the goals and objectives of the FMP.

As identified in a February 6, 2009, letter to the Council, NMFS considers this pilot program a SAP, as defined in Section 3.4.5.2 of the SEIS for Amendment 13, as it intends to facilitate the targeting of a healthy NE multispecies stocks in a manner that would otherwise be prohibited. In this case, the pilot program would target haddock by allowing vessels to use undersized mesh in the GOM RMA. Because NMFS considers this pilot program a SAP, the criteria adopted in Amendment 13 to approve a SAP should be applied. Among other things, to be approved, a SAP must not result in overfishing of any stock, or increase F on a stock of concern (defined as a stock subject to overfishing or that is overfished), and must reduce discards to the extent practicable on all species. Amendment 13 also indicates that a SAP should not undermine the achievement of the goals of the FMP, including efforts to rebuild overfished stocks, end overfishing, and minimize bycatch. NMFS is specifically seeking public comment regarding this Pilot Program and whether the SAP approval provisions should apply when deciding whether to approve this SAP under Amendment 16.

10. DAS Leasing and Transfer Programs

Amendment 16 includes several revisions to the DAS Leasing and Transfer Programs that are intended to eliminate unnecessary administrative procedures that would impede participation in these programs, as follows. Existing restrictions on leasing DAS between vessels participating in Sectors and those fishing in the common pool would be continued under Amendment 16. A similar restriction on DAS transferred under the DAS Transfer Program is proposed under Amendment 16, as further described in Item 14 of this preamble.

Eligibility

The DAS Leasing and Transfer Programs were first implemented under Amendment 13 to increase the economic efficiency of vessel operations by allowing vessels to acquire additional DAS, or lease unused DAS to another vessel. Amendment 13 prohibited permits held in confirmation of permit history (CPH) from participating in these programs to slow the reactivation of fishing effort. Because permits in CPH can be reactivated at any time, the Amendment 13 prohibition created an administrative barrier to reactivation of such effort. Amendment 16 would eliminate this administrative barrier by allowing permits held in CPH to participate in the DAS Leasing and Transfer Programs without being activated by being placed onto a vessel. Because of continued effort controls proposed under Amendment 16, the concern that participation of permits in CPH would speed up the activation of effort is somewhat mitigated, while providing greater opportunities to increase the efficiency of vessel operations.

DAS Transfer Conservation Tax

In addition to increasing the flexibility and economic efficiency of fishing operations, the DAS Transfer Program was intended to provide long-term reduction in fishing effort by reducing active and inactive DAS from the fishery through the implementation of a conservation tax on DAS transferred under this program. However, no permits participated in this program until the DAS conservation tax was reduced from 40 percent to 20 percent on Category A and B DAS, in conjunction with other changes to the program, under Framework Adjustment 42 in FY 2006. While some vessel owners have consolidated DAS and permits under this program since FY 2006, in large part, the efficiency and conservation gains expected from this program have not materialized due to low participation in this program. Amendment 16 proposes to eliminate the DAS conservation tax entirely to increase participation in this program. Any DAS reduced due to the conservation tax applied to previously approved transfers would not be reinstated.

DAS Leasing Cap

When Amendment 13 first implemented the DAS Leasing Program, a cap was placed on the number of DAS a vessel could acquire to reduce the possibility that a vessel would accumulate excessive DAS. This cap was based upon the 2001 DAS allocation of the vessel acquiring DAS from another vessel. Because the concurrent implementation of the DAS Transfer Program allowed vessel owners to consolidate DAS allocations associated with each permit, it was realized that the DAS leasing cap could be circumvented by consolidating permits under the DAS Transfer Program. In addition, with the continued reduction of DAS, including an additional 32-percent reduction in DAS allocations for common pool vessels under Amendment 16, the DAS leasing cap imposes a barrier that prevents vessels from acquiring sufficient DAS to remain economically viable. Therefore, Amendment 16 would eliminate the DAS leasing cap. There would be no limit on the number of DAS that a permit holder could lease from another permit holder.

11. Minimum Fish Size

Although the 2009 interim rule reduced the haddock minimum fish size from 19 inches (48.3 cm) to 18 inches (45.7 cm), the FMP still includes a minimum fish size of 19 inches (48.3 cm) for haddock and a minimum fish size of 36 inches (91.4 cm) for Atlantic halibut. Because of slower than expected growth rates, large amounts of undersized haddock are being discarded. Since both stocks of haddock are rebuilt, Amendment 16 proposes to reduce the minimum fish size to 18 inches (45.7 cm) for all NE multispecies vessels, including both commercial and recreational vessels, to reduce discards and increase landings of this healthy species. In addition, GARM III indicated that the median length at maturity for female halibut in the GOM is 41 inches (104.1 cm). Because this stock is overfished, Amendment 16 proposes to increase the minimum fish size for halibut to 41 inches (104.1 cm) for both commercial and recreational vessels to increase opportunities for halibut to spawn prior to capture, thereby increasing the likelihood that this stock will meet rebuilding objectives.

12. SMPs and SAPs

Amendment 16 proposes several changes to existing SAPs for both common pool vessels and those fishing in an approved Sector, as described in further detail below.

U.S./Canada Management Area

In 2006, Framework Adjustment 42 increased the flexibility of vessel operations in the Eastern U.S./Canada Area by allowing vessels fishing in the area to fish both inside and outside of the Eastern U.S./Canada Area on the same trip. As part of that provision, all catch of cod, haddock, and yellowtail flounder would count against the Eastern U.S./Canada TACs for GB cod and GB haddock, and the overall TAC for GB yellowtail flounder. This proposed rule would revise this provision to accommodate the allocation of these stocks to Sectors, as proposed in Amendment 16.

Incidental Catch TAC

In 2004, Framework Adjustment 40A (November 19, 2004; 69 FR 67780) developed incidental catch TACs to limit the catch of species of concern (*i.e.,* stocks that were overfished or subject to overfishing) when vessels were targeting healthier NE multispecies regulated species or ocean pout stocks under a Category B DAS in SMPs. In subsequent actions, incidental catch TACs were added for several species and adjustments were made in the size and distribution of these TACs to accommodate revised stock status and new SMPs, respectively. Amendment 16 continues to revise incidental catch TACs to accommodate the development of ACLs and the incorporation of pollock as a stock of concern. Proposed incidental catch TACs would be based upon the ACL available to the commercial common pool fishery, as only common pool vessels would be able to participate in these programs under a Category B DAS.

Under Amendment 16, the existing specification of incidental catch TACs for all stocks would remain the same, but a pollock incidental catch TAC would be specified based upon 2 percent of the ACL available to common pool vessels. This incidental catch TAC would be distributed to all SAPs, as follows: 50 percent to the Regular B DAS Program, 16 percent to the CA I Hook Gear Haddock SAP, and 34 percent to the Eastern U.S./Canada Haddock SAP. Consistent with existing SAP provisions, once the pollock incidental catch TAC is projected to be caught by common pool vessels, the use of Category B DAS in that particular SAP would be prohibited for the remainder of the season, as specified by the Regional Administrator.

Eastern U.S./Canada Haddock SAP

The Eastern U.S./Canada Haddock SAP was implemented as a 2-year pilot program under Framework Adjustment 40A in 2004. Framework Adjustment 42 extended this SAP for an additional 2 years in 2006. The 2009 interim action extended this SAP throughout FY 2009. Amendment 16 would extend this SAP indefinitely. In addition, Amendment 16 would allow participating vessels to use codends with a minimum mesh size of 6 inches (15.24 cm) diamond or square mesh. All catch by Sector vessels would count against the Sector's allocation for each stock, including those specific to the Eastern U.S./Canada Area. Because Sectors would be restricted by their allocations for each stock, Sector vessels would not be restricted in the gear that could be used when participating in this SAP. Sector vessels would be allowed to continue to fish in this Eastern U.S./Canada Area Haddock SAP for the entire season specified for this SAP as long as the Sector to which they belong has been allocated quota for all stocks caught in this SAP.

CA I Hook Gear Haddock SAP

The CA I Hook Gear Haddock SAP would be revised to expand both the area and the season of this SAP under Amendment 16. The season would be extended to run from May 1 through January 31. The seasonal split between Sector and common pool vessels implemented by Framework Adjustment 41 (September 14, 2005; 70 FR 54302) would be eliminated, meaning that both Sector vessels and common pool vessels would be able to fish under this SAP throughout the proposed season, provided the Sectors to which Sector vessels belong have been allocated quota for all stocks caught in this SAP. Accordingly, the division of the available GB haddock quota between Sector and common pool seasons would be eliminated as well. Once the available GB haddock quota specified for the SAP is caught, the SAP would be closed to all vessels, including Sector vessels. The SAP area would be extended to cover most of the northern portion of CA I, as described further in this proposed rule. All other requirements of this SAP would be unchanged by Amendment 16. These modifications are intended to facilitate the harvest of the available GB haddock resource.

When Framework Adjustment 41 was adopted by the Council, it included a provision that prohibited vessels participating in the SAP from using squid or mackerel for bait, or even possessing squid or mackerel on board the vessel during a trip into the SAP. These prohibitions on the use of particular bait were intended to reduce the catch rates of cod in this SAP. However, this provision was never included in the final rule implementing that action. Accordingly, this action would implement the prohibitions that should have been implemented as part of Framework Adjustment 41.

SNE/MA Winter Flounder SAP

The SNE/MA Winter Flounder SAP originally implemented under Amendment 13 would be eliminated under Amendment 16. This SAP was developed to reduce discards in the fluke fishery by allowing vessels targeting fluke west of 72° 30′ W. long. using small mesh to retain up to 200 lb (90.7 kg) of SNE/MA winter flounder per trip without using a NE multispecies DAS. Because F on SNE/MA winter flounder must be reduced to as close to zero as practicable, and because no vessels would be allowed to possess SNE/MA winter flounder under Amendment 16, continuation of this SAP would not be appropriate until improving stock conditions warrant its re-implementation.

CA II Yellowtail Flounder/Haddock SAP

The CA II Yellowtail Flounder SAP was first implemented under Amendment 13 to facilitate the harvest of GB yellowtail flounder in CA II at a time when the resource was considered healthy. Since then, however, updated assessments have indicated that the stock has been determined to be overfished and subject to overfishing. Under Framework Adjustment 40B (June 1, 2005; 70 FR 31323), language was added to the regulations to allow the Regional Administrator to specify zero trips into this SAP (*i.e.*, close this SAP) if there was insufficient GB yellowtail flounder to support a fishery both inside and outside of CA II.

Catch of GB haddock has been well below target TAC levels for several years, particularly in light of several large yearclasses being recruited into the fishery. As a result, Amendment 16 proposes to revise the CA II Yellowtail Flounder SAP to facilitate the harvest of GB haddock within CA II, even when the CA II Yellowtail Flounder SAP is closed to targeting GB yellowtail flounder. This revised SAP would build upon the existing provisions of the CA II Yellowtail Flounder SAP by modifying the gear requirements and season when the area is open to targeting haddock. If and when the SAP is open to targeting yellowtail flounder, as currently defined in the regulations based upon the amount of GB yellowtail flounder available, the existing CA II Yellowtail Flounder SAP provisions apply. This includes the season (July 1 through December 31), individual vessel trip limits (one trip per vessel per month), cumulative fishery trip limits (320 trips per year, unless otherwise specified by the Regional Administrator), gear requirements (one of two types of flounder nets specified in the regulations, the haddock separator trawl, or the Ruhle trawl), GB yellowtail flounder trip limit (between 10,000–30,000 lb (4,536–13,608 kg) per trip), GB cod trip limit (1,000 lb (453.6 kg) per trip), and other provisions. When the SAP is not open to the targeting of GB yellowtail flounder, either because there is insufficient GB yellowtail flounder available to open the

SAP, or because the maximum number of trips has been taken, the SAP would be open to target GB haddock, provided the Eastern GB haddock ACL has not been caught by common pool vessels, or there is sufficient ACE for all stocks caught in the SAP for vessels participating in an approved Sector. If the SAP is open to target haddock, the following provisions would apply, unless otherwise noted below: Season (August 1 through January 31), gear requirements (a vessel would not be allowed to use a flounder net and would be required to use a haddock separator trawl, a Ruhle trawl, or hook gear), trip limits (no haddock trip limit, and the existing trip limits for GB cod and GB yellowtail flounder), and the existing SAP DAS and discard provisions. All catches of GB haddock would apply to the Eastern GB haddock quotas allocated to either common pool or vessels participating in individual Sectors. Sector vessels would not be subject to the trip limits, limits to the number or frequency of trips (*i.e.*, the current restriction of 1 trip per month or the maximum 320 trips per year) or DAS restrictions specified for this SAP, but would be subject to the gear requirements for this SAP. Individual Sector vessels would be allowed to continue to fish in this modified CA II Yellowtail Flounder/Haddock SAP should it close to common pool vessels, as long as the applicable Sector has allocated quota remaining for all stocks caught in this SAP.

13. Recreational Measures

To ensure that management measures can be tailored to address the components of the fishery responsible if mortality targets are exceeded, the Council is proposing to allocate portions of the ACL for certain NE multispecies regulated species and ocean pout stocks to the recreational fishery, as specified above in Item 5 of this preamble. Based upon the criteria proposed to allocate NE multispecies regulated species and ocean pout stocks between the NE multispecies commercial/recreational fishery, this action would allocate portions of the GOM cod and GOM haddock ACLs to the recreational fishery. Based upon this allocation, to meet the target F for GOM cod, Amendment 16 proposes to extend the existing seasonal GOM cod prohibition for recreational vessels, including both private recreational and charter/party vessels for 2 weeks, to run from November 1 through April 15. The adjustment to the GOM cod prohibition was considered more effective than bag limits or size restrictions at reducing GOM cod catch by all recreational vessels, while preserving a higher bag limit considered important for the charter/party industry. This allocation would not require any additional measures to achieve the target F for GOM haddock.

Amendment 16 proposes additional changes to recreational measures, including the elimination of the limit on the number of hooks that can be used, provisions for landing fillets, and the minimum size limits for haddock and Atlantic halibut. Amendment 7 to the FMP (May 31, 1996; 61 FR 27710) first implemented a limit of two hooks per line per angler as an effort control in the recreational fishery. Even with this restriction, discards by recreational fishermen are expected to increase as stocks rebuild. Amendment 16 would eliminate the limit of two hooks per line, but would maintain the limit of one line per angler. Recreational anglers prefer to land fillets, and some charter/party operations fillet and skin fish as a service to their customers. Amendment 16 would clarify that recreational anglers may land fillets, provided there is at least 2 square inches (5.08 square cm) of contiguous skin that allows for the ready identification of the fish species. Such fillets would be required to be from legal-sized fish, but the fillets themselves would not need to meet the minimum size requirements in the regulations. This provision is intended to facilitate existing practice in the recreational fishery without compromising efforts to enforce both size and possession limits in the fishery. Amendment 16 would also reduce the minimum size for haddock from 19 inches (48.3 cm) to 18 inches (45.7 cm) total length, indefinitely, and increase the minimum size for Atlantic halibut from 36 inches (91.4 cm) to 41 inches (104.1 cm) total length. The existing size restrictions for other stocks and the possession restrictions for all stocks would be maintained. Atlantic wolffish would be added to the FMP, with zero possession allowed for all recreational vessels.

14. Sector Measures

Amendment 16 builds upon the sector measures implemented under Amendment 13 and Framework Adjustment 42 by proposing additional sectors and revisions to many existing sector requirements, including sector allocation provisions, operations plan requirements, and monitoring and reporting requirements, as specified further below. In addition to the requirements described below, vessels participating in an approved Sector would be required to comply with the Sector-specific AMs specified in Item 6 of this preamble, Sector reporting requirements described in Item 8 of this preamble, and Sector provisions specified for individual SMPs outlined in Item 12 of this preamble.

Sector Eligibility and Definition

Under the original Sector regulations specified by Amendment 13, permits held in CPH were prohibited from participating in a Sector. This prohibition appears to be merely an unnecessary administrative barrier to participation in Sectors, because permits currently held in CPH can be activated at any time by putting the permit onto a skiff through a vessel replacement. Amendment 16 would remove this prohibition and allow permits held in CPH to join Sectors. In addition, under Amendment 13, only vessels issued a NE multispecies DAS permit could join Sectors. However, because Amendment 16 proposes to rely upon hard TACs to control Sector effort rather than a combination of hard TACs and DAS, vessels issued a limited access NE multispecies Handgear A permit (a permit that is not subject to DAS effort controls) would be eligible to participate in Sectors. Amendment 16 proposes that vessels eligible to join Sectors must have been issued a limited access NE multispecies permit by April 30, 2008. This date was intended to identify permits that were eligible to join Sectors by the start of FY 2008 on May 1, 2008, in anticipation that Amendment 16 would be implemented by May 1, 2009. While April 30, 2008, is the last date a vessel could renew its FY 2007 permit, vessels issued permits as of May 1, 2008, more accurately reflect the Council's intent to identify permits that were eligible to join Sectors during FY 2008, as any permits that were not renewed as of April 30, 2008, would expire and would not be issued a permit as of May 1, 2008. Therefore, NMFS has revised the Sector eligibility criteria proposed in Amendment 16 to reflect that vessels issued limited access NE multispecies permits as of May 1, 2008, not April 30, 2008, are eligible to participate in Sectors under Amendment 16. Finally, consistent with the Council's Sector policy, Amendment 16 would specify a minimum number of participants required to form a Sector by proposing to define a Sector as a group of three or more persons, none of whom have an ownership interest in the other two persons in the Sector. By specifying that the three individuals must not have an ownership interest in one another, Amendment 16 attempts to address concerns that Sectors would be a means to circumvent the individual

transferable quota referendum required by the Magnuson-Stevens Act and minimizes the administrative burden associated with implementing a large number of very small Sectors.

Operations Plan Requirements

Amendment 13 specified a number of required elements that must be included in each Sector operations plan. Amendment 16 would add to those requirements to provide additional details regarding Sector reporting and monitoring provisions, as well as to better understand the composition and effort distribution of participating vessels so that the Council can better evaluate the impacts of Sectors. These additional operations plan requirements include information about overage penalties if a Sector exceeds its allocation for any stock; detailed information about the Sector's independent third-party dockside/roving monitor service provider that meets NMFS standards to monitor Sector landings; detailed information about a monitoring program for discards; a list of all Federal and state permits held by vessels participating in the Sector; a list of specific ports where Sector members will land fish with specific exemptions provided for safety, weather, and other reasons; TAC thresholds and how the Sector would notify NMFS once the threshold has been reached; identification of potential redirection of effort as a result of Sector operations and any efforts to limit the adverse effects of such redirection of effort; and finally how NE multispecies regulated species or ocean pout would be avoided while participating in other fisheries that have a bycatch of NE multispecies regulated species and ocean pout if the Sector does not anticipate being allocated or acquiring an allocation of NE multispecies regulated species from another Sector. This last requirement is only required if the Sector anticipates operating in this manner. Sector operations plans would be required to be submitted by September 1 of each year to ensure that the operations plans and associated analysis are reviewed in time to implement such operations by the start of the next FY on May 1. Operations plans may address sector operations over either a one or a two-year period, provided the analysis is sufficient to cover the duration of the applicability of the operations plan. The Regional Administrator would review each Sector operations plan and associated analysis and approve or disapprove such operations, with implementation through publication of a rule in the **Federal Register**.

Universal Sector Exemptions

Amendment 13 specified that Sectors were not allowed exemptions from particular measures, including year-round closures, permitting restrictions, gear restrictions designed to reduce habitat impacts, and reporting requirements. Amendment 16 proposes to maintain those restrictions, but also to specify certain provisions from which all Sectors would be exempt. These ''universal exemption'' provisions include trip limits on stocks for which the Sector receives an allocation (*i.e.*, all stocks except Atlantic halibut, ocean pout, windowpane flounder, SNE/MA winter flounder, and Atlantic wolffish); seasonal closed areas; NE multispecies DAS restrictions; the requirement to use a 6.5-inch (16.5-cm) mesh codend when fishing with selective gear (*i.e.*, the haddock separator trawl, the Ruhle trawl, or other approved gear) on GB, provided such vessels fish with a 6-inch (15.24-cm) mesh codend; and portions of the GOM Rolling Closure Areas (a full description of the portions of the GOM Rolling Closure Areas applicable to Sectors is further described in this proposed rule). These universal exemptions are intended to minimize a Sector's analytical and administrative burden associated with requesting such exemptions on a yearly basis. Sectors could still request and analyze additional exemptions as part of their yearly operations plans, but such exemptions would need to be approved by the Regional Administrator. The provisions applicable to a Sector, including any exemptions from existing regulations, would be specified in a LOA issued to Sectors by the Regional Administrator, which must be possessed on board participating vessels at all times to facilitate enforcement of Sector provisions.

Sector Allocations, Potential Sector Contribution (PSC), and Annual Catch Entitlement (ACE)

When Sectors were first implemented under Amendment 13, Sectors were only allocated a hard TAC for GB cod, and relied upon DAS to control effort for other stocks. Consistent with the Council's intent to transition from input controls to output controls, Amendment 16 would no longer allow Sectors to use DAS to control effort, relying instead on hard TACs to control Sector catch. Under Amendment 16, Sectors would be allocated fishery resources for all NE multispecies regulated species stocks, with the exception of Atlantic halibut, windowpane flounder, Atlantic wolffish, and SNE/MA winter flounder, and would not be allocated ocean pout. With the exception of SNE/MA winter flounder, these stocks are not allocated to Sectors, because they are primarily bycatch species. Accordingly, vessels have very little landings history for these stocks that, when combined with small overall ACLs, would result in very small Sector allocations for each of these stocks, which would complicate and increase the cost of Sector monitoring and would likely lead to expansive closures once such small allocations are harvested. Instead, the Council has reduced incentives to target these particular stocks by proposing to prohibit possession of these stocks, with the exception of Atlantic halibut, where only one fish per trip would be allowed, consistent with existing regulations. Similar possession restrictions are proposed for common pool vessels, meaning that the ACLs for these stocks would be used primarily to accommodate bycatch in the NE multispecies fishery. Although SNE/MA winter flounder would not be allocated to Sectors at this time, if the status of SNE/MA winter flounder improves, this stock would be allocated in a manner similar to how other stocks would be allocated to Sectors, as described below.

Sector allocations would be in the form of an ACE for each stock, or the maximum amount of a particular stock that a Sector could catch—including both landings and discards—on a yearly basis. Each individual Sector's ACE for a particular stock would represent a share of that stock's ACL available to commercial NE multispecies vessels based upon the cumulative PSCs of vessels participating in each sector. A PSC represents an individual permit's share of the ACL for each NE multispecies regulated species or ocean pout stock based upon the individual permit's dealer landings available to NMFS (see below for further detail), including the landings histories for any permit histories consolidated onto one vessel prior to May 1, 2008, as part of the existing DAS Transfer Program provisions. These PSCs would remain with the limited access permit indefinitely, including upon replacement of a vessel, or consolidation with another limited access NE multispecies permit on another vessel. The ACE allocated to a Sector would be valid only for one FY and would be recalculated on a yearly basis based upon changes to Sector rosters. While Amendment 13 specifically restricted the size of an individual Sector allocation to no more than 20 percent of the yearly TAC for any NE multispecies regulated species or ocean pout stock, Amendment 16

would eliminate that restriction to further facilitate participation in Sectors.

The PSC for each NE multispecies regulated species or ocean pout stock would be based upon historic landings of each stock while operating under the restrictions of a limited access NE multispecies permit, including NE multispecies regulated species or ocean pout caught under a NE multispecies DAS when participating in the skate or monkfish fisheries. With the exception of GB cod, the PSC for each stock would be calculated by summing the dealer landings for each permit during FYs 1996 through 2006. This value would then be divided by the total landings of each NE multispecies stock during the same period by all permits eligible to join Sectors to get the individual permit's share of the available commercial ACL for each stock. The landings history for each permit includes all landings that can be attributed to that permit. For limited access NE multispecies Handgear A permits, this includes landings by the permitted vessel during FYs 1996 through 2003, before the adoption of the limited access Handgear A permit category in 2004. For GB cod, any vessel owner that indicated his/her intent to participate in one of the existing sectors (*i.e.*, the GB Cod Hook Sector or the GB Cod Fixed Gear Sector) by signing a preliminary roster for these sectors by March 1, 2008, would be allocated a GB cod PSC based upon documented landings histories of this stock between FYs 1996–2001, the years selected to determine the GB cod allocation for existing Sectors under Amendment 13. This March 1, 2008, date was selected because, at the time, the Council was intending to implement Amendment 16 by the start of FY 2009 on May 1, 2009, and needed to identify a fixed pool of vessels eligible to participate in Sectors so that PSCs could be calculated. A separate GB cod allocation for vessels intending to participate in one of the existing Sectors was intended to recognize the investment decisions made by such vessels, based upon the Sector allocation criteria established under Amendment 13 in 2004. The value of such investments may be compromised if different allocation criteria would have been selected under Amendment 16. With the one exception for GB cod, the allocation window of FYs 1996–2006 is intended to provide a large qualification window sufficient to smooth out the impacts that yearly changes to regulations may have had on an individual vessel's landings history. Each limited access NE multispecies permit holder was sent a letter identifying that permit's PSC for each stock, as proposed under Amendment 16. A process to correct data used to calculate each permit's PSC for each stock was outlined in a May 1, 2009, letter to all limited access NE multispecies permit holders. This letter is available on the NMFS Northeast Regional Office Web site (*http://www.nero.noaa.gov*).

Each Sector allocated ACE for stocks managed under the terms of the U.S./Canada Understanding (*i.e.*, GB yellowtail flounder, GB cod, and GB haddock) would be allocated a specific portion of such ACEs that could only be harvested from the Eastern U.S./Canada Area. The ACE specified for the Eastern U.S./Canada Area portions of these stocks would be proportional to the Sector's allocation of the overall ACL available to commercial NE multispecies vessels for these stocks. For example, if a Sector is allocated 10 percent of the GB cod ACL available to commercial NE multispecies vessels, that Sector would also be allocated and allowed to harvest 10 percent of that ACE from the Eastern U.S./Canada Area. In this example, if the overall GB cod ACL available to commercial NE multispecies vessels is 1,000 mt, of which 100 mt is specified to the Eastern U.S./Canada Area, this Sector would be allocated 100 mt of GB cod, of which 10 mt would be allocated to, and could be harvested from, the Eastern U.S./Canada Area.

A Sector would only be able to fish in a particular stock area if it is allocated, or acquires through transferring ACE from another Sector, ACE for all stocks allocated to sectors in that stock area. Catch for all allocated NE multispecies regulated species or ocean pout stocks, including both landings and discards, would count against a Sector's ACE for a particular stock. Sector vessels would be required to retain all legal-sized NE multispecies regulated species and ocean pout and could only discard undersized fish for all allocated stocks. Once a Sector's ACE for a particular stock is caught, a Sector would be required to cease fishing operations in that stock area until it could acquire additional ACE for that stock. If, in a particular FY a Sector exceeds its ACE for a particular stock after considering all ACE allocated to that Sector or acquired from another Sector, that Sector's ACE for that stock would be reduced by the amount of the overage in the following FY. If there is insufficient ACE allocated to a particular Sector to cover the overage, vessels participating in that Sector would not be allowed to fish in the stock area for which the overage occurred unless and until that Sector acquires sufficient ACE from another Sector to cover the remaining overage (*i.e.*, the overage that exists after reducing the ACE for that stock to zero for the following FY). For example, if a Sector is allocated 10 mt of GB cod ACE, but catches 25 mt of GB cod during the previous FY, the GB cod ACE for the following FY would be reduced to zero and that Sector would be required to acquire at least 5 mt (*i.e.*, 15 mt overage − 10 mt ACE allocated = 5 mt overage remaining) of GB cod ACE in order to fish in the GB cod stock area during the following FY. If the Sector disbands, individual participating vessels would be subject to a reduction in PSC if participating in another Sector, or a reduction in allocated DAS if participating in the common pool, proportional to the individual vessel's share of the maximum overage that occurred. For example, if a Sector exceeds its GB cod ACE by 10 percent and its pollock ACE by 15 percent, each permit in that particular Sector that enters the common pool during the subsequent FY would receive a 15-percent reduction in its Category A DAS allocation for that FY. If a Sector comprised of 10 permits/vessels exceeds its GB cod ACE by 10,000 lb (4,536 kg) during the previous FY, but later disbands, each permit in that Sector that joins another Sector during the subsequent FY would have its GB cod PSC temporarily reduced by 1,000 lb (453.6 kg) during that FY. A Sector could also specify additional penalties to participating vessels as part of its yearly operations plan. If the Sector does not exceed its ACE for any stock, but other vessels in the common pool or another Sector exceed their sub-ACLs or ACEs, respectively, the Sector's ACE in the following FY would not be reduced as a result of such overages by other groups. This is intended to ensure that groups responsible for exceeding their portion of the ACL for a particular stock do not negatively impact other groups.

If a Sector exceeds its ACE at the end of the FY, it could be held jointly and severally liable for such an overage and may be subject to a permanent reduction in the Sector's ACE (*i.e.*, a permanent reduction in individual vessel's PSCs) or a withdrawal of the approval of that Sector in addition to the penalties described above. Exceeding an ACE may be evidence of inadequate monitoring systems, poor compliance with an operations plan, or a failure to adhere to other regulatory requirements that could potentially result in administrative or enforcement action for these shortfalls,

even if the Sector is able to complete ACE transfers so that an ACE overage does not exist at the end of the FY. In addition to ACE overages, a Sector and its participants could be held jointly and severally liable for discarding legal-sized fish or misreporting catch (both landings and discards).

With the exception of GB yellowtail flounder, a Sector would be allowed to carry over up to 10 percent of unused ACE for each stock into the following FY, even if a Sector's roster has changed between those FYs. Any unused ACE allocated for Eastern GB stocks would contribute to the 10-percent carry-over allowance for each stock as a whole, but would not increase an individual Sector's allocation of Eastern GB stocks during the following year. In addition, a Sector would not be allowed to carry over any unused ACE for GB yellowtail flounder into the next FY. Although the carry-over provisions specific to these stocks are not specifically addressed in Amendment 16, they are necessary to effectively implement the provisions proposed under Amendment 16 due to the conflict between the proposed carry-over provision and the existing U.S./Canada Management Area requirements pursuant to the authority granted to the Secretary under section 305(d) of the Magnuson-Stevens Act. Because the U.S. portions of the TACs for GB yellowtail flounder and Eastern GB cod and Eastern GB haddock are specified on a yearly basis as part of the Understanding, allowing Sectors to carry over any of these stocks could result in U.S. harvest of these stocks exceeding the U.S. portions of these stocks for a particular FY if all vessels fully harvested the TACs specified to either Sectors or the common pool. This could result in a violation of the Understanding and the need to deduct such overages during the following year based upon existing regulations implementing the Understanding. Therefore, the slightly modified carry-over provisions are intended to minimize incentives for Sectors to catch their entire ACE in each FY, and is expected to reduce the likelihood that overages would occur.

ACE Trading

All or a portion of a Sector's ACE for any NE multispecies regulated species or ocean pout stock may be transferred to another Sector at any time during the FY, and up to 2 weeks into the following FY. ACE transfers would be approved by the Regional Administrator through the submission of an ACE transfer request form that details the amount of ACE transferred and any compensation exchanged. The Regional Administrator would approve/disapprove such a transfer request based upon whether the Sector is compliant with applicable reporting requirements, including the weekly Sector catch report described below, and individual VTR requirements. Such transfers would only be valid for the FY requested on the transfer request form. To ensure that such ACE trading does not lead to overfishing, Amendment 16 proposes that NMFS would withhold 20 percent of each Sector's ACE for each stock for a period of 61 days (*i.e.*, through June 31) to accommodate any transfers of ACE late in the FY and to allow sufficient time for NMFS to evaluate Sector catch data to determine if an overage actually occurred.

DAS Transfer Requests by Sector Vessels

The DAS transfer program involves the permanent transfer of a vessel's NE multispecies DAS, along with any other limited access permits and associated fishing history. Because the fishing history of each permit affects the ACE allocated to each Sector, this action would allow a Sector vessel to transfer DAS and associated fishing history to another vessel participating in that vessel's Sector, but would prohibit a Sector vessel from transferring any DAS to or from common pool vessels or vessels participating in a different Sector. This is necessary to facilitate the administration of the DAS Transfer Program without affecting the ACE allocation of each Sector due to such transfers.

Sector Monitoring and Reporting Requirements

Amendment 16 would require Sectors to develop mechanisms to adequately monitor catch and discards by participating vessels. One of these mechanisms is an independent third-party dockside/roving monitoring program that would observe offloads by Sector vessels to ensure that landings are accurately reported. This dockside/roving monitoring program would be required starting in FY 2010, and would be funded by Sectors, unless otherwise specified by NMFS. Dockside monitors would observe offloadings directly to a dealer, while roving monitors would be used to monitor offloads to a truck for later delivery to a dealer. Such a program would need to employ a dockside/roving monitor service provider approved/certified by NMFS based upon specific provider and operational standards developed by the Gulf of Maine Research Institute and members of the fishing industry, in consultation with NMFS, as further described in this proposed rule. During FY 2010, the offloads of 50 percent of trips by each Sector would be randomly observed, with 20 percent randomly observed in future years. In addition, because discards and area fished are critical elements in the monitoring of Sector catch, Sectors would be required to develop an adequate independent third-party at-sea/electronic monitoring program beginning in FY 2012. This program would be used to verify area fished and catch (landings and discards), by species and gear type, for the purposes of monitoring Sector ACE utilization. Coverage levels would be specified by NMFS on a yearly basis, based upon a list of participating vessels and gear types for each Sector. At a minimum, such coverage would need to be sufficient to ensure that the resulting estimate of discards meets the coefficient of variation specified in the Standardized Bycatch Reporting Methodology, but it is expected that coverage is likely to be higher than this minimum standard due to the need to adequately monitor catch (both landings and discards) and to minimize coverage bias in each Sector. Electronic monitoring could be used in lieu of actual at-sea monitors, provided the technology is deemed sufficient by NMFS for a specific gear type and area fished. At this time, NMFS has not deemed electronical monitoring technology sufficient for any gear or area fished. Existing NMFS-funded observer coverage would continue under Amendment 16. Accordingly, any at-sea monitoring coverage provided by an approved Sector at-sea monitoring program would be in addition to the coverage provided by the NMFS-funded observers. If a NMFS-funded observer and an industry-funded at-sea monitor are assigned to the same trip, the NMFS-funded observer would take precedence and the at-sea monitor would not be required to be deployed on that trip. This is intended to provide sufficient coverage, but minimize costs to industry. To facilitate deployment of dockside/roving and at-sea monitors and enforcement of these provisions, Amendment 16 would require vessels to submit trip-start and trip-end hail reports to the dockside/roving and at-sea/electronic monitoring service providers and to NMFS Office of Law Enforcement, unless otherwise specified in a Sector's operations plan, as further described in this proposed rule. The details for any dockside/roving and at-sea/electronic monitoring program must be specified in each Sector's annual operations plans.

Amendment 16 proposes that discards would be monitored through the use of a Sector-specific assumed discard rate, unless NMFS deems that there are sufficient observer or at-sea monitor data available to specify a Sector-specific in season discard estimate for each stock/gear combination specified in the FMP. Once sufficient data are available, the Sector-specific in season discard rate would apply to all trips taken by Sector vessels for the remainder of the FY, in lieu of the assumed discard rate. If a trip is observed by either an observer or at-sea monitor, the discards reported by the observer or at-sea monitor would be used to document discards for that particular trip instead of using an assumed discard rate, regardless of whether the Sector has developed an approved at-sea monitoring program for that FY.

The data and methodology used to calculate a Sector-specific assumed or in season discard rate is considered administrative measures necessary to administer the FMP and monitor Sector catch. As a result, the manner in which such rates are calculated may change on a yearly basis. For FY 2010, NMFS proposes to calculate the assumed discard rate based upon observed trips by Sector vessels during the previous FY, by stock and gear type, as specified in Section 4.2.3.5.3 of the Amendment 16 FEIS. If there are insufficient data to develop an assumed discard rate at this level, a fleet-wide stock and gear discard rate would be used instead. When calculating these discard rates, regulatory discards of legal-sized fish caused by trip limits would be excluded to represent anticipated behavior under Sectors. These assumed discard rates would be calculated as often as practicable, and would be used to add a discard estimate to each landing by a Sector vessel so that total catch can be determined for each stock for each trip. Based upon available funding, NMFS intends to increase the NMFS-funded observer coverage to include approximately 38 percent of Sector trips and 30 percent of common pool trips during FY 2010, and possibly future FYs.

Under Amendment 16, Sectors would be required to submit an annual report to NMFS by July 1 of each year that details information necessary to evaluate the biological, economic, and social impacts of Sectors. The report would be required to include harvest levels of all vessels for all federally managed species, enforcement actions, and other information needed to evaluate the performance of the sector. In addition, Sectors would be required to submit weekly catch reports that detail Sector catch and discard for each stock allocated to that Sector, as instructed by the Regional Administrator. Under this proposed rule, NMFS would require that Sectors provide trip-level catch data, if requested, to facilitate the auditing of Sector catch data to ensure that data used by Sectors are consistent with those submitted to NMFS. This additional requirement is based upon the provision in Amendment 16 that would allow other requirements of Sector monitoring plans to be implemented, as directed by the Regional Administrator.

Authorization of Sectors

Amendment 16 would authorize 17 new Sectors and revise the provisions for 2 existing Sectors. These Sectors are described in Section 4.3.6 of the Amendment 16 FEIS and include the GB Cod Hook Gear Sector, GB Cod Fixed Gear Sector, Sustainable Harvest Sector, Port Clyde Community Groundfish Sector, Northeast Fishery Sectors I through XIII, Tristate Sector, and the Northeast Coastal Communities Sector. All operational aspects of these Sectors would be specified in their annual operations plans, as submitted to NMFS. Details of these operations plans will be published in the **Federal Register** prior to their approval.

15. VMS Requirement

In Framework Adjustment 42, the Council required all vessels fishing under a NE multispecies DAS to use VMS. This was considered necessary to effectively administer and enforce many of the area-specific measures proposed in that action. Although vessels participating in Sectors would no longer be required to use a NE multispecies DAS under Amendment 16, and vessels issued either a limited access NE multispecies Handgear A or Category C permit were never required to use VMS under Framework Adjustment 42, the FEIS neither explicitly requires Sector vessels to continue to use VMS, nor explicitly exempts Sector vessels and those issued either a Category C or Handgear A permit from using VMS. Because the area-specific measures implemented under Framework Adjustment 42 would continue to apply, and because Amendment 16 relies upon VMS as a medium to submit area declaration, hail reports, and catch information necessary to implement provisions proposed under Amendment 16, NMFS is proposing to revise the existing VMS regulations at § 648.10 to require that all vessels issued a limited access NE multispecies permit and fishing under either the common pool measures, or under the restrictions and conditions of an approved Sector operations plan, use a VMS for each NE multispecies trip. Consistent with existing VMS regulations, upon taking either a common pool or a Sector trip, a vessel issued a limited access NE multispecies permitted must maintain an operational VMS for the remainder of the fishing year.

16. Framework Items

Amendment 16 proposes that the following management measures could be adjusted through a framework action, in addition to those measures currently identified as framework measures in the FMP: Process for specifying and distributing ABCs and ACLs; trimester TAC distribution; Sector provisions, including authorized Sectors; PSC calculations; and any other provision implemented under the FMP.

17. Corrections

This proposed rule would also correct a number of inadvertent errors, omissions, and ambiguities in existing regulations in order to ensure consistency with, and accurately reflect the intent of previous actions under the FMP. The following proposed measures are listed in the order in which they appear in the regulations and indicate the genesis of the regulation and/or the cause of the regulatory error.

NE Multispecies Vessel Replacement Regulations

Most of the regulatory text regarding NE multispecies vessel replacements was implemented in 1996 by Amendment 7 to the FMP (61 FR 27709; May 31, 1996). On January 1, 2008, a final rule that added additional restrictions pertaining to vessel replacements became effective (72 FR 43188; August 3, 2007), but the applicability of requirements to vessels with a Handgear A permit may not have been clear. This action would clarify the pertinent regulatory language to make it clear that although the replacement vessel size restrictions do not apply to Handgear A vessels, the limitation on one vessel replacement per year does apply to these vessels.

The proposed action would also clarify the gillnet tag requirements referred to in the permit application requirements portion of the regulations. Framework Adjustment 40B eliminated the gillnet tag requirement for Trip gillnet vessels, but the pertinent regulatory text in the permit applications requirements was not modified. This rule would correct this oversight.

SNE/MA Yellowtail Flounder Trip Limit for the Atlantic Sea Scallop Access Program

The regulations implementing the Atlantic sea scallop access program contain an incorrect trip limit for SNE/MA yellowtail flounder for vessels fishing in the Nantucket Lightship Access Area of 250 lb (113.4 kg) per trip between June 15 and June 30 and up to 1,000 lb (453.6 kg) per trip. This incorrect trip limit corresponds to an outdated seasonal yellowtail flounder trip limit implemented under Amendment 13. Framework Adjustment 42 to the FMP modified the SNE/MA yellowtail flounder trip limit, but the scallop regulations were not revised at the time to reflect this change. This action would revise the Atlantic sea scallop access program regulations to cross reference the correct SNE/MA yellowtail flounder trip limit.

Regional Administrator Authority To Modify or Delete an Existing Exempted Fishery

The process specifying the addition or deletion of an exemption was first implemented in 1994 through an emergency rule (59 FR 63926; December 12, 1994) and subsequently implemented on a permanent basis by Framework Adjustment 9 (60 FR 19364; April 18, 1995). Under these regulations, the Regional Administrator had the authority not only to approve new exemptions, but also to modify or delete exemptions if they may jeopardize meeting fishing mortality objectives. Amendment 13 to the FMP modified this exemption to allow greater flexibility to the Council and NMFS, but inadvertently removed the language that explicitly provided authority to the Regional Administrator to modify or delete an existing exemption. This rule would add such language back in the regulations. This correction, which is consistent with Council intent, would allow greater flexibility to administer the exempted fishery program as NE multispecies regulated species or ocean pout stocks rebuild, while continuing to protect the NE multispecies regulated species or ocean pout stocks.

GOM Scallop Dredge Exemption Area

Framework Adjustment 21 (62 FR 8404; February 25, 1997) implemented the GOM Scallop Dredge Exemption Area. The existing regulatory text provides that limited access general category scallop vessels and limited access scallop vessels, not fishing under a scallop DAS, fishing in the GOM RMA ''may'' fish in the GOM Scallop Dredge Exemption Area. This action would clarify that such vessels fishing in the GOM RMA must fish in the GOM Scallop Dredge Exemption Area and are prohibited from fishing in any other part of the GOM RMA. This action also would clarify that only dredge gear may be used to harvest scallops in the GOM Scallop Dredge Exemption Area.

SNE Scallop Dredge Exemption Area

Amendment 13 implemented the SNE Scallop Dredge Exemption Area. The existing regulatory text states that general category scallop vessels and limited access scallop vessels not fishing under a scallop DAS, fishing in the SNE RMA ''may'' fish in the SNE Scallop Dredge Exemption Area. This action would clarify that such vessels fishing in the SNE RMA must fish in the SNE Scallop Dredge Exemption Area and are prohibited from fishing in any other part of the SNE RMA. This action also would clarify that only dredge gear may be used to harvest scallops in the SNE Scallop Dredge Exemption Area. Lastly, the geographic area defined as the SNE Scallop Dredge Exemption Area currently extends west into the Mid-Atlantic Exemption Area (MAEA), which provides no benefit to fishers, as regulations specified for the MAEA do not include restrictions on scallop vessels such as exempted fisheries similar to other exemption areas. Therefore, the western border of the SNE Scallop Dredge Exemption Area would be corrected to coincide with the eastern border of the MAEA.

Reference to Midwater Trawl as Exempted Gear

To address bycatch of juvenile haddock in the herring fishery, Framework Adjustment 43 implemented an exempted fishery that allows midwater trawl gear to harvest herring. Concurrently this gear was no longer classified as exempted gear. This proposed action would remove an incorrect reference to midwater trawl gear as exempted gear in the GOM Rolling Closure Area regulations that was overlooked when Framework Adjustment 43 was implemented.

Revised Coordinates for Restricted Gear Area 1

Framework Adjustment 22 to the FMP and Framework Adjustment 4 to the American Lobster FMP (March 10, 1997; 62 FR 10747) closed four defined areas to vessels using certain gear types during certain times of the year. The final rule implementing these gear closures inadvertently omitted point 72 of the inshore boundary of Restricted Gear Area 1. This action would insert Restricted Gear Area 1 point 72 to make the regulations consistent with Framework Adjustment 22 and the regulations implementing the American Lobster FMP.

Clarification of the DAS Leasing Program Regulations

Framework Adjustment 40B granted each limited access NE multispecies permit owner a one-time opportunity to downgrade its DAS Leasing Program baseline. The rationale was that, in some cases, vessels are actually smaller than the permit baseline attached to the vessel (due to replacement of a vessel with a smaller vessel) and downgrading the DAS Leasing Program baseline to the actual specifications of the vessel the permit is associated with, would facilitate use of the DAS Leasing Program for those vessels. A downgraded DAS Leasing Program baseline remains in effect until the DAS Leasing Program expires, or the permit is transferred to another vessel via a vessel replacement or through a DAS transfer (unless the transferee vessel baseline is adopted).

The regulations implementing Framework Adjustment 40B failed to address the situation in which a DAS transfer results in a new DAS leasing baseline created for the resultant single permit associated with the vessel (*e.g.*, a vessel adopts the length overall from the transferor and the horsepower from the transferee vessel). This action proposes a clarification to the regulations that would allow a one-time DAS leasing baseline downgrade opportunity for NE multispecies vessels that result from a DAS transfer. This modification is consistent with the overall rationale for DAS Leasing Program baseline downgrades.

Clarification of DAS Transfer Program Regulations

Framework Adjustment 42 modified and clarified the DAS Transfer Program rules. Among these clarifications, Framework Adjustment 42 specified that ''With respect to vessel baseline characteristics, the receiving vessel must adopt the smaller baseline of the two vessels, or if the receiving vessel has not previously upgraded, it may adopt the larger baseline of the two vessels. This would serve as the vessel's one-time upgrade.'' However, the regulations did not address whether or not the receiving vessel involved in a DAS transfer could elect to upgrade a particular specification (*e.g.*, length overall) as part of the DAS transfer transaction, and then upgrade another specification (*e.g.*, horsepower) through a subsequent action (either a vessel

replacement or another DAS transfer). This rule would clarify that the upgrade of any baseline specification under the DAS Transfer program precludes any future upgrades through subsequent transactions. Secondly, Framework Adjustment 42 removed a requirement that the transferor vessel forfeit all other permits (not required to be transferred), but did not modify all the pertinent regulatory text. This proposed rule would remove such text.

U.S./Canada Management Area Restrictions

Amendment 13 implemented the U.S./Canada Management Area regulations and provided the authority for the Regional Administrator to modify various management measures of the U.S./Canada Management Area to prevent over-harvesting of the Eastern GB cod, Eastern GB haddock, or GB yellowtail flounder TACs, or to facilitate achieving the TACs for these stocks. The U.S./Canada Management Area regulations were subsequently modified by Framework Adjustment 40A and other actions. The regulations pertaining to the cod trip limit under the U.S./Canada provisions in § 648.85 do not include language that states when 100 percent of the cod TAC is harvested, the Eastern U.S./Canada Area will be closed, as adopted in Amendment 13. This closure provision is specified elsewhere in the regulations (*e.g.*, § 648.85(a)(3)(iv)(E)), but inclusion of this provision in the context of the cod trip limit regulation would improve the understanding of this regulation.

Corrections to Stock Area Coordinates in the Regular B DAS Program

For the purpose of the Regular B DAS Program closures, stock areas were defined in Framework Adjustment 40A. The area defined for the CC/GOM and SNE/MA stocks of yellowtail flounder overlapped slightly and contained errors in the coordinates specified. This action would correct the coordinates CCGOM12, CCGOM13, and SNEMA5 through SNEMA16 to maintain consistency with the areas adopted under Framework Adjustment 42.

Eastern U.S./Canada Haddock SAP Gear Requirements

Framework Adjustment 40A implemented the Eastern U.S./Canada Haddock SAP Pilot Program. The final rule disallowed the use of the flatfish net in the SAP, but allowed the flatfish net to be properly stowed on board the vessel during such trips. At that time, vessels were not allowed to fish inside and outside of the Eastern U.S./Canada Area on the same trip. In 2006, Framework Adjustment 42 modified the U.S./Canada restrictions to allow vessels to fish both inside and outside of the Eastern U.S./Canada Area on the same trip. Framework Adjustment 42 modified and renewed the SAP for a 2-year period, but did not change the stowage provision. A later rule that implemented gear performance standards (72 FR 72967; December 26, 2007) allowed other gear to be stowed when vessels were fishing in the Eastern U.S./Canada Area, but neglected to modify the regulations that pertain specifically to the Eastern U.S./Canada Haddock SAP to reflect this broader change. This action, therefore, would correct the regulations to allow the stowage of other types of gear when fishing in the Eastern U.S./Canada Haddock SAP, to be consistent with the overall rules for the Eastern U.S./Canada Area.

18. Transfer of ACE by NOAA-sponsored Permit Banks

NMFS is proposing that any state-operated permit bank sponsored by NOAA be considered a Sector for the exclusive purpose of transferring ACE to qualifying Sectors. NMFS is currently working with the Maine Department of Marine Resources on a Memorandum of Agreement that would establish a permit bank operated by the State of Maine and sponsored by NMFS. Allowing a permit bank to lease ACE to Sectors would facilitate the ability of the permit bank to minimize any adverse socio-economic impacts to fishing communities associated with catch-share programs.

Permit banks would be allocated ACE for a FY based on the PSCs of permits owned by the permit bank that are declared as ACE permits for that fishing year. Similar to the annual election decision of a permit holder to enroll his/her limited access NE multispecies permit in a sector or fish in the common pool, a permit bank would make an annual declaration for each permit as either an ACE permit or a DAS permit.

All or a portion of a permit bank's ACE for any NE multispecies stock would be eligible for transfer to a qualifying Sector at any time during the FY. Qualifying Sectors would be determined by the provisions of the Memorandum of Agreement between NMFS and the state operating the permit bank. Permit banks would only be authorized to act as the transferor in an ACE transfer and would be prohibited from acting as the transferee in an ACE transfer.

Request for Comments

The public is invited to comment on any of the measures proposed in this rule. NMFS is especially interested in receiving comments on the following proposed substantive measures: Description of the rope trawl, integration of wolffish into the trimester TAC AM and the proposal not to include a trimester TAC trip limit adjustment under this AM, as described in Item 6 of this preamble; potential disapproval of the GOM Haddock Gillnet Pilot Program, as described in Item 9 of this preamble; and NMFS's interpretation of the May 1, 2008, date to determine eligibility for Sector participation, as described in Item 14 of this preamble. NMFS is also specifically seeking public comment on several measures proposed in this action that are necessary to administer, enforce, and implement provisions adopted by the Council in Amendment 16. These measures include: (1) Increased frequency of VTR submissions; (2) pre-trip observer notification requirements; (3) description of the rope trawl for use in RGAs; (4) DAS allocation and charging provisions for Sector vessels; (5) operational standards for dockside and at-sea monitoring programs, including trip start and end hail reports; (6) details of Sector catch reports; (7) carry-over restrictions for unused ACE for transboundary stocks managed by the Understanding; (8) details for the AMs that would be triggered if the overall ACL for a stock is exceeded, (9) VMS requirement for Sector vessels; and (10) ACE trading provisions for permits in a NOAA-sponsored permit bank. While noting statutory constraints on its flexibility to add any new substantive measures, NMFS encourages the public to provide input on more effective, efficient, and less costly ways to implement the measures proposed under Amendment 16.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 16 to the NE Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. Further, pursuant to section 303(c) of the Magnuson-Stevens Act, the Council has deemed this proposed rule as necessary and appropriate to implement Amendment 16.

The Council prepared a DEIS, which analyzed the impacts of all of the measures under consideration in

Amendment 16. A notice of availability of the DEIS was published on April 24, 2009 (74 FR 18705). In summary, the alternatives considered would reduce fishing mortality on most NE multispecies stocks, with impacts varying among stocks and alternatives considered. The alternatives considered in the DEIS would have met the biological objectives for most, but not all of the stocks managed by the FMP. The alternatives considered have since been revised to ensure that all alternatives achieve the biological objectives of this action, with the exceptions noted above. None of the alternatives considered are expected to have adverse impacts on EFH or protected species beyond those described by earlier actions. The economic impacts analyzed in the DEIS have been revised based on changes to the measures since the publication of the notice of availability and are summarized below in the discussion of the IRFA. Although there would likely be short-term negative economic and social impacts associated with this action, there would likely be positive long-term biological, economic, and social impacts as stocks rebuild and more sustainable fisheries and fishing communities are maintained.

This rule has been determined to be significant for purposes of E.O. 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY. A summary of the analysis follows. In this analysis, the baseline (no-action alternative) is the set of measures that were in place during FY 2008 (*i.e.*, the measures implemented prior to the FY 2009 interim action). Tables and sections that are referenced in this IRFA refer to those contained in the FEIS developed for Amendment 16. A copy of this analysis is available from the Council (see **ADDRESSES**).

Description of and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

The proposed action would substantially change the provisions developed under Amendment 13 affecting Sector formation and effort controls for commercial fishing vessel owners that do not choose to join a sector. Among vessel owners that possess a permit to land regulated species or ocean pout, only limited access permit holders would be eligible to join a Sector under Amendment 16, including those held in CPH. Vessel owners that possess only an open access permit would continue to be regulated through effort controls under the provisions of the common pool.

The proposed action would implement changes affecting any vessel holding a limited access NE multispecies permit, an open access handgear permit (Handgear B permit), and vessels that hold an open access charter/party permit. Based on FY 2007 data contained in Sections 6.2.3 and 6.2.5.5 of the Amendment 16 FEIS, the total number of small entities that may be affected would be 3,854 permit holders, including 1,530 limited access permit holders, 1,292 open access Handgear B permit holders, and 762 open access charter/party permits. Of the 1,292 vessels issued Handgear B permits, only 75 reported landing cod, suggesting that the number of such permits affected by this action may be substantially smaller than the number of vessels actually issued Handgear B permits. However, past fishing activity may not be an accurate predictor of future fishing activity, particularly because Amendment 16 would substantially increase cod possession limits for vessels issued Handgear B permits. During FY 2007, 128 of the 762 open access charter/party permit holders reported taking at least one for-hire trip, of which 74 reported keeping NE multispecies on one or more trips. An additional 29 limited access permit holders reported taking passengers for hire, of which 18 reported keeping NE multispecies on one or more for-hire trips. Thus, a total of 92 charter/party operators participated in the charter/party recreational NE multispecies fishery during FY 2007. As of September 1, 2009, 723 vessels elected to join a Sector during FY 2010, as determined through the submission of annual Sector operations plans. However, vessels may withdraw from Sectors until the beginning of FY 2010 on May 1, 2010. Therefore, because participation in Sectors is voluntary, the number of vessels that will actually participate in Sectors during FY 2010 and future years is likely to fluctuate based upon whether joining a Sector or fishing under common pool measures offers the greater economic advantage to each individual vessel.

The Small Business Administration (SBA) size standard for commercial fishing entities (NAICS code 114111) is $4 million in sales, while the size standard for charter/party operators (part of NAICS code 487210) is $7 million in sales. Available data indicate that, based on 2005–2007 average conditions, median gross sales by commercial fishing vessels were just over $200,000, and no single fishing entity earned more than $2 million. Available data are not adequate to identify affiliated vessels, so each operating unit is considered a small entity for purposes of the RFA. For regulated charter/party operators, the median value of gross receipts from passengers was just over $9,000, and did not exceed $500,000 in any year during 2001 to 2007. Therefore, all regulated commercial fishing and all regulated charter/party operators are determined to be small entities under the RFA, and, accordingly, there are no differential impacts between large and small entities under this proposed rule.

Economic Impacts of the Proposed Action

Overall Measures

Revised Status Determination Criteria and Rebuilding Programs

Amendment 16 would revise the status determination criteria for each stock, implement new rebuilding programs for stocks newly classified as overfished, and update existing rebuilding programs. The revised status determination criteria would produce a MSY that is approximately 75 percent of the MSY of the existing status determination criteria. Accordingly, revenues associated with rebuilt stocks under Amendment 16 would be expected to be less than under the existing status determination criteria. However, the existing status determination criteria are no longer based upon the best available science and may not represent biomass or F levels that are sustainable. The new or revised rebuilding programs would result in reduced yield and, therefore, reduced revenue in the short term for some stocks, but should lead to higher yields and revenues than those expected from the no action alternative in the long term when stocks are rebuilt.

ABC/ACL Setting Process

Amendment 16 proposes a process by which ABCs/ACLs would be established for each stock. Based upon National Standard 1 Guidelines, this process would include setting ABCs and ACLs below the OFL for each stock to account for scientific and management uncertainty. This results in an opportunity cost to all vessels that catch NE multispecies in the form of reduced yield for each stock. In addition, this process would distribute the available ACLs among components of the fishery that catch NE multispecies, including both the directed commercial and

recreational fisheries, and fisheries that catch NE multispecies as bycatch. The allocation between commercial and recreational fisheries may prove to constrain catches of each of those user groups, especially if future catch rates differ from historical patterns. AMs would be specified for the directed fisheries, but most fisheries that catch minor amounts of NE multispecies as bycatch would not be subject to any AMs due to the high administrative cost and complexity associated with monitoring catch in these fisheries. However, because an overage in the total ACL for any stock would need to be made up by the component of the NE multispecies fishery that is subject to AMs, the directed fishery would be subject to reductions in catch and the associated economic impacts as a result of any AMs triggered by an overage in other fisheries.

Simultaneous Issuance of a Limited Access Atlantic Sea Scallop and a Limited Access NE

Multispecies Permit

This measure would enable vessel owners to make more efficient use of existing capital by allowing limited access scallop permit holders to acquire a limited access NE multispecies permit and vice-versa, resulting in higher profitability and lower costs associated with operating two separate vessels. Because the scallop fleet has access to more capital and is generally located in SNE, the proposed action could change the distribution of NE multispecies activity as well as the competitive position of NE multispecies vessels to focus fishing effort on GB and SNE stocks of NE multispecies. Based upon analysis included in Section 7.5.1.2.9 of Amendment 16, the major NE multispecies principal port states—Maine, New Hampshire, Massachusetts, and Rhode Island—are likely to experience a net loss in the number of NE multispecies permits by the acquisition of limited access NE multispecies permits by scallop vessel owners, as will New York. Connecticut, New Jersey, and Virginia could see a net increase in the number of NE multispecies permits.

Size Limits for Haddock and Atlantic Halibut

Amendment 16 would decrease the haddock minimum size limit to 18 inches (45.7 cm). Reducing the minimum size for haddock would allow the landing of some undersized fish that would otherwise be discarded, and increase fisheries revenues, provided gear selectivity does not change. If selectivity or fishing patterns change to target these smaller fish, the increase in revenue caused by landing smaller fish would be offset by yield lost because those fish would not be harvested at older ages and sizes. The gains from this measure will likely fluctuate as year class size changes. When a large year class enters the fishery, as was the case with the 2003 year class in 2007 and 2008, this measure would have more of an impact on revenues than when average or below average year classes recruit to the fishery.

Amendment 16 would increase the minimum size limit for Atlantic halibut to 41 inches (104.1 cm) to reflect the median length at maturity for female halibut in the GOM and increase opportunities for additional halibut to spawn prior to capture. Available data indicate that revenue from landings of Atlantic halibut ranged from $96,000 in CY 2004 to $232,000 in CY 2007. However, the mean size of landed fish was 35.6 inches (90.5 cm), less than the current minimum size of 36 inches (91 cm). Therefore, assuming full compliance with the increased size limit, the proposed action would likely reduce revenue from landings of Atlantic halibut, but by an unknown amount.

Reporting Requirements

Amendment 16 proposes a series of new reporting requirements that would involve costs to vessels issued a NE multispecies permit and operating either under a NE multispecies DAS or on a Sector trip. These vessels would be required to declare the broad stock areas to be fished prior to each trip and, for vessels fishing in multiple broad stock areas, an estimate of landings of each species from each broad stock area prior to returning to port. These reports would be sent via VMS at a cost to industry of approximately $0.764 per declaration, or approximately $1,910 for all vessels each year. The vessels most affected by this provision include those that fish at least part of a trip in the Inshore GB Stock Area 2, an area just off the eastern shoreline of Cape Cod, MA—a smaller area that is often fished in during multi-area trips. In addition, these vessels would be required to provide a pre-trip notice via a call to the NMFS NEFOP to facilitate the deployment of observers, but this would not result in any additional costs to industry participants.

Measures Applicable to Commercial Vessels

Common Pool Measures

The Closed Area Model (CAM) was used to estimate both the biological and economic impacts of effort controls proposed under Amendment 16. This model has been successfully employed to estimate the impacts of previous actions. The details of the latest iteration of the CAM, including improvements made to the model since it was last used to evaluate the impacts of Framework Adjustment 42, are detailed in Appendix II of Amendment 16.

Since the number of vessels that would join a Sector was not known at the time the economic analysis contained in the Amendment 16 FEIS was completed, the economic impacts of the proposed action effort control measures reported in Section 7.5.11.1.3 were based on the assumption that no new Sectors were formed. Under this assumption, vessels operating under the common pool may be expected to experience total fishing revenue losses of 9.8 percent ($15.4 million) relative to a 2005–2007 baseline. This impact is only slightly larger than the estimated reduction in revenue associated with the interim action measures (9.5 percent, or $14.8 million) using the same 2005–2007 baseline. This means that the aggregate impact of the proposed action may have only slightly higher economic impacts beyond those expected to occur as a result of the 2009 interim action. However, since there are substantial differences between the 2009 interim action and the proposed action, the impacts may be expected to differ among participating vessels even though the aggregate estimated impacts were similar.

Estimated impacts for the proposed action suggest that the impact on fishing revenue may be expected to be larger on smaller vessels, in terms of length overall, compared to larger vessels. Similarly, impacts on gillnet vessels tended to be higher than impacts on trawl vessels. These tendencies may be a reflection of the differential impacts associated with Trip or Day gillnet boat status. That is, both Trip and Day boats are affected by the same DAS reduction. However, the 24-hr clock is likely to have a larger impact on Day boats, since most Day-boat trips are less than 24-hr in duration. In some respects, the 24-hr clock has economic effects that are similar to differential DAS counting, since the number of trips that may be taken given the same allocation of DAS is reduced. The extent to which the increased trip limit for GOM cod

mitigates this effect on Day boats is uncertain, however.

The proposed action would implement two restricted gear areas that would limit the use of fishing gear to gear that meet specified performance characteristics and would reduce bycatch of flatfish—winter flounder and yellowtail flounder in particular. The designated restricted gear areas correspond to the SNE/MA stock areas for these two species. Vessels that elect to fish in the common pool would be required to adopt specialized gear at an estimated cost of $13,000 for a complete setup, or about $750 per vessel to modify existing gear. Sector vessels would not be subject to the restricted gear area provisions.

Amendment 16 proposes to increase trip limits for cod and yellowtail flounder, but prohibit the retention of SNE/MA winter flounder, windowpane flounder, ocean pout, and Atlantic wolffish. The increased possession limit for cod may be expected to offer improved economic opportunities to all common pool vessels, but particularly to vessels currently issued a NE multispecies Handgear B permit, including the 75 vessels that have recently landed cod under this permit, and fishing businesses that may acquire such a permit in the future. The expected economic impacts of the collective suite of revisions to trip limits are captured in the cumulative analysis of common pool measures described above. Given recent landings trends, the proposed prohibition on the possession of Atlantic wolffish would reduce commercial fishing revenues, including revenues by both common pool and Sector vessels, by roughly $100,000 to $150,000 per calendar year. These lost revenues would not be replaced in the near future unless the stock rebuilds rapidly, which is not expected.

The principal common pool effort controls under the proposed action (*i.e.*, DAS reductions and 24-hr DAS counting) would apply to limited access vessels that are managed by DAS (*i.e.*, vessels issued a limited access NE multispecies Category A, D, E or F permit), but would not affect either Category C permits (small vessel exemption), or Handgear A vessels. While the DAS restrictions would not affect these vessels, they would benefit from the same increase in trip limits applicable to DAS vessels, including the change in trip limits for GOM cod and CC/GOM yellowtail flounder under common pool measures. The GOM cod possession limit would be increased from 300 lb (131.6 kg) to 750 lb (340.2 kg) per DAS, while the overall CC/GOM yellowtail flounder trip limit would increase from 1,000 lb (453.6 kg) per trip to 1,500 lb (680.4 kg) per trip (the daily limit would be maintained at 250 lb (113.4 kg) per DAS). Additionally, since vessels with these permits are not regulated by DAS, they would not be subject to the proposed commercial common pool AMs. Given the economic considerations presented by the effort control measures, vessels with limited access Category C or Handgear A permits may be expected to have comparatively little PSC to bring to a Sector, and may be expected to have substantially improved economic opportunities under the common pool measures compared to the FY 2009 interim action. In fact, none of the 11 limited access Category C permit holders had elected to join a Sector as of September 1, 2009, and only 6 of the 130 Handgear A permit holders had elected to join a Sector. Of the remaining 522 limited access NE multispecies vessels that had not elected to join a Sector, 337 DAS permit holders had no Category A DAS, of which 164 had not qualified for a PSC for any stock. These vessels may still be able to participate in the NE multispecies fishery, but would only be able to do so through the DAS Leasing Program. Among the vessels that did not join a Sector and either had some PSC and/or had been allocated at least one Category A DAS, the reasons for electing to remain in the common pool are uncertain. Many of these vessels may have had low PSCs, may have not been accepted by any Sector, considered the cost of joining a Sector to be too high, or made a business decision in which the economic opportunities of fishing under effort controls to be superior to joining a Sector.

An evaluation of the number of Category A DAS that are necessary to cover annual fixed costs is described in Section 7.5.1.3.1.2 of Amendment 16. This analysis suggests that the total number of Category A DAS needed for all limited access permit holders that participated in the NE multispecies fishery to break even were estimated to be 34,078 DAS. However, many vessels cannot break even on their DAS allocations alone, and rely on the DAS Leasing Program to acquire the additional DAS needed to remain profitable. The proposed action would reduce Category A DAS by 50 percent and is expected to result in about 22,000 allocated Category A DAS. The two proposed changes to DAS charging measures (*i.e.*, 24-hr DAS counting and elimination of differential DAS counting) would have little impact on the break-even DAS needed for a vessel that has been conducting fishing trips that are longer than 24 hr in duration, but may increase the break-even DAS needed for vessels that have been conducting fishing trips that are less than 24 hr in duration. While the trip limit changes may offset some of the need for additional DAS for vessels that fish in the GOM and GB, it is unlikely that the same benefits will occur in the SNE area due to the prohibition on the retention of SNE/MA winter flounder. Although carry-over DAS from the previous FY, and DAS available through the DAS Leasing Program, may potentially mitigate the potential shortage of available DAS, overall, there are not enough Category A DAS to cover annual fixed costs. However, for vessels that can access and participate in the CA I Hook Gear Haddock SAP, the Regular B DAS Program, the Eastern U.S./Canada Haddock SAP, and/or the modified CA II Yellowtail Flounder/Haddock SAP, there may be enough opportunities to use Category B DAS that the vessels can cover fixed costs.

DAS Leasing and Transfer Revisions

The DAS Leasing and Transfer Programs would be revised under Amendment 16 to facilitate participation in these programs by allowing permits in CPH to participate, eliminating the DAS conservation tax in the DAS Transfer Program, and by eliminating the cap on DAS that may be leased. Allowing permits in CPH to participate in this program would eliminate some of the administrative burden and costs associated with activating a permit, such as postage, documentation fees, etc. Eliminating the conservation tax for DAS transfers would likely encourage participation in this program. However, while eliminating the conservation tax may improve the financial gain to the owner through increased opportunities to fish (*i.e.*, more DAS or ACE) and reduced operation costs, such gains may not be sufficient to offset the financial loss associated with having to give up duplicate permits as part of this program. Note that this financial loss may be in terms of business equity rather than a loss in current fishing income or profitability since the value of retaining two vessels with a suite of permits may be larger than the value of a single vessel with the same number of DAS but fewer permits. Finally, by removing the DAS leasing cap, one vessel can fish all of those DAS, reducing the fixed costs of maintaining two vessels and increasing the efficiency of operating multiple vessels. Because the CAM has been revised to account for exchanges of DAS through

the DAS Leasing Program based upon previous individual vessel participation in the DAS Leasing Program, the ability of the DAS Leasing Program to help mitigate the economic impacts of proposed effort controls is incorporated into the overall economic impacts of common pool measures, as discussed above.

SMPs and SAPs

Amendment 16 would revise the existing SAPs to facilitate the targeting of healthy stocks of haddock, including the continuation of the Eastern U.S./Canada Haddock SAP, and would revise the provisions of the Regular B DAS Program to reduce catch of pollock in this program to rebuild this stock. Changes to the CA I Hook Gear Haddock SAP would provide greater access to the SAP among Sector and common pool vessels alike. The overall haddock TAC for this SAP would still limit the total economic gain and potential removals from the SAP, but since the TAC had not been reached in the past, these changes increase the likelihood that the full benefit from the SAP would be realized. Changes to the CA II Yellowtail Flounder/Haddock SAP would also increase economic return to participating vessels, as more of the available Eastern GB haddock TAC available to U.S. vessels would likely be harvested. However, given its distance from shore, vessels able to take advantage of this economic opportunity would be limited to larger vessels. There would be some costs incurred to participate in this SAP, as specific gear is required, but these costs are likely to be incurred anyway as the vessels that fish in this SAP probably have already obtained the gear to fish in the Eastern U.S./Canada Haddock SAP and the Eastern U.S./Canada Area.

The elimination of the SNE/MA Winter Flounder SAP under Amendment 16 would prohibit vessels fishing for summer flounder in western SNE from landing up to 200 lb (90.7 kg) of SNE/MA winter flounder without the use of a NE multispecies DAS. Based on historical data, it is likely that the revenue losses from this change will not exceed $200,000 per year and are likely to be closer to $150,000. Since this action also proposes to prohibit the possession of SNE/MA winter flounder, even if a vessel is allocated NE multispecies DAS, it may incur an opportunity cost by not being able to use those DAS to land SNE/MA winter flounder, but could gain back some losses by leasing those DAS to another vessel.

Common Pool AMs

For common pool vessels, a differential DAS counting AM would be implemented for FYs 2010 and 2011, while a trimester TAC AM with associated area closures and trip limit adjustments would be implemented for FY 2012 and beyond under the proposed action. Generally, increasing the differential DAS rate throughout the fishery as a result of an ACL overage would reduce the number of DAS available to the fishery and make it more difficult for NE multispecies fishing vessels to recover fixed costs. If the differential DAS rate is reduced because catches are below ACLs for all stocks, the opposite occurs: More DAS become available and revenues and profits would be expected to increase. Changes in differential DAS counting in one area and not another may result in effort shifts that not only modify the expected biological impacts of the measure, but that could alter the economic impacts. Increased fishing in areas that are not subject to differential DAS counting as a result of implementing differential DAS counting in other areas under this AM might result in higher landings of certain species of fish from these areas that depress prices for such stocks and reduce revenues for vessels fishing in these areas. Further, if the differential DAS AM is triggered by an ACL overage for a minor stock, yields for all stocks caught in the area would be reduced, even those that are healthy. Thus, vessels may be affected by differential DAS counting due to an overage for a stock that they may not even catch. Starting in FY 2012, the triggering of area closures and revisions to trip limits under the trimester TAC AM may disrupt the market and result in fluctuating prices. This system would also impose additional costs on common pool vessels, as they would be responsible for paying for dockside monitoring costs for 20 percent of common pool trips. Unlike Sectors, common pool vessels would remain subject to the inefficiencies of the effort control system and are limited in their ability to modify behavior to increase profits and absorb the increased reporting costs. Over the long-term, the implementation of effective AMs would be expected to contribute to rebuilding of NE multispecies stocks as biological objectives are achieved. This would be expected to increase the revenues for the commercial fishery and the recreational harvest as fishermen benefit from stock rebuilding. However, specific AMs could have different economic impacts based upon the measures implemented at that time.

Sector Measures

The proposed action would allow any vessel owner that holds a limited access NE multispecies permit to join a Sector, or remain subject to the effort controls of the common pool, offering vessel owners greater flexibility in making business decisions. This means that the decision whether or not to join a Sector may be expected to be based on whether joining a Sector, or opting to stay in the common pool, offers the greater economic advantage. Since Sectors would be granted a set of universal exemptions and may request additional exemptions from other regulations, Sector vessels may be able to operate in a more economically efficient manner. For example, trawl vessels in Sectors are likely to increase catch rates and fish fewer days, reducing trip costs and increasing profitability. However, the economic benefits of Sector participation also depend on ACE allocations. Because Amendment 16 proposes to prohibit the possession of SNE/MA winter flounder, it would be difficult for sectors using trawl, and perhaps gillnet gear, to identify fishing techniques that can be used in the SNE/MA stock area without catching SNE/MA winter flounder—particularly if the vessels intend to target yellowtail flounder. For this reason, certain Sectors that intend to operate in this area may receive limited economic benefits from this action, and joining Sectors may actually limit fishing opportunities for vessels that operate in these areas.

Sectors would have to bear the administrative costs associated with administering and monitoring Sector operations, including costs associated with a Sector manager, dockside monitoring, and at-sea/electronic monitoring. The magnitude of the administrative costs for Sector formation and operation was estimated to range from $60,000 to $150,000 per Sector, and the potential cost for dockside and at-sea monitoring ranged from $13,500 to $27,000 per vessel. Although these estimates are uncertain, they serve to illustrate the fact that the potential administrative costs associated with joining a sector may be expected to influence a vessel owner's decision. At least for FY 2010, the majority of these administrative costs would likely be subsidized by NMFS. Whether these subsidies, which include providing financial support for preparation of Sector EAs, dockside monitoring, and at-sea monitoring, will continue beyond FY 2010 is not known. Nevertheless, these subsidies may make joining, or

continuing to participate in a Sector a more attractive economic alternative during FY 2010 than otherwise. However, since Sectors are self-selecting, some vessel owners may not be accepted into the Sector of their choice, or any Sector at all. Vessel owners with little or no PSC to contribute to a Sector's overall ACE may find it difficult to find a Sector that will accept them and may be forced to remain in the common pool.

The proposed action would allow ACE to be traded between Sectors to provide additional flexibility in the event that: (1) The initial portfolio of ACE for each Sector does not match the Sector's desired ACE portfolio, or (2) a Sector exceeds its ACE and needs additional ACE to cover the overage and continue fishing. The qualification criterion used to compute the PSC for each stock means that allocations of ACE may or may not be consistent with recent fishing patterns. While inter-Sector trading of ACE will allow Sectors to balance initial and desired quota allocations, this is not likely to be a costless transaction. Based on Sector rosters submitted to NMFS as of September 1, 2009, the potential shortfalls or surplus in ACE for any given Sector was evaluated for each Sector. For several Sectors, there was reasonable correspondence between recent landings and the Sectors' ACE. In other cases, Sectors either have substantial potential surplus or deficits, depending on the stock. Thus, some Sectors may need to rely upon ACE trading to ensure that sufficient ACE is available to maintain fishing operations, at least when compared to recent fishing activity, even though it is unclear whether recent fishing patterns by participating vessels would continue under Amendment 16.

The economic impacts of the proposed Sector measures cannot be reliably quantified, since any given Sector may be expected to operate in a different manner. A quantitative estimate of the economic impact of the proposed action effort control measures on fishing businesses were reported in Section 7.5.11.1.3 of Amendment 16. However, a more precise estimate of the economic impact of each Sector is expected to be included in the environmental assessment accompanying annual Sector operations plans submitted to NMFS for approval and implementation for FY 2010. Since joining a Sector is voluntary, the economic impact on individual small fishing businesses that choose to join a Sector may be expected to be less than that estimated for the common pool.

Measures Applicable to Recreational and Charter/Party Vessels

The proposed action would effectively continue most of the management measures implemented under the 2009 interim action, with the exception of the GB cod trip limit of 10 cod per person per day for charter/party vessels. For this reason, the proposed action would not have any economic impacts over and above what had previously been analyzed, but would likely have fewer economic impacts than the 2009 interim action due to the absence of a possession restriction on GB cod for charter/party vessels. The manner in which the realized economic impacts during FY 2009 and continuing into FY 2010 and beyond may differ from that discussed below cannot be assessed at this time because FY 2009 will not end until April 30, 2010. A full description of the economic impacts of proposed recreational measures is included in Section 7.5.1.3 of Amendment 16.

Available data indicate that about two-thirds of the 92 charter/party vessels that participated in the NE multispecies fishery during FY 2007 would not be adversely affected by the proposed action. These vessels did not take any trips in the GOM during April 1 to April 15 on which cod were retained, and did not report keeping any winter flounder in the SNE/MA stock area. The remaining 29 participating vessels were estimated to lose an average of $10,393 in sales annually due to potential lost passengers as a result of the proposed measures for the recreational fishery.

The realized impact on charter/party vessels is uncertain, since impacts depend on angler response to any one of the proposed measures. These responses may be expected to have different impacts depending on where charter/party operators are located. The majority of charter/party operators from Maine, New Hampshire, and Massachusetts take trips exclusively in the GOM. Passenger demand in these three states would only be adversely affected by the 2-week extension of the closed season on GOM cod. While charter/party operators may be expected to try to shift trips that would otherwise have taken place during early April to later in the month, or into May, the ability to do so may be limited. At least some of the impacts of the extended closure may be offset by the reduction in the haddock size limit, as this action would increase the number of opportunities for charter/party passengers to keep more haddock. Since the majority of occasions where haddock were kept occurred in the GOM, to the extent that charter/party demand is influenced by the chance to keep more fish, passenger demand may be expected to increase for GOM charter/party operators.

Unlike the charter/party passengers in the GOM, anglers taking charter/party trips may be affected by the prohibition on keeping SNE/MA winter flounder. Compared to angler response to the GOM cod closure, adverse angler response to this measure may be larger because it would affect all trips, not just trips during a particular season. The prohibition on retaining winter flounder may be particularly sensitive, since the winter flounder season is short and occurs during early spring when the availability of substitute species is limited. Angler trip demand is believed to be driven by expectations, and the extent to which those expectations may be constrained by regulation may be anticipated to influence demand. This measure is likely to have a larger impact on charter/party operators from Rhode Island to New Jersey. Since the number of trips that also landed haddock is likely to be comparatively small, reduced passenger demand for trips in the SNE/MA area may not be expected to be offset by the reduction in the haddock size limit.

In addition to the measures implemented by the 2009 interim action, the proposed action would remove the limit on the number of hooks, remove the prohibition on filleting fish at sea, establish a process for implementing AMs if a sub-ACL specified for the recreational fishery is exceeded, revise the minimum size limit for Atlantic halibut, and prohibit the retention of Atlantic wolffish. The removal of the hook limit and the prohibition on filleting fish at sea would provide some economic relief to charter/party operators, although the relative magnitude of this relief is uncertain. Removal of the limit on hooks would likely increase the probability of catching NE multispecies, resulting in higher catch rates. Higher catch rates may also increase the probability of catching a legal sized fish and the number of legal-sized fish that may be kept. This is particularly important in so-called meat fisheries where the opportunity of landing larger numbers of legal-sized fish for personal consumption is an important factor influencing participation in the fishery. Therefore, removal of the hook limit would enhance the value of a recreational fishing trip, even if the number of fishing trips does not change. The magnitude of these economic benefits is uncertain as economic

studies of the relationship between improved catch rates and improved recreational fishing values have yet to be conducted. However, the economic benefits of improved catch rates may be offset if the catch exceeds the ACLs specified for the recreational fishery and triggers AMs. Because any AMs would reduce the catch of cod and haddock by the recreational fishery (the only two stocks that would be allocated a recreational sub-ACL under Amendment 16), if AMs are triggered, the value of a recreational trip would be decreased, although the magnitude of that decrease would depend upon the AM implemented. Since the AMs proposed in this action would only be developed once an overage has occurred, the expected impacts of such AMs cannot be predicted in this action, but would be analyzed in the action to implement such AMs, once triggered. However, such AMs are likely to be based upon existing measures such as seasonal closures for GOM cod, and bag/size limits for both GOM cod and GOM haddock. Therefore, because these measures would reduce opportunities to catch these stocks, recreational AMs would likely decrease both the opportunity to catch fish in the recreational fishery and the value of recreational trips for these stocks. At-sea filleting of fish may be expected to increase the quality of services that charter/party operators may offer to their customer base. Whether this service increases the demand for charter/party trips is uncertain, but it would increase the overall value of the recreational fishing experience. The change in Atlantic halibut size limit may be expected to have negligible, if any, economic impacts on the recreational NE multispecies fishery, as recreational catch of Atlantic halibut is very low, with only two Atlantic halibut, of unknown size, estimated to be caught by charter/party vessels in any one FY. A prohibition on the retention of Atlantic wolffish would result in some reduction in economic value to recreational NE multispecies anglers, although the magnitude of this reduction is uncertain. Although the economic value for anglers that may target wolffish may be expected to be negative, these trips represent such a small proportion of total angler trips that the magnitude of total economic impact is likely to be small and unlikely to appreciably affect the demand for charter/party trips.

Frameworkable Measures

The Council has submitted, for approval, a number of measures that would be frameworkable. There are no economic impacts from this measure. However, each future framework action would need to contain an analysis of economic impact when applicable.

Measures Proposed To Mitigate Adverse Economic Impacts of the Proposed Action

The proposed action contains a number of measures that would provide small entities with some degree of flexibility to be able to offset at least some portion of the estimated economic impacts associated with proposed measures. The major mitigating measures include revisions to the DAS Leasing and Transfer Programs; revisions to existing SAPs to facilitate the targeting of healthy stocks of haddock; revisions to Sector measures; and increased trip limits for certain stocks.

As noted above, changes to the DAS Leasing and Transfer Programs are intended to eliminate administrative obstacles that limited participation in these programs. This is likely to increase participation in these programs and increase the economic efficiency of vessel operations and increase the possibility that vessels fishing under a NE multispecies DAS, particularly common pool vessels, would be able to acquire sufficient DAS to meet annual operating expenses and remain economically viable despite additional effort controls in the NE multispecies fishery. These benefits would not accrue under the no action alternative for each of these measures, therefore the proposed action is preferable to the no action alternative to minimize the economic impacts of proposed measures.

Revisions to the existing SAPs would facilitate the harvest of haddock by continuing the Eastern U.S./Canada Haddock SAP, expanding both the season and area for the CA I Hook Gear Haddock SAP, and revising the existing CA II Yellowtail Flounder SAP to provide opportunities to access CA II to target haddock even when there is insufficient GB yellowtail flounder TAC to support a targeted fishery for GB yellowtail flounder both inside and outside the existing CA II Yellowtail Flounder SAP. These revisions would increase the likelihood that the fishery would harvest more of the abundant stocks of haddock, particularly on GB. Available TACs for GB haddock have been underharvested in recent years in part because of limited access to potentially higher concentrations of haddock within CA II. This proposed action would increase such access and likely lead to increased vessel revenue due to increased catch of available haddock resources, which may at least help offset reductions in revenue expected from increased effort controls necessary to rebuild overfished stocks. Although some of the proposed effort reductions would convert Category A DAS to Category B DAS, this may increase incentives to fish more selectively within these SAPs to enable vessels to avoid stocks of concern and continue fishing under a Category B DAS, thereby maximizing the economic return on available Category A and B DAS. Therefore, when compared to the no action alternative for each of these revisions to existing SAPs, the proposed action would offer increased economic benefits in the form of greater access to, and revenue from, available haddock resources.

The proposed action would increase trip limits for several species, most notably GOM and GB cod, and CC/GOM and SNE/MA yellowtail flounder. These trip limits are intended to offset the substantial effort reductions in the form of reductions in Category A DAS and 24-hr DAS counting proposed under Amendment 16. Because of the commingled nature of the NE multispecies fishery, effort reductions necessary to meet the rebuilding objectives of one overfished stock often result in excessive effort reductions of other stocks. Therefore, the proposed revisions to trip limits are expected to narrow the gap between F reductions achieved and F reductions necessary for these stocks under this action. As a result, these trip limits would not only meet the biological objectives of this action based upon supporting analysis in Amendment 16, but would also increase revenue for common pool vessels. Therefore, the proposed action would result in fewer economic impacts than the no action alternative for the common pool and is the preferred alternative under Amendment 16.

Finally, several of the revisions to Sector measures could help mitigate the economic impacts of the proposed action. Under Amendment 16, all approved Sectors would be exempt from several provisions, including portions of the GOM Rolling Closure Areas, NE multispecies DAS restrictions, seasonal closure areas, trip limits on stocks allocated to Sectors, and the requirement to use 6.5-inch (16.51-cm) mesh when using selective trawl gear on GB with a 6-inch (15.24-cm) codend. All of these measures would help increase the operational efficiency of Sector vessels and would likely lead to increased revenue for participating vessels. Because Sector vessels would no longer be limited by DAS allocations and would instead be limited by their

available ACE, the economic incentive changes from maximizing the value of all species on a DAS to maximizing the value of the ACE. This change places a premium on timing of landings to market conditions, as well as changes in the selectivity and composition of species landed on fishing trips. Based upon an evaluation of the economic performance of vessels participating in the current GB Cod Hook Sector, a Sector that has been in operation since FY 2004, the average revenue per individual Sector member nearly doubled between FY 2004 and 2008. Whether this difference in efficiency was because of the flexibility associated with regulatory exemptions or a self-selection effect is not known. Nevertheless, available information is suggestive that economic performance among Sector vessels may be expected to improve relative to continuing to remain under effort controls. In order to maximize the value of ACE available to Sectors, this proposed action would allow Sectors to trade ACE. ACE trading would also help ensure that Sectors have sufficient ACE available to continue operations in key stock areas and match individual Sector ACE portfolios with recent fishing activity by participating vessels or available fishing opportunities. In addition, vessels that declared their intent to participate in one of the existing Sectors would be allocated GB cod based upon landings history of this stock between FYs 1996 through 2001. This was meant to increase the stability of Sector allocations and preserve the value of existing Sector permits, particularly for those vessels that invested in permits with high landings histories of this stock during this period. The selection of Option 5 (using landings history between FY 1996 and 2001 for calculating the GB cod PSC) under the proposed action would increase the PSC available to such vessels by approximately 2 percent. This action would also provide the Regional Administrator with the authority to exempt Sector vessels from some of the proposed reporting requirements for multi-area trips or when participating in SMPs. This may reduce the operational costs by vessels, as they would not be required to submit daily or trip-level catch reports via VMS, reports that could cost as much as $0.764 per submission. Finally, this action would authorize 17 new Sectors. Sectors allow participating vessels to pool harvesting resources and consolidate fishing effort onto fewer vessels to increase the flexibility and economic efficiency of fishing operations. Because Sectors are self-selecting groups, they provide incentives to self-govern and assurance to participating vessels that Sector members would not face catch reductions as a result of overages by other Sectors or the common pool. Under the no action alternative, none of the above benefits associated with the proposed revised Sector would be realized. Therefore, the proposed action is preferable to the no action alternative for these measures. In addition, because the proposed action preserves the value of investments made to participate in the existing Sectors, all of the additional alternatives to PSC calculations (*i.e.,* Alternatives 2, 3, and 4) not selected by the Council under Amendment 16 would devalue such permits and reduce the GB PSC allocated to such permits by 2 percent.

Economic Impacts of Alternatives to the Proposed Action

Measures Applicable to Commercial Vessels

Overall Impacts

The no action alternative would not implement new rebuilding programs for overfished stocks or revise mortality targets for existing rebuilding programs. For some stocks, the existing Amendment 13 mortality targets are higher than the proposed revisions, but for others, the existing rebuilding targets are lower than those in the proposed action. Therefore, the no action alternative would produce both higher and lower landing streams for particular stocks in the short-term. In general, however, it would be expected that the no action alternative would lead to lower landing streams over the long-term. In addition, because the no action alternative would not implement rebuilding programs for five stocks newly classified as being overfished, landing streams for these stocks would likely be lower over the long-term because continued fishing at existing levels would not rebuild the stock. Accordingly, over the long-term, the no action alternative would result in fewer economic benefits from rebuilt stocks compared to the proposed action.

In addition to the proposed action, three other effort control alternatives for commercial vessels were considered. These alternatives included the no action alternative (Alternative 1), an alternative that relied on increased use of differential DAS (Alternative 2A), and another alternative (Alternative 4) that would have implemented a 40-percent reduction in DAS from DAS allocations in FY 2006 along with restricted gear areas. Alternatives 2A and 4 assumed that no additional Sectors would be formed and that all vessels issued a limited access NE multispecies permit would operate under the effort controls of the common pool. A detailed comparison of estimated economic impacts between the proposed action and the non-selected alternatives may be found in Section 7.5.11.1.6 of Amendment 16.

Because the economic impact analysis for these alternatives assumed that no Sectors would be formed under Amendment 16, the small entities affected by these alternatives include all vessels issued a limited access NE multispecies permit or an open access NE multispecies Handgear B permit. In terms of total fishing revenue, the aggregate impact of the proposed action on such vessels is expected to be lower (a 9.8-percent reduction, or $15.4 million) than the impacts of Alternative 2A (14.7-percent reduction, or $23.1 million) and Alternative 4 (18.5-percent reduction, or $29.2 million). However, the aggregate economic impact of the no action alternative (a 7.7-percent reduction, or $12.2 million) would be lower than that expected from the proposed action. Similar patterns are observed when evaluating changes in revenue where regulated species and ocean pout were the predominant species landed. For example, the no action alternative would result in a 12.1-percent reduction ($12.2 million) in NE multispecies revenue, Alternative 2A would result in a 22.9-percent reduction ($23.1 million) in NE multispecies revenue, Alternative 4 would result in a 28.9-percent reduction ($29.2 million) in NE multispecies revenue, but the proposed action would result in a 15.2-percent reduction ($15.4 million) in NE multispecies revenue. Among the alternatives considered, Alternative 4 tended to have larger adverse impacts on fishing businesses across home port states and dependence on NE multispecies for total fishing income. Alternative 2A tended to have larger adverse impacts on vessels from Maine and Massachusetts, while the proposed action impacts were larger for vessels from New Hampshire as well as from SNE and MA states. However, due to differences in fishing strategies at the individual business level, one alternative may provide regulatory relief for some vessels, but may prove more burdensome for others. There was no one alternative that would have provided regulatory relief for all fishing businesses.

Section 7.5.1.3.1.2 of Amendment 16 discusses the number of DAS that are necessary to cover annual fixed costs for the range of alternatives considered in Amendment 16. According to this

analysis, the total number of Category A DAS needed for all limited access permit holders that participated in the NE multispecies fishery to break even were estimated to be 34,078 DAS. Under the no action alternative, approximately 36,000 Category A DAS would be available to limited access NE multispecies vessels due to the 18-percent DAS reduction scheduled for FY 2009 under Amendment 13. With no changes to existing trip limits, differential DAS counting, or other measures, this amount of DAS available would exceed the number of DAS necessary for the fleet to meet expenses. Alternative 2A would also result in 36,000 Category A DAS allocated to the fleet, but would apply differential DAS counting over broader geographic areas, would revise the rates applied in specific areas, implement restricted gear areas, and both increase and decrease the existing trip limits for several stocks. Although this alternative would increase trip limits for some stocks and, therefore, decrease the number of DAS necessary to meet expenses, it would also increase the rate at which DAS are used and increase the number of DAS necessary. Therefore, it is difficult to predict whether Alternative 2A would provide sufficient DAS to meet annual expenses. Alternative 4 would reduce allocated Category A DAS by 40 percent, to 26,400 Category A DAS, but would eliminate existing differential DAS counting areas. Although this alternative would include the same changes to trip limits as Alternative 2A, it is not likely that increased trip limits for some stocks would produce sufficient revenue to overcome overall reductions in DAS to meet annual expenses. Finally, the proposed action would result in approximately 22,000 DAS allocated to the fleet. While carry-over DAS may offset some of the reductions for these alternatives and the increased availability of Category B DAS may encourage participation in SMPs, it is unclear whether these factors would be sufficient to allow vessels to meet expenses or make a profit under each alternative.

Even though the no action alternative would result in the fewest economic impacts to affected vessels and likely provide sufficient DAS for vessels to meet annual expenses, the no action alternative would not achieve the reductions in F necessary to rebuild overfished stocks or achieve the biological objectives of the FMP and is, therefore, not consistent with applicable law. In contrast, the proposed action is consistent with applicable law because it would achieve the biological objectives of the FMP, including implementing rebuilding plans for newly overfished stocks and reducing F for all stocks necessary to rebuild stocks within established rebuilding periods, while resulting in the fewest economic impacts to affected entities among the other alternatives considered. Over the long term, economic benefits from rebuilt stocks would mean that the proposed action would produce the most economic benefits to affected entities once stocks rebuild when compared to the alternatives considered in this action.

The no action alternative would not distribute available regulated species and ocean pout ACLs between the commercial and recreational fisheries. As a result, the catch from both fisheries would be used to determine whether additional measures are necessary in the future to ensure that stocks rebuild. Accordingly, if one group catches regulated species or ocean pout in excess of historical trends, the other group would likely be affected by any management measures that would be necessary to rebuild the stock. This would result in greater economic impacts than the proposed action, as the entire fishery would be subject to such measures rather than the group responsible for the overage.

Impacts of Alternative Common Pool Measures

In addition to the overall impacts listed above, there are additional economic impacts associated with other alternatives considered under Amendment 16 that apply only to common pool vessels. Regarding the DAS Leasing and Transfer Programs, the other alternatives would not have revised these programs to allow CPH vessels to participate in either program, would not temporarily or permanently remove the DAS conservation tax or the cap on DAS leasing, would impose a tax on DAS leased, or would refund any DAS lost to the application of a DAS conservation tax during DAS transfers in previous FYs. Therefore, with the exception of the alternative that would refund DAS lost due to the DAS conservation tax, these other alternatives would increase costs compared to the proposed action by reducing the DAS available to either program and making available DAS more expensive to acquire. In addition, permit holders would incur costs associated with activating permits in CPH to participate in these programs, or maintaining multiple vessels to fish a given number of DAS that could be fished on one vessel if not for the leasing cap. While one alternative to the proposed action would have refunded any DAS lost due to the DAS conservation tax in the DAS Transfer Program, this would have only marginally increased the DAS available to such vessels by 81.52 Category A DAS, 148.23 Category B DAS, and 416.41 Category C DAS. Cumulatively, the Category A and B DAS lost to the conservation tax represented only 0.2 percent of the total number of the Category A and B DAS allocated to the entire fishery in FY 2007 (Category C DAS cannot be used by any vessel at this time). Refunding these DAS would result in additional DAS that could increase, although marginally, the amount of regulated species and ocean pout that would be harvested in future FYs. Because additional effort reductions are necessary under this action to rebuild several NE multispecies stocks, allowing additional effort into the fishery would compromise the rebuilding objectives of the FMP and result in fewer long-term economic benefits than the proposed action.

The no action alternative would not revise the CA I Hook Gear Haddock SAP or the CA II Yellowtail Flounder SAP to facilitate the harvest of haddock; would allow the Eastern U.S./Canada Haddock SAP to expire; would not include pollock as a stock of concern, or implement reduced trip limits and an incidental catch TAC for pollock in the Regular B DAS Program; would allow the SNE/MA Winter Flounder SAP to continue; and would not implement the GOM Haddock Gillnet Pilot Program. Combined, the no action alternative for the SAPs and the GOM Haddock Gillnet Pilot Program would result in increased economic impacts compared to the proposed action due to foregone opportunities to increase the catch of the abundant haddock resource. However, the no action alternative for the Regular B DAS Program would result in fewer short-term economic impacts than the proposed action, as vessels would be able to continue to target pollock using a Regular B DAS, but increased long-term economic impacts, as continued targeting of pollock would likely increase F on this species and delay economic benefits from a rebuilt species. Similar long-term impacts would also occur for SNE/MA winter flounder under the no action alternative, as it would continue the SNE/MA Winter Flounder SAP and the associated catch of this stock, despite the need to reduce F to as close to zero as practicable to rebuild this stock. Thus, the proposed action would result in fewer long-term economic impacts

than the no action alternatives for these measures.

The no action alternative would not reduce the haddock minimum size limit to 18 inches (45.7 cm) or increase the minimum size limit for Atlantic halibut to 41 inches (104.1 cm). This would result in reduced revenue due to haddock landings when large year classes enters the fishery, such as when the 2003 year class entered the fishery in 2007 and 2008, but would likely result in a small increase in fishing revenue compared to the proposed action due to catch of smaller halibut when compared to the proposed action. However, because the no action alternative could potentially delay rebuilding of Atlantic halibut, the proposed action would have greater overall long-term economic impacts to affected entities.

Under the no action alternative, most vessels would not be able to be issued both a limited access Atlantic sea scallop and a limited access NE multispecies permit at the same time (vessels issued a limited access NE multispecies combination permit—Category E permit—are already allowed to be issued both a limited access NE multispecies permit and a limited access Atlantic sea scallop permit). This would restrict the flexibility of vessels to participate in more than one fishery and prevent the consolidation of fishing opportunities for two fisheries onto one vessel. As a result, there would be less effective use of capital assets than would occur if the restriction were lifted under the proposed action.

In contrast to the proposed action, the no action alternative would not implement AMs for common pool vessels. The no action alternative would likely result in fewer short-term economic impacts than the proposed action, as AMs would not be implemented. Failure to implement AMs would maintain or increase the catch of regulated species and ocean pout even after sub-ACLs allocated to the common pool have been caught. In addition, common pool vessels would not be responsible for costs associated with dockside monitoring, as required in FY 2012 and beyond under the proposed action. However, long-term economic impacts would likely be higher for the no-action alternative because AMs are intended to prevent overfishing and increase the probability that rebuilding objectives of the FMP are achieved. In addition, without AMs for the common pool fishery, Sector vessels or the recreational fishery may be subject to lower overall catch due if stocks fail to rebuild and lower ACLs are necessary as a result.

Impacts of Alternative Sector Measures

The economic impacts of the options considered for determining PSCs are described in detail in Section 7.5.1.2.3 of Amendment 16. The proposed action would calculate PSC based upon landings history between FYs 1996–2006 for all stocks (Option 1), except that the PSC for GB cod would be calculated based upon landings history between FYs 1996–2001 for vessels that had signed preliminary rosters for existing Sectors as of March 1, 2008 (Option 5). The other PSC alternatives include no action (landings history for the most recent 5-yr period), and options involving a combination of landings history between FYs 1996–2006 and a measure of capacity based upon vessel size and horsepower and/or allocated DAS (Options 2 through 4). The analysis of these options indicated that larger vessels would receive the most value from the PSC selected in the proposed action (*i.e.,* PSC Option 1), but that medium vessels would receive the most value from PSC Option 4, while small vessels would receive the most value from the no action PSC option. The impacts of the PSC options for vessel size class vary from stock-to-stock, based upon the size class of vessels that predominantly landed that stock. Also, the impacts vary based upon the areas fished by individual vessels. In general, vessels that fished in all areas would receive more PSC under the no action PSC option or Option 1. Permits that fished only in the GOM or on GB would receive the most PSC under Option 4, while vessels that fished exclusively in SNE would receive the most PSC under Options 3 or 4. Impacts of these alternatives by homeport state also vary based upon the distribution of various stocks among the PSC options considered. For example, Massachusetts vessels would have benefited the most from the no action alternative, but vessels from Maine and New Hampshire would have benefited the most from PSC Option 4. Vessels from more southerly states would receive more PSC from Option 3. In general, PSC options involving capacity (*i.e.,* Options 2 through 4) tended to shift allocations from vessels with higher landings history-based allocations to vessels with lower history-based allocations compared to the proposed action. When combined with Option 5, permits that were not committed to the existing two Sectors would have their GB cod PSC reduced by approximately 2.1 percent compared to their PSC if only Option 1 were adopted. However, these permits would lose the most GB cod PSC if Options 2, 3, or 4 were adopted with Option 5. Therefore, because the proposed action adopts Options 1 and 5, the vast majority of vessels would receive the most GB cod PSC out of the possible combinations of alternatives that the Council could have selected. Although the PSC options considered all have different effects on different vessels, Options 1 and 5 were selected to reflect current participation in the fishery based upon landings history (*i.e.,* including vessel capacity in the calculation of PSCs would shift allocation of ACLs from vessels that have actively participated in the fishery by landing regulated species and ocean pout to those that may not have participated as actively in the fishery), mitigate the regulatory changes and their impacts on individual vessels, and to preserve the value of permit investments made by vessel owners interested in participating in one of the existing Sectors.

The no action alternative would not implement provisions for trading ACE between Sectors or allow Sectors to carry forward unused ACE into the following FY. The inability to trade ACE would likely result in Sectors not fully harvesting allocated ACE, as Sector catch may not precisely mirror ACE allocations for each stock, sacrificing yield and associated fishing revenue. In contrast, the inability to carry forward unused ACE would produce incentives to fully harvest any ACE allocated, thereby also creating incentives to potentially illegally discard legal-sized fish to maximize catch of ACE allocations. In comparison with the proposed action, this would result in less efficient operations and likely short-term and long-term economic impacts due to lost yield and, possibly, delays in rebuilding stocks.

Compared to the proposed action, the no action alternative would have maintained existing Sector operations plan requirements, monitoring/reporting requirements, and provisions for SMPs. All of these measures would likely result in fewer costs to potential Sectors, as the proposed action would increase requirements for Sector operations plans; increase monitoring/reporting requirements for Sectors; and, with the exception of the CA I Hook Gear Haddock SAP, fail to specify which SMP provisions would apply to Sector vessels. The cost savings from avoiding the additional monitoring requirements of the proposed action are listed in the economic impacts of the proposed action above, but the savings from avoiding the additional reporting costs are less certain. Reporting costs include costs associated with additional VMS

catch reports to individual vessel owners. Depending on the individual vessel's contract with the VMS vendor, such costs may be covered by existing contracts. However, additional reporting costs associated with the proposed action would include a cost of approximately $0.004 per character, plus approximately $0.50 for each submission via VMS, or approximately $0.764 per report. Thus, the no action alternative would result in equivalent savings compared to the proposed action, but the amount of such savings would depend upon the VMS contract to individual vessels. Although the no action alternative for these provisions would cost less than the proposed action, the proposed action was selected because these additional requirements are considered necessary to adequately monitor Sector catch on a real-time basis, understand and evaluate the likely impacts of Sector operations, and more consistently apply the principles behind Sector management (*i.e.,* to promote more flexible and efficient operations by self-selecting and self-governing groups of individual vessels) across all facets of vessel operations, including those in designated SMPs.

Measures Applicable to Recreational and Charter/Party Vessels

Two alternatives to the proposed action affect whether recreational anglers could land NE multispecies as fillets without the skin: Option 1 would allow fillets to be landed without skin, while the no action alternative (Option 3) would maintain the existing prohibition on landing fillets without skin. Option 1 would increase the economic value of recreational trips, particularly charter/party trips, as vessels could provide filleting and skinning as a service to customers. However, landing fish without skin would complicate enforcement and assessment of recreational catch, as species identification would be very difficult. This may, in turn, increase management uncertainty for the recreational fishery and lower ACLs as a result. This would likely result in increased economic impacts compared to either the proposed action or the no action alternative, which would require at least some skin to remain on fillets. The no action alternative may impact income for crew aboard charter/party vessels, as skinning fillets would continue to be prohibited until landing. The proposed action was selected as a compromise between the alternatives considered, as it would allow fillets to be landed with only a small portion of the skin intact to facilitate species identification and enforcement of minimum fish sizes and trip limits.

Amendment 16 considered two other options for reducing GOM cod mortality in the recreational fishery: Option 1 would increase the minimum size limit to 26 inches (66 cm), while Option 2 would reduce the bag limit to six fish per trip. If recreational fishing value is based upon the opportunity to catch a fish, economic impacts associated with Option 1 would likely be less than that for either Option 2 or the proposed action, as both later options would reduce opportunities to fish. However, if the increased size limit of Option reduces the possibility that cod could be retained, then the economic impacts could differ, as both Options 2 and the proposed action would maintain the existing size limits for GOM cod. However, the proposed action was selected because seasonal closures are the most effective means to reduce recreational catch and ensure that conservation objectives are achieved for this portion of the fishery.

The no action alternative would allow recreational vessels to possess and retain Atlantic wolffish. Based upon existing data, approximately 1,644 charter/party trips targeted this species during 2006–2007. Thus, the no action would maintain the value associated with these trips, resulting in fewer economic impacts than the proposed action that would prohibit the possession of this species by both commercial and recreational vessels. However, the proposed action would implement a rebuilding program for this species that includes a prohibition on landings by all vessels. While this would result in short-term economic losses to the recreational fishery, such measures are necessary to rebuild the stock and preserve future opportunities to harvest the species as it rebuilds.

Amendment 16 considered several alternatives to the proposed action regarding recreational fishery AMs. These alternatives included no AMs under the no action alternative, AMs developed exclusively by the Council under Option 1, and AMs developed exclusively by NMFS under Option 2. Because these alternatives involve processes for specifying AMs, but do not actually propose any specific AMs, the economic impacts associated with these alternatives are based upon the timing of when such AMs would be implemented and the actual AMs that would be implemented from these processes. For example, due to the length of the Council process and the timing of Council meetings, it is likely that any AMs developed under Option 1 would not be available until after anglers begin reserving fishing trips during the early spring. This may affect whether customers will actually commit to a particular trip without knowing the applicable regulations. If this affects customer behavior, Option 1 would likely result in fewer charter/party trips, particularly if regulations are not finalized until later in the spring. Options 1 and 2 would result in some impact to the recreational fishery, but this impact is heavily dependent upon the AMs developed under those options. Changes in bag limits, minimum sizes, and shortened seasons typically reduce the catch and, therefore, value of recreational trips. Because changes to bag limits and minimum sizes are less effective at reducing recreational catch, these measures must generally be implemented for greater durations, resulting in greater adverse economic impacts than closures. However, economic impacts associated with reduced opportunities to catch one species may be offset by increased opportunities to catch another stock. As a result, Options 1 and 2 may not result in different economic impacts than the proposed action unless customer behavior is affected by when the regulations are available. Under the No Action alternative, AMs would not be adopted. While this avoids the economic impacts of AMs in the short term, this may make it less likely that mortality objectives are achieved and could result in more stringent measures in the future. The proposed action was selected because it represents a compromise between the other alternatives considered. Under the proposed action, NMFS would develop appropriate AMs in consultation with the Council. This would allow AMs to be implemented in the most expedient manner, thereby decreasing the possibility that AMs would be implemented too late to be effective during the FY following an overage. In addition, because the Council includes members of state resource management agencies, the agencies responsible for managing the vast majority of recreational fishing activity, consultation with the Council was considered necessary to implement AMs that would effectively reduce recreational catch.

Description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule:

Reporting and Recordkeeping Requirements

The proposed measures under Amendment 13 include the following provisions requiring either new or revised reporting and recordkeeping

requirements: (1) Sector operations plan and associated NEPA analysis, (2) dockside/at-sea monitoring service provider application, (3) dockside/at-sea monitoring service provider response to application disapproval, (4) data entry for Sector discard monitoring system, (5) Sector weekly catch report, (6) Sector annual report, (7) notification of expulsion from a Sector, (8) request to transfer ACE, (9) VMS installation, (10) VMS certification form, (11) VMS confirmation call, (12) automated VMS polling of vessel position, (13) VMS area and DAS declaration, (14) VMS trip-level catch reports, (15) request for a LOA to participate in the GOM Haddock Gillnet Pilot Program, (16) request for a LOA to fish in a NE multispecies RGA, (17) VMS declaration to fish in a NE multispecies RGA, (18) pre-trip hail report to a dockside monitoring service provider, (19) trip-end hail report to a dockside monitoring service provider, (20) confirmation of dockside monitoring trip-end hail report, (21) dockside/roving service provider data entry, (22) dockside/roving or at-sea monitor deployment report, (23) dockside/roving or at-sea monitoring service provider catch report to NMFS upon request, (24) dockside/roving or at-sea monitor report of harassment and other issues, (25) OLE debriefing of dockside/roving or at-sea monitors, (26) copy of dockside/roving or at-sea monitoring service provider contract upon request, (27) copy of dockside/roving or at-sea monitoring service provider information materials upon request, (28) observer program pre-trip notification, (29) daily VMS catch reports when fishing in the U.S./Canada Management Area and CA II SAPs, (30) daily VMS catch reports when fishing in the CA I Hook Gear Haddock SAP, (31) daily VMS catch reports when fishing in the Regular B DAS Program, and (32) copy of the dealer weigh-out slip or dealer signature of the dockside monitor report.

The costs associated with the new and revised reporting and recordkeeping requirements specified in this action are detailed in the PRA analysis associated with Amendment 16. Some of these costs are minimal, consisting only of postage and copying costs. However, other costs are more substantial and are detailed for several of the more involved information collections below.

Any NE multispecies DAS vessel, including a vessel participating in a Sector, that intends to fish in any SMP, including the U.S./Canada Understanding and all SAPs, would be required to use VMS when participating in these programs. In addition, any Handgear A permit participating in a Sector would be required to use VMS to comply with the declaration and reporting requirements associated with measures proposed under Amendment 16. Any vessel that does not currently possess a VMS must obtain one prior to fishing in a SAP, the U.S./Canada Management Area, or on a Sector trip. The cost of purchasing and installing VMS is currently estimated at $3,600 per vessel, with operational costs estimated at approximately $150 per month. Amendment 16 would require a vessel issued a limited access NE multispecies permit fishing in multiple broad stock areas to submit a trip-level catch report via VMS for such trips. These catch reports would cost approximately $0.79 per report, for a total yearly cost of approximately $15 for the 134 vessels that are expected to fish in multiple areas on the same trip, based upon historic data.

There are costs associated with several of the reporting and recordkeeping measures proposed for Sectors under this action. The development of a Sector operations plan and associated NEPA analysis is estimated to require approximately 4 months for each document, resulting in a cost of approximately $150,000 to each Sector (*i.e.,* $50,000 for the development of the operations plan, and $100,000 for the development of an EA) on an annual basis. These costs are likely to decrease in future years, as subsequent operations plans and EAs could build upon the original documents. It is estimated that approximately $2,500 per year would be required to purchase and enter data into a discard database for each Sector. Finally, the weekly Sector catch reports are expected to cost approximately $5,200 to prepare and submit to NMFS, while the annual Sector report is expected to cost about $304 per Sector to develop.

Amendment 16 would require dockside monitoring for Sector vessels beginning in FY 2010, while common pool vessels would be subject to dockside monitoring beginning in FY 2012. The pre-trip hail reporting requirements would cost approximately $12 per vessel each year, assuming that such reports were made via VMS. Due to the more expansive information required for the trip-end hail reports, the yearly cost to each vessel would be approximately $17, assuming that such reports were made via VMS. Costs to vessels receiving dockside/roving monitoring services proposed under Amendment 16 include $10 per year for confirming pre-trip hail reports and $13 to confirm trip-end hail reports and specify whether a particular trip would be observed by a dockside monitor. Requirements to maintain and enter data into a dockside monitoring database would cost approximately $4,225 per service provider annually, while submitting dockside monitoring data to NMFS would cost each service provider approximately $36,000 per year. Similar costs to service providers are expected to notify Sector vessels of selection for at-sea/electronic monitoring coverage ($3,125 per year) and to submit at-sea/electronic monitoring data to NMFS ($36,000 per year).

Other Compliance Requirements

The only other compliance costs associated with this proposed rule are those associated with the gear requirements specified for the NE multispecies RGAs. Any NE multispecies vessel that elects to fish in the common pool would be required to utilize selective fishing gear when fishing in the NE multispecies RGAs. If a vessel does not already possess such selective gear, a new haddock separator trawl net, rope trawl, or Ruhle trawl is estimated to cost approximately $13,000, or about $750 to modify existing gear. Sector vessels would not be subject to the RGA measures or the costs associated with such selective gear.

This rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act. These requirements have been submitted to OMB for approval. Public reporting burden for these collections of information are estimated to average, as follows:

1. Sector operations plan and associated NEPA analysis, OMB# 0648–0202, (640 hr/response);
2. Dockside/at-sea monitoring service provider application, OMB# 0648–0202, (10 hr/response);
3. Dockside/at-sea monitoring service provider response to application disapproval, OMB# 0648–0202, (10 hr/response);
4. Data entry for sector discard monitoring system, OMB# 0648–0202, (3 min/response);
5. Sector weekly catch report, OMB# 0648–0202, (4 hr/response);
6. Sector annual report, OMB# 0648–0202, (12 hr/response);
7. Notification of expulsion from a Sector, OMB# 0648–0202, (30 min/response);
8. Request to transfer ACE, OMB# 0648–0202, (5 min/response);
9. VMS installation, OMB# 0648–0202, (1 hr/response);

10. VMS certification form, OMB# 0648–0202, (10 min/response);
11. VMS confirmation call, OMB# 0648–0202, (5 min/response);
12. Automated VMS polling of vessel position, OMB# 0648–0202, (5 sec/response);
13. VMS area and DAS declaration, OMB# 0648–0202, (5 min/response);
14. VMS trip-level catch reports, OMB# 0648–0212, (15 min/response);
15. Request for a LOA to participate in the GOM Haddock Gillnet Pilot Program, OMB# 0648–0202, (5 min/response);
16. Request for a LOA to fish in a NE multispecies RGA, OMB# 0648–0202, (5 min/response);
17. VMS declaration to fish in a NE multispecies RGA, OMB# 0648–0202, (5 min/response);
18. Pre-trip hail report to a dockside monitoring service provider, OMB# 0648–0202, (2 min/response);
19. Trip-end hail report to a dockside monitoring service provider, OMB# 0648–0202, (15 min/response);
20. Confirmation of dockside monitoring trip-end hail report, OMB# 0648–0202, (2 min/response);
21. Dockside/roving service provider data entry, OMB# 0648–0202, (3 min/response);
22. Dockside/roving or at-sea monitor deployment report, OMB# 0648–0202, (10 min/response);
23. Dockside/roving or at-sea monitoring service provider catch report to NMFS upon request, OMB# 0648–0202, (5 min/response);
24. Dockside/roving or at-sea monitor report of harassment and other issues, OMB# 0648–0202, (30 min/response);
25. OLE debriefing of dockside/roving or at-sea monitors, OMB# 0648–0202, (2 hr/response);
26. Copy of dockside/roving or at-sea monitoring service provider contract upon request, OMB# 0648–0202, (30 min/response);
27. Copy of dockside/roving or at-sea monitoring service provider information materials upon request, OMB# 0648–0202, (30 min/response);
28. Observer program pre-trip notification, OMB# 0648–0202, (2 min/response);
29. Daily VMS catch reports when fishing in the U.S./Canada Management Area and CA II SAPs, OMB# 0648–0212, (15 min/response);
30. Daily VMS catch reports when fishing in the CA I Hook Gear Haddock SAP, OMB# 0648–0212, (15 min/response);
31. Daily VMS catch reports when fishing in the Regular B DAS Program, OMB# 0648–0212, (15 min/response); and
32. Copy of the dealer weigh-out slip or dealer signature of the dockside monitor report, OMB# 0648–0212 (2 min/response).

Public comment is sought regarding: Whether this 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 burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to (enter office name) at the **ADDRESSES** above and by e-mail to *David_Rostker@omb.eop.gov* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 10, 2009.

Samuel D. Rauch, III,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.2, revise the definitions for ''NE multispecies or multispecies,'' ''Regulated species,'' and ''Sector,'' and add new definitions for ''Annual catch entitlement (ACE),'' ''At-sea monitor,'' ''Common pool trip,'' ''Common pool vessel,'' ''Dockside/roving monitor,'' ''Electronic monitoring,'' ''Observer/sea sampler,'' ''Potential Sector contribution (PSC),'' ''Sector trip,'' and ''Sector vessel'' in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Annual catch entitlement (ACE), with respect to the NE multispecies fishery, means the share of the annual catch limit (ACL) for each NE multispecies stock that is allocated to an individual Sector based upon the cumulative fishing history attached to each permit participating in that Sector in a given year. This share may be adjusted due to penalties for exceeding the Sector's ACE for a particular stock in earlier years, or due to other violations of the FMP, including the yearly Sector operations plan. When a Sector's share of a NE multispecies stock, as determined by the fishing histories of vessels participating in that Sector, is multiplied by the available catch, the result is the amount of ACE (live weight in pounds) that can be harvested (landings and discards) by participants in that Sector during a particular fishing year.

At-sea monitor, with respect to the NE multispecies fishery, means any person responsible for observing, verifying, and reporting area fished, catch, and discards of all species by gear type for Sector trips as part of an approved Sector at-sea monitoring program.

* * * * *

Common pool trip, with respect to the NE multispecies fishery, means any trip taken by a common pool vessel under a NE multispecies DAS or under the provisions of a limited access NE multispecies Small Vessel or Handgear A permit, or an open access Handgear B permit that lands regulated species or ocean pout.

Common pool vessel, with respect to the NE multispecies fishery, means any vessel issued a limited access NE multispecies permit or open access NE multispecies Handgear B permit that is not a member of an approved Sector for a particular fishing year and that is not operating under the provisions of an approved Sector operations plan. Such vessels must use a NE multispecies DAS, or be fishing under the provisions of a limited access NE multispecies Small Vessel or Handgear A permit, or an open access Handgear B permit, to land regulated species or ocean pout, and must comply with effort controls, trip limits, gear restricted areas, and other provisions specified in this part. Vessels fishing under the provisions of the common pool are also referred to as non-Sector vessels.

* * * * *

Dockside/roving monitor, with respect to the NE multispecies fishery, means any person responsible for observing/verifying the offloads of all species by common pool or Sector vessels either directly to a federally permitted dealer or to a truck for later delivery to a federally permitted dealer, and for certifying the accuracy of landed

weights, as reported by federally permitted dealers, pursuant to this part.

* * * * *

Electronic monitoring, with respect to the NE multispecies fishery, means any equipment that is used to monitor area fished and the amount and identity of species kept and discarded in lieu of at-sea monitors as part of an approved Sector at-sea monitoring program.

* * * * *

Northeast (NE) multispecies or multispecies means the following species:

American plaice—*Hippoglossoides platessoides.*

Atlantic cod—*Gadus morhua.*

Atlantic halibut—*Hippoglossus hippoglossus.*

Atlantic wolffish—*Anarhichas lupus.*

Haddock—*Melanogrammus aeglefinus.*

Ocean pout—*Macrozoarces americanus.*

Offshore hake—*Merluccius albidus.*

Pollock—*Pollachius virens.*

Redfish—*Sebastes fasciatus.*

Red hake—*Urophycis chuss.*

Silver hake (whiting)—*Merluccius bilinearis.*

White hake—*Urophycis tenuis.*

Windowpane flounder—*Scophthalmus aquosus.*

Winter flounder—*Pleuronectes americanus.*

Witch flounder—*Glyptocephalus cynoglossus.*

Yellowtail flounder—*Pleuronectes ferruginea.*

* * * * *

Observer/sea sampler means any person certified/approved by NMFS to collect operational fishing data, biological data, or economic data through direct observation and interaction with operators of commercial fishing vessels as part of NMFS' Northeast Fisheries Observer Program and Northeast At-sea Monitoring Program. Observer/sea samplers are also referred to as fisheries observers, fisheries observers/sea samplers, and NMFS-certified fisheries observers/sea samplers.

* * * * *

Potential Sector contribution (PSC), with respect to the NE multispecies fishery, means an individual vessel's share of the ACL for each stock of regulated species or ocean pout that is derived from the fishing history associated with the permit issued to that particular vessel for the purposes of participating in a Sector and contributing to that Sector's ACE for each stock allocated to Sectors under the NE Multispecies FMP.

* * * * *

Regulated species, means the subset of NE multispecies that includes Atlantic cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, white hake, Atlantic halibut, and Atlantic wolffish. Regulated species is also referred to as regulated NE multispecies.

* * * * *

Sector, with respect to the NE multispecies fishery, means a group of persons holding limited access NE multispecies permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and that have been allocated a portion of the TACs of species managed under the NE Multispecies FMP to achieve objectives consistent with the applicable goals and objectives of the FMP. Each Sector must meet the Sector eligibility and minimum size requirements specified in § 648.87(a)(3) and (4) to be approved by NMFS.

Sector trip, with respect to the NE multispecies fishery, means any trip taken by a Sector vessel subject to the restrictions and conditions of an approved Sector operations plan, as specified in § 648.87(c), in which the vessel declared its intent to fish in the NE multispecies fishery pursuant to § 648.10.

Sector vessel, with respect to the NE multispecies fishery, means any vessel assigned a permit that is a member of an approved Sector for a particular fishing year and that is subject to the restrictions and conditions of an approved Sector operations plan, as specified in § 648.87.

* * * * *

3. In § 648.4, remove paragraph (a)(1)(i)(I)(*3*) and revise paragraphs (a)(1)(i)(E) and (c)(2)(iii)(A) to read as follows:

§ Vessel permits.

(a) * * *

(1) * * *

(i) * * *

(E) *Replacement vessels.* An owner of a vessel that has been issued any limited access or moratorium permit under this section is limited to one vessel replacement permit year, using the earliest permit year start date of the limited access or moratorium permits for which the vessel is eligible, unless the vessel has been rendered inoperable and non-repairable. With the exception of vessels that have obtained a limited access Handgear A permit described in § 648.82(b)(6), to be eligible for a limited access or moratorium permit under this section, the replacement vessel must meet the following criteria and any other applicable criteria under paragraph (a)(1)(i)(F) of this section:

(*1*) The replacement vessel's horsepower may not exceed by more than 20 percent the horsepower of the vessel's baseline specifications, as applicable.

(*2*) The replacement vessel's length, GRT, and NT may not exceed by more than 10 percent the length, GRT, and NT of the vessel's baseline specifications, as applicable.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(A) For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels fishing under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(j). A vessel owner electing a Day gillnet designation must indicate the number of gillnet tags that he/she is requesting, and must include a check for the cost of the tags, unless the vessel already possesses valid gillnet tags, as identified by the Regional Administrator. A permit holder letter will be sent to the owner of each eligible gillnet vessel, informing him/her of the costs associated with this tagging requirement and providing directions for obtaining valid tags. Once a vessel owner has elected this designation, he/she may not change the designation or fish under the other gillnet category for the remainder of the fishing year. Incomplete applications, as described in paragraph (e) of this section, will be considered incomplete only for the purposes of obtaining authorization to fish in the NE multispecies gillnet fishery and otherwise will be processed or issued without a gillnet authorization.

* * * * *

4. In § 648.7, revise paragraphs (b)(1)(i), (e), and (f)(2)(i); and add paragraphs (a)(4), (h), and (i) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(a) * * *

(4) *Facilitation of a dockside/roving monitor report.* Any federally permitted dealer, or any individual acting in the capacity of a dealer, that purchases or receives fish from a vessel operating under the provisions of an approved Sector operations plan, as specified in § 648.87(c), or from a common pool vessel starting in fishing year 2012 must provide a copy of any weigh-out documents or dealer receipts for that particular offloading event to the

dockside/roving monitor and vessel and allow the dockside/roving monitor to sign a copy of the official weigh-out document or dealer receipt retained by the dealer, or sign a dockside monitoring report provided by a dockside/roving monitor that verifies the amount of each species offloaded, as instructed by the Regional Administrator.

(b) * * *

(1) * * *

(i) The owner or operator of any vessel issued a valid permit or eligible to renew a limited access permit under this part must maintain on board the vessel, and submit, an accurate fishing log report for each fishing trip, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. As stated in paragraph (f)(2)(i) of this section, if no fishing trip is made during a week or month, a report stating so must be submitted for each week or month, as applicable, based upon whether any fishing activity occurred during a particular reporting week or month (*i.e.,* starting a trip, landing, or offloading catch will constitute fishing during a reporting week or month). If authorized in writing by the Regional Administrator, a vessel owner or operator may submit reports electronically, for example by using a VMS or other media. With the exception of those vessel owners or operators fishing under a surfclam or ocean quahog permit, at least the following information and any other information required by the Regional Administrator must be provided: Vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a charter or party boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded; and, in the case of skate discards, ''small'' (*i.e.,* less than 23 inches (58.42 cm), total length) or ''large'' (*i.e.,* 23 inches (58.42 cm) or greater, total length) skates; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator's permit number (if applicable).

* * * * *

(e) *Record retention*—(1) *Dealer records.* Any record, as defined in § 648.2, related to fish possessed, received, or purchased by a dealer that is required to be reported, must be retained and made available for immediate review for a total of 3 years after the date the fish were first possessed, received, or purchased. Dealers must retain the required records and reports at their principal place of business.

(2) *VTRs.* Copies of fishing log reports must be kept on board the vessel and available for review for at least 1 year, and must be retained for a total of 3 years after the date the fish were last possessed, landed, and sold.

(3) *Dockside/roving and at-sea monitor reports.* Any record, as defined in § 648.2, related to fish offloaded and observed by a dockside/roving or at-sea monitor, including any reports provided to NMFS, Sector managers, or another third-party service provider specified in paragraph (h) of this section, must be retained and made available for immediate review for a total of 3 years after the date the fish were first offloaded. Dockside/roving and at-sea monitor providers must retain the required records and reports at their principal place of business.

(f) * * *

(2) * * *

(i) For any vessel not issued a NE multispecies permit, fishing vessel log reports, required by paragraph (b)(1)(i) of this section, must be postmarked or received by NMFS within 15 days after the end of the reporting month. If no fishing trip is made during a particular month for such a vessel, a report stating so must be submitted, as instructed by the Regional Administrator. For any vessel issued a NE multispecies permit, fishing vessel log reports must be postmarked or received by midnight of the first Tuesday following the end of the reporting week. If no fishing trip is made during a reporting week for such a vessel, a report stating so must be submitted and received by NMFS by midnight of the first Tuesday following the end of the reporting week, as instructed by the Regional Administrator. For the purposes of this paragraph (f)(2)(i), the date when fish are offloaded will establish the reporting week or month that the VTR must be submitted to NMFS, as appropriate. Any fishing activity during a particular reporting week (*i.e.,* starting a trip, landing, or offloading catch) will constitute fishing during that reporting week and will eliminate the need to submit a negative fishing report to NMFS for that reporting week. For example, if a vessel issued a NE multispecies permit begins a fishing trip on Wednesday, but returns to port and offloads its catch on the following Thursday (*i.e.,* after a trip lasting 8 days), the VTR for the fishing trip would need to be submitted by midnight Tuesday of the third week, but a negative report (*i.e.,* a ''did not fish'' report) would not be required for either week.

* * * * *

(h) *Dockside/roving monitor reports.* Any dockside/roving monitor assigned to observe the offload of a vessel on a Sector trip must record the amounts of all species offloaded and report such amounts to that particular vessel's Sector manager and a third-party service provider, if specified in the operations plan or the private contract between the dockside/roving monitor service provider and an individual Sector. Such reports must be made available to dealers for signature, as instructed by the Regional Administrator.

(i) *At-sea monitor/electronic monitoring reports.* Any at-sea monitor assigned to observe a Sector trip and any third-party service provider analyzing data from electronic monitoring equipment deployed on a Sector trip must submit reports on catch, discard, and other data elements specified by the Regional Administrator to NMFS, the Sector manager, and monitoring contractor, as instructed by the Regional Administrator.

5. In § 648.10, revise paragraphs (b)(4) and (e)(1)(v), and add paragraph (k) to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(b) * * *

(4) A vessel issued a limited access NE multispecies permit that fishes or intends to fish under a NE multispecies Category A or B DAS, or catches regulated species or ocean pout while on a Sector trip; or a vessel issued a limited access NE multispecies small vessel category or Handgear A permit that fishes in multiple stock areas pursuant to paragraph (k)(2) of this section;

* * * * *

(e) * * *

(1) * * *

(v) The owner of a vessel issued a limited access NE multispecies permit that fishes or intends to fish under a NE multispecies Category A or B DAS, or that catches regulated species or ocean pout while on a Sector trip, as specified in paragraph (b)(4) of this section, must provide documentation to the Regional Administrator that the vessel has an operational VMS unit installed on board, meeting all requirements of this part, prior to fishing under a NE

multispecies DAS or under the provisions of an approved Sector operations plan.

* * * * *

(k) *Area-specific reporting requirements for NE multispecies vessels.*—(1) *Reporting requirements for all limited access NE multispecies vessel owners or operators.* In addition to any other reporting requirements specified in this part, the owner or operator of any vessel issued a limited access NE multispecies permit on either a common poor or Sector trip must declare its intent to fish within one or more of the NE multispecies broad stock areas, as defined in paragraph (k)(3) of this section, and provide the VTR serial number for the first page of the VTR for that particular trip via VMS prior to leaving port at the start of a fishing trip, as instructed by the Regional Administrator.

(2) *Reporting requirements for NE multispecies vessel owners or operators fishing in more than one broad stock area per trip.* Unless otherwise provided in this paragraph (k)(2), the owner or operator of any vessel issued a NE multispecies limited access permit that has declared its intent to fish within multiple NE multispecies broad stock areas, as defined in paragraph (k)(3) of this section, on the same trip must submit a trip-level hail report via VMS detailing the amount of each regulated species retained (in pounds, landed weight) within each broad stock area prior to crossing the VMS demarcation line, as defined in § 648.10, upon its return to port following each fishing trip on which regulated species were caught, as instructed by the Regional Administrator. This reporting requirement is in addition to the reporting requirements specified in paragraph (k)(1) of this section and any other reporting requirements specified in this part. A vessel is exempt from the reporting requirements specified in this paragraph (k)(2) if it is fishing in a special management program, as specified in § 648.85, and is required to submit daily VMS catch reports consistent with the requirements of that program. The Regional Administrator may adjust the reporting frequency specified in this paragraph and may exempt vessels on a Sector trip from the reporting requirements specified in this paragraph (k)(2) if it is determined that such reporting requirements would duplicate those specified in § 648.87(b).

(3) *NE multispecies broad stock areas.* For the purposes of the area-specific reporting requirements listed in paragraphs (k)(1) and (2) of this section, the NE multispecies broad stock areas are defined in paragraphs (k)(3)(i) through (iv) of this section. Copies of a map depicting these areas are available from the Regional Administrator upon request.

(i) *GOM Stock Area 1.* The GOM Stock Area 1 is defined by straight lines connecting the following points in the order stated:

GOM STOCK AREA 1

Point	N. Latitude	W. Longitude
G1	(1)	(1)
G2	43°58′	67°22′
G3	42°53.1′	67°44.4′
G4	42°31′	67°28.1′
CII3	42°22′	67°20′
G6	42°20′	67°20′
G10	42°20′	70°00′
G9	42°00′	(2)

1 Intersection of the shoreline and the U.S.-Canada maritime boundary.
2 Intersection of the Cape Cod, MA, coastline and 42° 00′ N. lat.

(ii) *Inshore GB Stock Area 2.* The Inshore GB Stock Area 2 is defined by straight lines connecting the following points in the order stated:

INSHORE GB STOCK AREA 2

Point	N. Latitude	W. Longitude
G9	42°00′	(1)
G10	42°20′	70°00′
IGB1	42°20′	68°50′
IGB2	41°00′	68°50′
IGB3	41°00′	69°30′
IGB4	41°10′	69°30′
IGB5	41°10′	69°50′
IGB6	41°20′	69°50′
IGB7	41°20′	70°00′
G12	(2)	70°00′

1 The intersection of the Cape Cod, MA, coastline and 42° 00′ N. lat.
2 South-facing shoreline of Cape Cod, MA.

(iii) *Offshore GB Stock Area 3.* The Offshore GB Stock Area 3 is defined by straight lines connecting the following points in the order stated:

OFFSHORE GB STOCK AREA 3

Point	N. Latitude	W. Longitude
IGB1	42°20′	68°50′
	42°20′	67°20′
CII3	42°22′	67°20′
SNE1	40°27′	65°43′
SNE2	39°00′	(1)
SNE3	39°00′	69°00′
SNE4	39°50′	69°00′
SNE5	39°50′	68°50′
IGB1	42°20′	68°50′

1 The U.S.-Canada maritime boundary as it intersects with the EEZ.

(iv) *SNE/MA Stock Area 4.* The SNE/MA Stock Area 4 is the area bounded on the north and west by the coastline of the United States, bounded on the south by a line running from the east-facing coastline of North Carolina at 35° N. lat. until its intersection with the EEZ, and bounded on the east by straight lines connecting the following points in the order stated:

SNE/MA STOCK AREA 4

Point	N. Latitude	W. Longitude
G12	(1)	70°00′
IGB7	41°20′	70°00′
IGB6	41°20′	69°50′
IGB5	41°10′	69°50′
IGB4	41°10′	69°30′
IGB3	41°00′	69°30′
IGB2	41°00′	68°50′
SNE4	39°50′	68°50′
SNE3	39°50′	69°00′
SNE2	(2)	69°00′

1 South-facing shoreline of Cape Cod, MA.
2 The U.S.-Canada maritime boundary as it intersects with the EEZ.

6. In § 648.11, add paragraphs (j) and (k) to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(j) In the event that a vessel is requested by the Regional Administrator to carry a NMFS-certified fisheries observer pursuant to paragraph (a) of this section and is also selected to carry an at-sea monitor as part of an approved Sector at-sea monitoring program specified in § 648.87(b)(1)(v) for the same trip, only the NMFS-certified fisheries observer is required to go on that particular trip.

(k) *NE multispecies observer coverage*—(1) *Pre-trip notification.* Unless otherwise specified in this paragraph (k), or notified by the Regional Administrator, the owner, operator, or manager of a vessel (*i.e.,* vessel manager or Sector manager) issued a limited access NE multispecies permit that is fishing under a NE multispecies DAS or on a Sector trip, as defined in this part, must provide advanced notice to NMFS of the vessel name, permit number, and Sector to which the vessel belongs, if applicable; contact name and telephone number for coordination of observer deployment; date, time, and port of departure; area to be fished; and gear type to be used at least 48 hr prior to departing port on any trip declared into the NE multispecies fishery pursuant to § 648.10 or § 648.85, as instructed by the Regional Administrator, for the purposes of selecting vessels for

observer deployment. For trips lasting 48 hr or less in duration from the time the vessel leaves port to begin a fishing trip until the time the vessel returns to port upon the completion of the fishing trip, the vessel owner, operator, or manager may make a weekly notification rather than trip-by-trip calls. For weekly notifications, a vessel must notify NMFS by 0001 hr of the Friday preceding the week (Sunday through Saturday) that they intend to complete at least one NE multispecies DAS or Sector trip during the following week and provide the date, time, port of departure, area to be fished, and gear type to be used for each trip during that week. Trip notification calls must be made no more than 10 days in advance of each fishing trip. The vessel owner, operator, or manager must notify NMFS of any trip plan changes at least 24 hr prior to vessel departure from port. A vessel may not begin the trip without being issued an observer notification or a waiver by NMFS.

(2) *Vessel selection for observer coverage.* NMFS shall notify the vessel owner, operator, or manager whether the vessel must carry an observer, or if a waiver has been granted, for the specified trip within 24 hr of the vessel owner's, operator's or manager's notification of the prospective trip, as specified in paragraph (k)(1) of this section. All trip notifications shall be issued a unique confirmation number. A vessel may not fish in an area with an observer waiver confirmation number that does not match the trip plan that was called in to NMFS. Confirmation numbers for trip notification calls are valid for 48 hr from the intended sail date. If a trip is interrupted and returns to port due to bad weather or other circumstance beyond the operator's control, and goes back out within 48 hr, the same confirmation number and observer status remains. If the layover time is greater than 48 hr, a new trip notification must be made by the operator, owner, or manager of the vessel.

7. In § 648.14,

a. Revise the introductory text to paragraph (k)(12)(iii);

b. Revise paragraphs (e)(1), (k)(3)(i), (k)(5)(vi)(B), (k)(6)(ii)(A)(*1*), (k)(7)(i)(B), (k)(9)(iv)(B), (k)(11)(i)(A)(*2*), (k)(11)(ii), (k)(11)(iii)(D), (k)(11)(iv)(A), (k)(11)(v)(A), (k)(11)(vi), (k)(12)(iii)(A) through (E), (k)(12)(vi)(D), (k)(12)(vi)(G), (k)(12)(vi)(I), (k)(12)(vii)(A)(*1*) and (*2*), (k)(12)(viii), (k)(13)(i)(A), (k)(13)(ii)(A) through (C), and (k)(14);

c. Remove and reserve paragraph (k)(9)(i), (k)(9)(ii)(G) and (I), (k)(11)(v)(B)(*1*), (k)(12)(iv), and (k)(13)(ii)(D)(*3*); and

d. Add paragraphs (d)(3), (k)(2)(iii), (k)(7)(i)(C)(*4*), (k)(9)(ii)(M), (k)(9)(iii)(E) and (F), (k)(12)(iii)(F), (k)(12)(ix), (k)(13)(ii)(I) and (J), (k)(16)(vi) through (viii), (k)(18), and (k)(19) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(d) * * *

(3) Fail to comply with the appropriate VMS reporting requirements, as specified in § 648.10.

* * * * *

(e) * * *

(1) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-approved observer or sea sampler conducting his or her duties; any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part; any official designee of the Regional Administrator conducting his or her duties, including those duties authorized in § 648.7(g); or any dockside/roving monitor conducting his or her duties, including those duties authorized in § 648.82(n)(2) or § 648.87(b)(1)(v)(B)(*1*).

* * * * *

(k) * * *

(2) * * *

(iii) Fail to comply with the pre-trip notification requirements of the NE multispecies observer program specified in § 648.11(k).

(3) * * *

(i) Purchase, possess, or receive as a dealer, or in the capacity of a dealer, regulated species or ocean pout in excess of the possession limits specified in § 648.82, § 648.85, § 648.86, or § 648.87 applicable to a vessel issued a NE multispecies permit, unless otherwise specified in § 648.17, or unless the regulated species or ocean pout are purchased or received from a vessel that caught them on a Sector trip and such species are exempt from such possession limits in accordance with an approved Sector operations plan, as specified in § 648.87(c).

* * * * *

(5) * * *

(vi) * * *

(B) Possess, land, or fish for regulated species or ocean pout, except winter flounder as provided for in accordance with § 648.80(i) from or within the areas described in § 648.80(i), while in possession of scallop dredge gear on a vessel not fishing under the scallop DAS program as described in § 648.53, or fishing under a LAGC permit, unless the vessel and the dredge gear conform with the stowage requirements of § 648.23(b), or unless the vessel has not been issued a Federal NE multispecies permit and fishes for, possesses, or lands NE multispecies exclusively in state waters.

* * * * *

(6) * * *

(ii) * * *

(A) * * *

(*1*) If the vessel has been issued a limited access NE multispecies permit and fishes under a NE multispecies DAS or on a Sector trip with gillnet gear, fail to comply with gillnet tagging requirements specified in §§ 648.80(a)(3)(iv)(B)(*4*), (a)(3)(iv)(C), (a)(4)(iv)(B)(*3*), (b)(2)(iv)(B)(*3*), and (c)(2)(v)(B)(*3*), or fail to produce immediately, or cause to be produced immediately, gillnet tags when requested by an authorized officer.

* * * * *

(7) * * *

(i) * * *

(B) Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(a) through (f), unless otherwise specified in § 648.81(c)(2)(iii), (f)(2)(i), (f)(2)(iii), (f)(2)(vi), or as authorized under § 648.85.

(C) * * *

(*4*) Fail to comply with the restrictions on fishing and gear specified in § 648.81(n) for the NE multispecies restricted gear areas.

* * * * *

(9) * * *

(ii) * * *

(M) Lease NE multispecies DAS to or from a common pool vessel if either the Lessor or the Lessee vessel is a Sector vessel.

(iii) * * *

(E) Transfer NE multispecies DAS to or from a common pool vessel if either the Transferor or the Transferee vessel is a Sector vessel.

(F) Transfer NE multispecies DAS to or from a Sector vessel if either the Transferor or the Transferee vessel is enrolled in a different Sector for that particular fishing year.

(iv) * * *

(B) For any common pool or Sector vessel, fail to comply with the gillnet requirements and restrictions specified in § 648.82(j), unless otherwise exempted pursuant to § 648.87.

* * * * *

(11) * * *

(i) * * *

(A) * * *

(*2*) If fishing under a NE multispecies DAS in the Western U.S./Canada Area or Eastern U.S./Canada Area specified in § 648.85(a)(1), exceed the trip limits specified in § 648.85(a)(3)(iv), unless

further restricted under § 648.85(b) or exempted under § 648.87.

* * * * *

(ii) *Gear requirements for all persons.* If fishing with trawl gear under a NE multispecies DAS or on a Sector trip in the Eastern U.S./Canada Area defined in § 648.85(a)(1)(ii), fail to fish with a haddock separator trawl, flounder trawl net, or Ruhle trawl, as specified in § 648.85(a)(3)(iii) and (b)(6)(iv)(J)(*1*), unless using other gear authorized under § 648.85(b)(6) or (8).

(iii) * * *

(D) If fishing under a NE multispecies DAS or on a Sector trip in the Eastern U.S./Canada Area specified in § 648.85(a)(1)(ii), but not in a SAP specified in § 648.85(b) on the same trip, fail to comply with the requirements specified in § 648.85(a)(3).

* * * * *

(iv) * * *

(A) If fishing under a NE multispecies DAS or on a Sector trip in the Western U.S./Canada Area or Eastern U.S./Canada Area specified in § 648.85(a)(1), fail to report landings in accordance with § 648.85(a)(3)(v).

* * * * *

(v) * * *

(A) *All persons.* If fishing under a NE multispecies DAS in the Eastern U.S./Canada Area specified in § 648.85(a)(1)(ii), and in one of the SAPs specified in § 648.85(b)(3) or (8) on the same trip, fail to comply with the no discard and DAS flip provisions specified in § 648.85(b)(3)(xi) and (b)(8)(v)(I), or the minimum Category A DAS requirement specified in § 648.85(b)(3)(xii) and (b)(8)(v)(J).

* * * * *

(vi) *Closure of the U.S./Canada Area for all persons.* If fishing under a NE multispecies DAS or on a Sector trip, declare into, enter, or fish in the Eastern U.S./Canada Area specified in § 648.85(a)(1) if the area is closed under the authority of the Regional Administrator as described in § 648.85(a)(3)(iv)(D) or (E), unless fishing in the Closed Area II Yellowtail Flounder/Haddock SAP specified in § 648.85(b)(3) or the Eastern U.S./Canada Haddock SAP Program specified in § 648.85(b)(8).

(12) * * *

(iii) *Closed Area II Yellowtail Flounder/Haddock SAP restrictions for all persons.* (A) If fishing under the Closed Area II Yellowtail Flounder/Haddock SAP, fish for, harvest, possess, or land any regulated NE multispecies or ocean pout from the area specified in § 648.85(b)(3)(ii), unless in compliance with § 648.85(b)(3)(i) through (xiii).

(B) Enter or fish in Closed Area II as specified in § 648.81(b), unless declared into the area in accordance with § 648.85(b)(3)(v) or § 648.85(b)(8)(v)(D).

(C) Enter or fish in Closed Area II under the Closed Area II Yellowtail Flounder/Haddock SAP outside of the season specified in § 648.85(b)(3)(iii).

(D) If fishing in the Closed Area II Yellowtail Flounder/Haddock SAP specified in § 648.85(b)(3), exceed the number of trips specified in § 648.85(b)(3)(vi) or (vii).

(E) If fishing in the Closed Area II Yellowtail Flounder/Haddock SAP specified in § 648.85(b)(3), exceed the trip limits specified in § 648.85(b)(3)(viii).

(F) If fishing in the Closed Area II Yellowtail Flounder/Haddock SAP specified in § 648.85(b)(3), fail to comply with the gear requirements specified in § 648.85(b)(3)(x).

* * * * *

(vi) * * *

(D) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable DAS use restrictions specified in § 648.85(b)(7)(iv)(A) and (b)(7)(vi)(A).

* * * * *

(G) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable gear restrictions specified in § 648.85(b)(7)(iv)(E), and (b)(7)(v)(A) or (b)(7)(vi)(B).

* * * * *

(I) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable reporting requirement specified in § 648.85(b)(7)(v)(C) or (b)(7)(vi)(D).

(vii) * * *

(A) * * *

(*1*) If fishing under a NE multispecies DAS or on a Sector trip in the Eastern U.S./Canada Haddock SAP specified in § 648.85(b)(8), in the area specified in § 648.85(b)(8)(ii), and during the season specified in § 648.85(b)(8)(iv), fail to comply with § 648.85(b)(8)(v).

(*2*) *VMS and declaration requirements.* (*i*) If fishing under a NE multispecies DAS or on a Sector trip in the Eastern U.S./Canada Haddock SAP in the area specified in § 648.85(b)(8)(ii), fail to comply with the VMS requirements in § 648.85(b)(8)(v)(B).

(*ii*) If fishing under a NE multispecies DAS or on a Sector trip, fish in the Eastern U.S./Canada Haddock SAP specified in § 648.85(b)(8), unless declared into the program in accordance with § 648.85(b)(8)(v)(D).

* * * * *

(viii) Discard legal-sized NE regulated multispecies or ocean pout while fishing under a Special Access Program, as described in § 648.85(b)(3)(xi), (b)(6)(iv)(E), (b)(7)(iv)(H), or (b)(8)(v)(I), unless otherwise required pursuant to possession prohibitions specified in § 648.86 or § 648.87.

(ix) *GOM Haddock Sink Gillnet Pilot Program.* (A) Fail to comply with the mesh size, net restriction, DAS use restriction, or notification requirements specified in § 648.85(b)(9), unless otherwise exempted pursuant to § 648.87.

(B) Fail to possess on board a letter of authorization issued by the Regional Administrator when participating in the GOM Haddock Sink Gillnet Pilot Program, as required by § 648.85(b)(9)(v)(C).

(C) Fish for, harvest, possess, or land regulated species or ocean pout while operating under the GOM Haddock Sink Gillnet Pilot Program pursuant to § 648.85(b)(9) after the program has been closed pursuant to § 648.85(b)(9)(viii).

(13) * * *

(i) * * *

(A) Under § 648.85 or § 648.86, fail to offload a sufficient amount of regulated species or ocean pout subject to a daily possession limit at the end of a fishing trip, as required by § 648.86(i).

(ii) * * *

(A) Land, or possess on board a vessel, more than the possession or landing limits specified in § 648.86(a), (b), (c), (d), (e), (g), (h), (j), (k), and (l); or violate any of the other provisions of § 648.86, unless otherwise specified in § 648.17.

(B) Possess or land per trip more than the possession or landing limits specified in § 648.86(a), (b), (c), (e), (g), (h), (j), and (l); § 648.81(n), § 648.82(b)(5) and (6), § 648.85, or § 648.88 if the vessel has been issued a limited access NE multispecies permit or open access NE multispecies permit, as applicable.

(C) Fish for, possess at any time during a trip, or land regulated NE multispecies or ocean pout specified in § 648.86 after using up the vessel's annual DAS allocation or when not participating in the DAS program pursuant to § 648.82, unless otherwise exempted by § 648.82(b)(5), § 648.87, or § 648.89, or allowed pursuant to § 648.85(b)(6) or § 648.88.

* * * * *

(I) For common pool vessels, including vessels issued a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions, land regulated species or ocean pout more than once within any 24-hr period.

(J) For common pool vessels, including vessels issued a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions, fail to comply with the most restrictive trip limits applicable when fishing in multiple areas, as specified in § 648.85 or § 648.86.

(14) *Sector requirements.* It is unlawful for any person, including any owner or operator of a vessel issued a valid Federal NE multispecies permit and fishing on a Sector trip to do any of the following:

(i) Fail to abide by the restrictions specified in § 648.87(b)(1).

(ii) Catch regulated species or ocean pout in excess of ACE allocated or transferred to that Sector pursuant to § 648.87(b)(1)(i) and (viii), respectively.

(iii) Fish in a particular stock area, the Eastern U.S./Canada Area, or a SAP if the Sector has not been allocated, does not acquire, or otherwise has insufficient ACE remaining/available for all stocks caught in that area, or fail to operate in a manner that would not catch stocks for which the Sector has not been allocated ACE, as described in an approved Sector operations plan pursuant to § 648.87(b)(2)(xiv), as prohibited in § 648.87(b)(1)(ii);

(iv) Violate the provisions of an approved Sector operations plan or letter of authorization issued by the Regional Administrator, as required by § 648.87(b)(1)(iv) and (b)(2).

(v) Fail to remain in the Sector for the remainder of the fishing year, as required by § 648.87(b)(1).

(vi) Unless otherwise required to use a NE multispecies DAS to participate in another fishery, fish in the NE multispecies DAS program in a given fishing year or, for common pool vessels, fish in an approved Sector in a given fishing year.

(vii) If a vessel is removed from a Sector for violating the Sector rules, fish under the NE multispecies regulations for common pool vessels.

(viii) Discard legal-sized regulated species or ocean pout allocated to Sectors pursuant to § 648.87(b)(1)(i), as prohibited by § 648.87(b)(1)(v).

(ix) Fail to comply with the reporting requirements specified in § 648.87(b)(1)(v) or (vi).

(x) Offload fish before a dockside/roving monitor arrives, if selected to have its offloading events observed by a dockside/roving monitor, as prohibited by § 648.87(b)(5)(i)(C).

(xi) Leave port to begin a trip before an at-sea monitor has arrived and boarded the vessel or before electronic monitoring equipment has been properly installed if assigned to carry either an at-sea monitor or electronic monitoring equipment for that trip, as prohibited by § 648.87(b)(6)(iii)(A).

(xii) Leave port to begin a trip if a vessel has failed a review of safety issues by an at-sea monitor and has not successfully resolved any identified safety deficiencies, as prohibited by § 648.87(b)(6)(iv)(A).

* * * * *

(16) * * *

(vi) *Size limits.* If fishing under the recreational or charter/party regulations, possess regulated species or ocean pout that are smaller than the minimum fish sizes specified in § 648.89(b)(1) and (b)(3).

(vii) *Identification.* If fishing under the recreational or charter/party regulations, possess regulated species or ocean pout without at least 2 square inches (5.1 square cm) of contiguous skin that allows for the ready identification of the species of fish upon landing.

(viii) *Atlantic wolffish.* If fishing under the recreational or charter/party regulations, possess Atlantic wolffish.

* * * * *

(18) *Trimester TAC AM*—(i) *Vessel and operator permit holders.* (A) Fish for, harvest, possess, or land regulated species or ocean pout in or from the closed areas specified in § 648.82(n)(2)(ii) once such areas are closed pursuant to § 648.82(n)(2)(i).

(B) Fail to comply with the reporting/recordkeeping requirements specified in § 648.87(b)(5).

(C) Employ a dockside/roving monitor service provider that is not approved/certified by NMFS, as specified in § 648.82(n)(2)(iv)(B).

(19) *Dockside/roving and at-sea/electronic monitoring service providers.* It is unlawful for any dockside/roving and at-sea/electronic monitoring service provider, including individual dockside/roving or at-sea monitors, to do any of the following:

(i) Fail to comply with the operational requirements, including the recordkeeping and reporting requirements, specified in § 648.87(b)(5) or (6).

(ii) Provide false or inaccurate information regarding area fished; species identification; or amount of each species kept, discarded, or landed.

* * * * *

8. In § 648.60, revise the introductory text to paragraph (a)(5)(ii) and revise paragraph (a)(5)(ii)(C)(*2*) to read as follows:

§ 648.60 Sea scallop area access program requirements.

* * * * *

(a) * * *

(5) * * *

(ii) *NE multispecies possession limits and yellowtail flounder TAC.* Subject to the seasonal restriction established under the Sea Scallop Area Access Program and specified in § 648.59(b)(4), (c)(4), and (d)(4), and provided the vessel has been issued a NE multispecies permit as specified in § 648.4(a)(1), after declaring a trip into a Sea Scallop Access Area and fishing within the Access Areas described in § 648.59(b) through (d), a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, up to a maximum of 1,000 lb (453.6 kg) of all NE multispecies combined, subject to the minimum commercial fish size restrictions specified in § 648.83(a)(2), and the additional restrictions for Atlantic cod, haddock, and yellowtail flounder specified in paragraphs (a)(5)(ii)(A) through (C) of this section.

* * * * *

(C) * * *

(*2*) *SNE/MA yellowtail flounder possession limit.* Such vessels fishing within the Nantucket Lightship Access Area described in § 648.59(d) may fish for, possess, and land yellowtail flounder up to the overall possession limit of all NE multispecies combined, as specified in paragraph (a)(5)(ii) of this section, except that such vessels may not fish for, possess, or land more than the possession limit of yellowtail flounder as specified in § 648.86(g), provided the Regional Administrator has not issued a notice that the scallop fishery portion of the yellowtail flounder TAC as specified in § 648.85(c)(i) has been harvested.

* * * * *

9. In § 648.80, revise the introductory text to paragraphs (a)(4)(iv), (a)(11), (b)(2)(iv), (b)(11), and (c)(2)(v); and revise paragraphs (a)(3)(i), (a)(3)(iv)(A)(*1*), (a)(3)(iv)(B)(*1*) and (*2*), (a)(3)(vi), (a)(4)(i), (a)(4)(iv)(A), (a)(4)(iv)(B)(*1*), (a)(8)(i), (a)(11)(i)(B), (b)(2)(i), (b)(2)(iv)(A), (b)(2)(iv)(B)(*1*), (b)(2)(vi), (b)(11)(i), (c)(2)(i), (c)(2)(v)(A), (c)(2)(v)(B)(*1*), and (h)(2) to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(3) * * *

(i) *Vessels using trawls.* Except as provided in paragraphs (a)(3)(i) and (vi) of this section and § 648.85(b)(6), and unless otherwise restricted under paragraph (a)(3)(iii) of this section, the minimum mesh size for any trawl net,

except a midwater trawl, on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a Sector trip in the GOM Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond mesh or square mesh applied to the codend of the net as defined in paragraphs (a)(3)(i)(A) and (B) of this section, provided the vessel complies with the requirements of paragraph (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(iv) * * *

(A) * * *

(*1*) *Mesh size.* Except as provided in paragraphs (a)(3)(iv) and (vi) of this section, and § 648.85(b)(9), and unless otherwise restricted under paragraph (a)(3)(iii) of this section, for any vessel that obtains an annual designation as a Trip gillnet vessel, the minimum mesh size for any sink gillnet when fishing in the NE multispecies DAS program or on a Sector trip in the GOM Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

(B) * * *

(*1*) *Mesh size.* Except as provided in paragraphs (a)(3)(iv) and (vi) of this section, and § 648.85(b)(9), and unless otherwise restricted under paragraph (a)(3)(iii) of this section, for any vessel that obtain an annual designation as a Day gillnet vessel, the minimum mesh size for any sink gillnet when fishing under the NE multispecies DAS program or on a Sector trip in the GOM Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(*2*) *Number of nets.* A day gillnet vessel fishing under a NE multispecies DAS or on a Sector trip and fishing in the GOM Regulated Mesh Area may not fish with, haul, possess, or deploy more than 50 roundfish sink gillnets or 100 flatfish (tie-down) sink gillnets, each of which must be tagged pursuant to paragraph (a)(3)(iv)(C) of this section, except as provided in § 648.92(b)(8)(i). Vessels may fish any combination of roundfish and flatfish gillnets up to 100 nets, and may stow additional nets not to exceed 160 nets, counting deployed nets.

* * * * *

(vi) *Other restrictions and exemptions.* A vessel is prohibited from fishing in the GOM or GB Exemption Area as defined in paragraph (a)(17) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (a)(5) through (7), (a)(9) through (14), (d), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing on a Sector trip; or if fishing under the Small Vessel or Handgear A permit specified in § 648.82(b)(5) and (6), respectively; or if fishing under a Handgear B permit specified in § 648.88(a); or if fishing under the scallop state waters exemptions specified in § 648.54 and paragraph (a)(11) of this section; or if fishing under a scallop DAS in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit specified in § 648.88; or if fishing as a charter/party or private recreational vessel in compliance with § 648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

* * * * *

(4) * * *

(i) *Vessels using trawls.* Except as provided in paragraph (a)(3)(vi) of this section, this paragraph (a)(4)(i), § 648.85(b)(6) and (8), and § 648.87(c)(2)(ii), and unless otherwise restricted under paragraph (a)(4)(iii) of this section, the minimum mesh size for any trawl net, except a midwater trawl, and the minimum mesh size for any trawl net when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a Sector trip in the GB Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond mesh or square mesh applied to the codend of the net as defined in paragraph (a)(3)(i) of this section, provided the vessel complies with the requirements of paragraphs (a)(3)(vii) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

(iv) *Gillnet vessels.* Except as provided in paragraph (a)(3)(vi) of this section and this paragraph (a)(4)(iv), for Day and Trip gillnet vessels, the minimum mesh size for any sink gillnet, and the minimum mesh size for any roundfish or flatfish gillnet when fishing in that portion of the GB Regulated Mesh Area that lies within the SNE Exemption Area, as described in paragraph (b)(10) of this section, that is not stowed and available for immediate use in accordance with § 648.23(b), when fishing under a DAS in the NE multispecies DAS program or on a Sector trip in the GB Regulated Mesh Area is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(A) *Trip gillnet vessels.* A Trip gillnet vessel fishing under a NE multispecies DAS or on a Sector trip and fishing in the GB Regulated Mesh Area may not fish with nets longer than 300 ft (91.4 m), or 50 fathoms (91.4 m) in length.

(B) * * *

(*1*) *Number of nets.* A Day gillnet vessel fishing under a NE multispecies DAS or on a Sector trip and fishing in the GB Regulated Mesh Area may not fish with, haul, possess, or deploy more than 50 nets, except as provided in § 648.92(b)(8)(i).

* * * * *

(8) * * *

(i) *Exemption allowing no incidental catch of regulated multispecies.* An exemption may be added in an existing fishery for which there are sufficient data or information to ascertain the amount of regulated species bycatch, if the Regional Administrator, after consultation with the NEFMC, determines that the percentage of regulated species caught as bycatch is, or can be reduced to, less than 5 percent, by weight, of total catch, unless otherwise specified in this paragraph (a)(8)(i) of this section, and that such exemption will not jeopardize fishing mortality objectives. The 5-percent regulated species incidental bycatch

standard could be modified for a stock that is not in an overfished condition, or if overfishing is not occurring on that stock. When considering modifications of the standard, it must be shown that the change will not delay a rebuilding program, or result in overfishing or an overfished condition. In determining whether exempting a fishery may jeopardize meeting fishing mortality objectives, the Regional Administrator may take into consideration various factors including, but not limited to, juvenile mortality, sacrifices in yield that will result from that mortality, the ratio of target species to regulated species, status of stock rebuilding, and recent recruitment of regulated species. A fishery can be defined, restricted, or allowed by area, gear, season, or other means determined to be appropriate to reduce bycatch of regulated species. The Regional Administrator may modify or delete an existing exemption if he/she determines that the catch of regulated species is equal to or greater than 5 percent, by weight of total catch, or another pertinent approved amount, or that continuing the exemption may jeopardize meeting fishing mortality objectives. Notification of additions, deletions, or modifications will be made through issuance of a rule in the **Federal Register**.

* * * * *

(11) *GOM Scallop Dredge Exemption Area.* Unless otherwise prohibited in § 648.81, vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels issued a General Category scallop permit, may fish in the GOM Regulated Mesh Area specified in paragraph (a)(1) of this section, when not under a NE multispecies DAS, providing the vessel fishes in the GOM Scallop Dredge Exemption Area and complies with the requirements specified in paragraph (a)(11)(i) of this section. The GOM Scallop Dredge Fishery Exemption Area is defined by the straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

GOM SCALLOP DREDGE EXEMPTION AREA

Point	N. Latitude	W. Longitude
SM1	41°35′	70°00′
SM2	41°35′	69°40′
SM3	42°49.5′	69°40′
SM4	43°12′	69°00′
SM5	43°41′	68°00′

GOM SCALLOP DREDGE EXEMPTION AREA—Continued

Point	N. Latitude	W. Longitude
SM6	43°58′	67°22′
SM7	(1)	(1)

[1] Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(i) * * *

(B) A vessel fishing in the GOM Scallop Dredge Fishery Exemption Area under the exemption specified in this paragraph (a)(11) must fish with dredge gear. The combined dredge width in use by, or in possession on board, may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

* * * * *

(b) * * *

(2) * * *

(i) *Vessels using trawls.* Except as provided in paragraphs (b)(2)(i) and (vi) of this section, and § 648.85(b)(6), and unless otherwise restricted under paragraph (b)(2)(iii) of this section, the minimum mesh size for any trawl net, not stowed and not available for immediate use in accordance with § 648.23(b), except midwater trawl, on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a Sector trip in the SNE Regulated Mesh Area is 6-inch (15.2-cm) diamond mesh or 6.5-inch (16.5-cm) square mesh, applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) square or diamond mesh applied to the codend of the net, as defined in paragraph (a)(3)(i) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

(iv) *Gillnet vessels.* For Day and Trip gillnet vessels, the minimum mesh size for any sink gillnet not stowed and not available for immediate use in accordance with § 648.23(b), when fishing under a DAS in the NE multispecies DAS program or on a Sector trip in the SNE Regulated Mesh Area, is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters. Day gillnet vessels must also abide by the tagging requirements in paragraph (a)(3)(iv)(C) of this section.

(A) *Trip gillnet vessels.* A Trip gillnet vessel fishing under a NE multispecies DAS or on a Sector trip and fishing in the SNE Regulated Mesh Area may not fish with nets longer than 300 ft (91.4 m), or 50 fathoms (91.4 m) in length.

(B) * * *

(*1*) *Number of nets.* A Day gillnet vessel fishing under a NE multispecies DAS or on a Sector trip and fishing in the SNE Regulated Mesh Area may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 160, counting deployed nets.

* * * * *

(vi) *Other restrictions and exemptions.* A vessel is prohibited from fishing in the SNE Exemption Area, as defined in paragraph (b)(10) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (b)(3), (b)(5) through (9), (b)(11), (c), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing on a Sector trip; or if fishing under the Small Vessel or Handgear A permit specified in § 648.82(b)(5) and (6), respectively; or if fishing under a Handgear B permit specified in § 648.88(a); or if fishing under a scallop state waters exemption specified in § 648.54; or if fishing under a scallop DAS in accordance with paragraph (h) of this section; or if fishing under a General Category scallop permit in accordance with paragraphs (b)(11)(i)(A) and (B) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit specified in § 648.88; or if fishing as a charter/party or private recreational vessel in compliance with the regulations specified in § 648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed as specified in § 648.23(b).

* * * * *

(11) *SNE Scallop Dredge Exemption Area.* Unless otherwise prohibited in § 648.81, or 50 CFR part 648, subpart D, vessels with a limited access scallop permit that have declared out f the DAS program as specified in § 648.10, or that have used up their DAS allocation, and vessels issued a General Category scallop permit, may fish in the SNE RMA when not under a NE multispecies DAS, provided the vessel fishes in the SNE Scallop Dredge Exemption Area and complies with the requirements specified in paragraph (b)(11)(ii) of this section.

(i) The SNE Scallop Dredge Exemption Area is that area (copies of a chart depicting this area are available from the Regional Administrator upon request):

(A) Bounded on the west, south and east by straight lines connecting the following points in the order stated:

Point	N. Latitude	W. Longitude
Sc1	(1)	72°30′
Sc2	40°00′	72°30′
Sc3	40°00′	71°40′
Sc4	39°50′	71°40′
Sc5	39°50′	70°00′
Sc6	(2)	70°00′
Sc7	(3)	70°00′
Sc8	(4)	70°00′

[1] South facing shoreline of Long Island, NY.
[2] South facing shoreline of Nantucket, MA.
[3] North facing shoreline of Nantucket, MA.
[4] South facing shoreline of Cape Cod, MA.

(B) Bounded on the northwest by straight lines connecting the following points in the order stated:

Point	N. Latitude	W. Longitude
Sc9	41°00′	(1)
Sc10	41°00′	71°40′
Sc11	(2)	71°40′

[1] East facing shoreline of the south fork of Long Island, NY.
[2] South facing shoreline of RI.

* * * * *

(c) * * *

(2) * * *

(i) *Vessels using trawls.* Except as provided in paragraph (c)(2)(iii) of this section, and § 648.85(b)(6), the minimum mesh size for any trawl net not stowed and not available for immediate use in accordance with § 648.23(b), on a vessel or used by a vessel fishing under the NE multispecies DAS program or on a Sector trip in the MA Regulated Mesh Area (§ 648.104(a)), applied throughout the body and extension of the net, or any combination thereof, and 6.5-inch (16.5-cm) diamond or square mesh applied to the codend of the net, as defined in paragraph (a)(3)(i) of this section. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

(v) *Gillnet vessels.* For Day and Trip gillnet vessels, the minimum mesh size for any sink gillnet, not stowed and not available for immediate use in accordance with § 648.23(b), when fishing under a DAS in the NE multispecies DAS program or on a Sector trip in the MA Regulated Mesh Area, is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

(A) *Trip gillnet vessels.* A Trip gillnet vessel fishing under a NE multispecies DAS or on a Sector trip and fishing in the MA Regulated Mesh Area may not fish with nets longer than 300 ft (91.4 m), or 50 fathoms (91.4 m) in length.

(B) * * *

(*1*) *Number of nets.* A Day gillnet vessel fishing under a NE multispecies DAS or on a Sector trip and fishing in the MA Regulated Mesh Area, may not fish with, haul, possess, or deploy more than 75 nets, except as provided in § 648.92(b)(8)(i). Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 160, counting deployed nets.

* * * * *

(h) * * *

(2) Limited access scallop vessels issued a limited access NE multispecies permit and fishing under a NE multispecies DAS are subject to the gear restrictions specified in this section and may possess and land unlimited amounts of regulated species or ocean pout, unless otherwise restricted by § 648.86. Such vessels may simultaneously fish under a scallop DAS, but are prohibited from using scallop dredge gear on such trips.

* * * * *

10. In § 648.81, revise the introductory text for paragraph (f)(2)(ii); revise paragraphs (b)(2)(iii) and (j)(1); and add paragraphs (f)(2)(vi), (g)(2)(iv) and (v), and (n) to read as follows:

§ 648.81 NE multispecies closed areas and measures to protect EFH.

* * * * *

(b) * * *

(2) * * *

(iii) Fishing in the CA II Yellowtail Flounder/Haddock SAP or the Eastern U.S./Canada Haddock SAP Program as specified in § 648.85(b)(3)(ii) or (b)(8)(ii), respectively; or

* * * * *

(f) * * *

(2) * * *

(ii) That are fishing with or using exempted gear as defined under this part, or in the Midwater Trawl Gear Exempted Fishery as specified under 648.80(d), and excluding pelagic gillnet gear capable of catching NE multispecies, except for vessels fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided:

* * * * *

(vi) That are fishing on a Sector trip, provided such vessels comply with the following restricted areas referred to as the Sector Rolling Closure Areas:

(A) *Sector Rolling Closure Area I.* From March 1 through March 31, the restrictions specified in this paragraph (f)(2)(vi) apply to Sector Rolling Closure Area I, which is the area bounded by straight lines connecting the following points in the order stated:

SECTOR ROLLING CLOSURE AREA I

[March 1–March 31]

Point	N. Latitute	W. Longitude
GM3	42°00′	(1)
GM5	42°00′	68°30′
GM6	42°30′	68°30′
GM23	42°30′	70°00′

[1] Cape Cod, MA shoreline on the Atlantic Ocean.

(B) *Sector Rolling Closure Area II.* From April 1 through April 30, the restrictions specified in this paragraph (f)(2)(vi) apply to Sector Rolling Closure Area II, which is the area bounded by straight lines connecting the following points in the order stated:

SECTOR ROLLING CLOSURE AREA II

[April 1–April 30]

Point	N. Latitude	W. Longitude
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
SGM1	42°00′	70°00′
SGM2	43°00′	70°00′
SGM3	43°00′	(4)

[1] MA shoreline.
[2] Cape Cod, MA shoreline on Cape Cod Bay.
[3] Cape Cod, MA shoreline on the Atlantic Ocean.
[4] NH shoreline.

(C) *Sector Rolling Closure Area III.* From May 1 through May 31, the restrictions specified in this paragraph (f)(2)(vi) apply to Sector Rolling Closure Area III, which is the area bounded by straight lines connecting the following points in the order stated:

SECTOR ROLLING CLOSURE AREA III

[May 1–May 31]

Point	N. Latitude	W. Longitude
SGM4	42°30′	(1)

SECTOR ROLLING CLOSURE AREA III—Continued

[May 1–May 31]

Point	N. Latitude	W. Longitude
SGM5	42°30′	70°00′
SGM6	43°00′	70°00′
SGM7	43°00′	69°30′
SGM8	43°30′	69°30′
GM18	43°30′	(2)

1 MA shoreline.
2 NH shoreline.

(D) *Sector Rolling Closure Area IV.* From June 1 through June 30, the restrictions specified in this paragraph (f)(2)(vi) apply to Sector Rolling Closure Area IV, which is the area bounded by straight lines connecting the following points in the order stated:

SECTOR ROLLING CLOSURE AREA IV

[June 1–June 30]

Point	N. Latitude	W. Longitude
SGM9	43°00′	(1)
SGM6	43°00′	70°00′
SGM10	43°30′	70°00′
SGM11	43°30′	69°00′
GM22	(2)	69°00′

1 MA shoreline.
2 ME shoreline.

(E) *Sector Rolling Closure Area V.* From October 1 through November 30, the restrictions specified in this paragraph (f)(2)(vi) apply to Sector Rolling Closure Area V, which is the area bounded by straight lines connecting the following points in the order stated:

SECTOR ROLLING CLOSURE AREA V

[October 1—November 30]

Point	N. Latitude	W. Longitude
GM1	42°00′	(1)
GM2	42°00′	(2)
GM3	42°00′	(3)
GM4	42°00′	70°00′
GM8	42°30′	70°00′
GM9	42°30′	(1)

1 MA shoreline.
2 Cape Cod, MA shoreline on Cape Cod Bay.
3 Cape Cod, MA shoreline on the Atlantic Ocean.

(g) * * *

(2) * * *

(iv) That are fishing in the CA I Hook Gear Haddock Access Area pursuant to § 648.85(b)(7).

(v) That are fishing under the restrictions and conditions of an approved Sector operations plan, as specified in § 648.87(c).

* * * * *

(j) * * *

(1) Restricted Gear Area I is defined by straight lines connecting the following points in the order stated:

Point	N. Latitude	W. Longitude
Inshore boundary		
to 120		
69	40°07.9′	68°36.0′
70	40°07.2′	68°38.4′
71	40°06.9′	68°46.5′
72	40°08.7′	68°49.6′
73	40°08.1′	68°51.0′
74	40°05.7′	68°52.4′
75	40°03.6′	68°57.2′
76	40°03.65′	69°00.0′
77	40°04.35′	69°00.5′
78	40°05.2′	69°00.5′
79	40°05.3′	69°01.1′
80	40°08.9′	69°01.75′
81	40°11.0′	69°03.8′
82	40°11.6′	69°05.4′
83	40°10.25′	69°04.4′
84	40°09.75′	69°04.15′
85	40°08.45′	69°03.6′
86	40°05.65′	69°03.55′
87	40°04.1′	69°03.9′
88	40°02.65′	69°05.6′
89	40°02.00′	69°08.35′
90	40°02.65′	69°11.15′
91	40°00.05′	69°14.6′
92	39°57.8′	69°20.35′
93	39°56.65′	69°24.4′
94	39°56.1′	69°26.35′
95	39°56.55′	69°34.1′
96	39°57.85′	69°35.5′
97	40°00.65′	69°36.5′
98	40°00.9′	69°37.3′
99	39°59.15′	69°37.3′
100	39°58.8′	69°38.45′
102	39°56.2′	69°40.2′
103	39°55.75′	69°41.4′
104	39°56.7′	69°53.6′
105	39°57.55′	69°54.05′
106	39°57.4′	69°55.9′
107	39°56.9′	69°57.45′
108	39°58.25′	70°03.0′
110	39°59.2′	70°04.9′
111	40°00.7′	70°08.7′
112	40°03.75′	70°10.15′
115	40°05.2′	70°10.9′
116	40°02.45′	70°14.1′
119	40°02.75′	70°16.1′
to 181		
Offshore boundary		
to 69		
120	40°06.4′	68°35.8′
121	40°05.25′	68°39.3′
122	40°05.4′	68°44.5′
123	40°06.0′	68°46.5′
124	40°07.4′	68°49.6′
125	40°05.55′	68°49.8′
126	40°03.9′	68°51.7′
127	40°02.25′	68°55.4′
128	40°02.6′	69°00.0′
129	40°02.75′	69°00.75′
130	40°04.2′	69°01.75′
131	40°06.15′	69°01.95′
132	40°07.25′	69°02.0′
133	40°08.5′	69°02.25′
134	40°09.2′	69°02.95′
135	40°09.75′	69°03.3′
136	40°09.55′	69°03.85′
137	40°08.4′	69°03.4′
138	40°07.2′	69°03.3′
139	40°06.0′	69°03.1′
140	40°05.4′	69°03.05′
141	40°04.8′	69°03.05′
142	40°03.55′	69°03.55′
143	40°01.9′	69°03.95′
144	40°01.0′	69°04.4′
146	39°59.9′	69°06.25′
147	40°00.6′	69°10.05′
148	39°59.25′	69°11.15′
149	39°57.45′	69°16.05′
150	39°56.1′	69°20.1′
151	39°54.6′	69°25.65′
152	39°54.65′	69°26.9′
153	39°54.8′	69°30.95′
154	39°54.35′	69°33.4′
155	39°55.0′	69°34.9′
156	39°56.55′	69°36.0′
157	39°57.95′	69°36.45′
158	39°58.75′	69°36.3′
159	39°58.8′	69°36.95′
160	39°57.95′	69°38.1′
161	39°54.5′	69°38.25′
162	39°53.6′	69°46.5′
163	39°54.7′	69°50.0′
164	39°55.25′	69°51.4′
165	39°55.2′	69°53.1′
166	39°54.85′	69°53.9′
167	39°55.7′	69°54.9′
168	39°56.15′	69°55.35′
169	39°56.05′	69°56.25′
170	39°55.3′	69°57.1′
171	39°54.8′	69°58.6′
172	39°56.05′	70°00.65′
173	39°55.3′	70°02.95′
174	39°56.9′	70°11.3′
175	39°58.9′	70°11.5′
176	39°59.6′	70°11.1′
177	40°01.35′	70°11.2′
178	40°02.6′	70°12.0′
179	40°00.4′	70°12.3′
180	39°59.75′	70°13.05′
181	39°59.3′	70°14.0′
to 119		

* * * * *

(n) *NE Multispecies Restricted Gear Areas.* With the exception of a vessel on a Sector trip, any vessel issued a limited access NE multispecies permit that is fishing any part of a trip in one or both of the NE Multispecies Restricted Gear Areas specified in paragraphs (n)(1) and (2) of this section must comply with all applicable restrictions specified in this paragraph (n). If such a vessel fishes inside/outside of these areas on the same trip, the most restrictive measures for the areas fished apply, including, but not limited to, gear restrictions and trip limits.

(1) *Western GB Multispecies Restricted Gear Area.* The Western GB Multispecies Restricted Gear Area is

defined as the area bounded by straight lines connecting the following points in the order stated:

WESTERN GB MULTISPECIES RESTRICTED GEAR AREA

Point	N. Latitude	W. Longitude
G8	42°00′	69°30′
GM5	42°00′	68°30′
MRGA1	41°00′	68°30′
YTA5	41°00′	69°30′
G8	42°00′	69°30′

(2) *SNE Multispecies Restricted Gear Area.* The SNE Multispecies Restricted Gear Area is defined as the area bounded by straight lines connecting the following points in the order stated:

SNE MULTISPECIES RESTRICTED GEAR AREA

Point	N. Latitude	W. Longitude
MRAG1	41°30′	(1)
MRGA2	41°30′	70°30′
MRGA3	(2)	70°30′
MRGA4	(3)	70°30′
MRGA5	40°00′	70°30′
MRGA6	40°00′	71°30′
MRGA7	40°30′	71°30′
SNEMA3	40°30′	72°00′
MRGA8	(4)	72°00′
MRGA9	(5)	72°00′
MRGA10	(6)	72°00′
MRAG1	(1)	70°30′

[1] East-facing shoreline of RI.
[2] North-facing shoreline of Martha's Vineyard, MA.
[3] South-facing shoreline of Martha's Vineyard, MA.
[4] South-facing shoreline of Long Island, NY.
[5] North-facing shoreline of Long Island, NY.
[6] South-facing shoreline of CT.

(3) *Gear restrictions.* Unless otherwise authorized pursuant to paragraph (n)(3)(iv) of this section, a limited access NE multispecies vessel subject to the restrictions of paragraph (n) of this section may only use one or more of the gear types listed in paragraphs (n)(3)(i) through (iii) of this section. No other type of fishing gear may be on board the vessel when fishing in the NE Multispecies Restricted Gear Areas specified in paragraphs (n)(1) and (2) of this section.

(i) *Trawl gear.* A limited access NE multispecies vessel subject to the restrictions of paragraph (n) of this section using trawl gear may only use a haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(*3*); or a rope separator trawl, as specified in paragraph (n)(3)(i)(A) of this section.

(A) *Rope separator trawl.* A rope separator trawl is defined as a four-seam bottom trawl net (*i.e.*, a net with a top and bottom panel and two side panels) modified to include both a horizontal separator panel and an escape opening in the bottom belly of the net below the separator panel, as further specified in paragraphs (n)(3)(i)(A)(*1*) through (*3*) of this section.

(*1*) *Mesh size.* Unless otherwise specified in this paragraph (n)(3)(i)(A)(*1*), the minimum mesh size applied throughout the body and extension of a rope separator trawl must be 6-inch (15.2–cm) diamond mesh or 6.5-inch (16.5–cm) square mesh, or any combination thereof. Mesh in the bottom belly of the net must be 13-inch (33–cm) diamond mesh. Unless otherwise specified in this part, the codend mesh size must be consistent with mesh size requirements specified in § 648.80. The mesh size of a particular section of the rope separator trawl is measured in accordance with § 648.80(f)(2), unless insufficient numbers of mesh exist, in which case the maximum total number of meshes in the section will be measured (between 2 and 20 meshes).

(*2*) *Separator panel.* The separator panel must consist of parallel lines made of fiber rope, the ends of which are attached to each side of the net starting at the forward edge of the square of the net and running aft toward the extension of the net. The leading rope must be attached to the side panel at a point at least ⅓ of the number of meshes of the side panel above the lower gore, and the panel of ropes shall slope downward toward the extension of the net. For example, if the side panel of the net is 42 meshes tall, the leading rope must be attached at least 14 meshes above the lower gore. The forward ⅔ of the separator ropes that comprise the separator panel must be no farther than 26 inches (66 cm) apart, with the after ⅓ of the separator ropes that comprise the separator panel being no farther than 13 inches (33 cm) apart. The ends of the aftermost rope shall be attached to the bottom belly at a point ⅙ of the number of meshes of the after end of the bottom belly below the lower gore. The separator ropes should be of sufficient length not to impinge upon the overall shape of the net without being too long to compromise the selectivity of the net. The separator ropes may not be manipulated in any way that would inhibit the selectivity of the net by causing the separator ropes to dip toward the bottom belly of the net and obscure the escape opening, as defined in paragraph (n)(3)(i)(A)(*3*) of this section.

(*3*) *Escape opening.* The escape opening must be positioned in the bottom belly of the net behind the sweep and terminate under the separator panel, as described in paragraph (n)(3)(i)(A)(*2*) of this section. Longitudinal lines may be used to maintain the shape of the escape opening, as necessary. The escape opening shall be at least 18 meshes in both length and width.

(B) [Reserved]

(ii) *Gillnet gear.* A limited access NE multispecies vessel subject to the restrictions of paragraph (n) of this section using gillnet gear may only use roundfish gillnets or flatfish gillnets consistent with the gear requirements in § 648.80, provided the mesh size of the flatfish gillnet gear is greater than or equal to 10 inches (25.4 cm) throughout the entire net.

(iii) *Hook gear.* A limited access NE multispecies vessel subject to the restrictions of paragraph (n) of this section using hook gear may only use longline gear, tub trawls, or handgear.

(iv) *Approval of additional gear.* The Regional Administrator may authorize additional gear for use in the NE Multispecies Restricted Gear Areas in accordance with the standards and requirements specified in § 648.85(b)(6)(iv)(J)(*2*).

(4) *VMS declaration.* In addition to any other declaration requirements specified in this part, the operator of a limited access NE multispecies vessel intending to fish, or fishing, in one or both of the NE Multispecies Restricted Gear Areas, as specified in paragraphs (n)(1) and (2) of this section must declare into one or both of these areas via VMS, as instructed by the Regional Administrator, prior to departure from port. In lieu of a VMS declaration, the Regional Administrator may authorize such vessels to obtain a letter of authorization. If a letter of authorization is required, such vessel may not fish outside of the NE Multispecies Restricted Gear Areas for a minimum of 7 consecutive days (when fishing under the multispecies DAS program), and must carry the authorization letter on board.

(5) *Trip limits.* A limited access NE multispecies vessel subject to the restrictions of paragraph (n) of this section must comply with the trip limits specified in § 648.86, unless further restricted by the following trip limits:

(i) If fishing exclusively under a NE multispecies DAS or under both a NE multispecies DAS and a monkfish DAS with gear other than gillnet gear, 500 lb (227 kg) of all flatfish species (American plaice, witch flounder, winter flounder, windowpane flounder, yellowtail flounder, and Atlantic halibut), combined; 500 lb (227 kg) of monkfish

(whole weight), unless also subject to the monkfish possession restrictions in § 648.94(b)(3); 500 lb (227 kg) of skates (whole weight); and zero possession of lobsters.

(ii) If fishing under both a NE multispecies DAS and a monkfish DAS with gillnet gear, 500 lb (227 kg) of all flatfish species (American plaice, witch flounder, winter flounder, windowpane flounder, yellowtail flounder, and Atlantic halibut), combined; the applicable monkfish possession limits specified in § 648.94(b); 500 lb (227 kg) of skates (whole weight); and zero possession of lobsters.

(6) *Transiting.* A limited access NE multispecies vessel that is not subject to the restrictions of this paragraph (n) may transit the NE Multispecies Restricted Gear Areas specified in paragraphs (n)(1) and (2) of this section, provided any gear that is not authorized under paragraph (n)(3) of this section is stowed and not available for immediate use in accordance with § 648.23(b).

11. In § 648.82:

(a) Revise the introductory text to paragraphs (b)(6), (d)(1), (d)(2)(i)(B), (d)(2)(ii)(B), (j), (j)(1), and (k)(4)(xi);

(b) Revise paragraphs (d)(1)(iii), (d)(2)(i)(B)(*3*), (d)(2)(ii)(B)(*3*), (e)(1), (e)(3), (g), (h), (j)(1)(ii) and (iii), (j)(2), (k)(2)(ii), (k)(4)(i), (k)(4)(v), (k)(4)(x), (k)(4)(xi)(B), (l)(1)(ii), (l)(1)(iv), (l)(1)(vi) through (viii), and (l)(2)(i);

(c) Remove and reserve paragraphs (c)(2), (e)(2), and (k)(4)(iv);

(d) Remove paragraphs (d)(4) and (l)(1)(ix); and

(e) Add paragraphs (d)(1)(iv), (d)(2)(i)(B)(*4*), (d)(2)(ii)(B)(*4*), (k)(4)(xi)(C), and (n) to read as follows:

§ 648.82 Effort-control program for NE multispecies limited access vessels.

* * * * *

(b) * * *

(6) *Handgear A category.* A vessel qualified and electing to fish under the Handgear A category, as described in § 648.4(a)(1)(i)(A), may retain, per trip, up to 750 lb (340.2 kg) of cod, one Atlantic halibut, and the daily possession limit for other regulated species and ocean pout as specified in § 648.86. The cod trip limit will be adjusted proportionally to the trip limit for GOM cod (rounded up to the nearest 50 lb (22.7 kg)), as specified in § 648.86(b)). For example, if the GOM cod trip limit specified in § 648.86(b) doubled, then the cod trip limit for the Handgear A category would double. Qualified vessels electing to fish under the Handgear A category are subject to the following restrictions:

* * * * *

(d) * * *

(1) *Category A DAS.* Calculation of Category A DAS for each fishing year is specified in paragraphs (d)(1)(i) through (iv) of this section. An additional 36 percent of Category A DAS will be added and available for use for participants in the Large Mesh Individual DAS permit category, as described in paragraph (b)(4) of this section, provided the participants comply with the applicable gear restrictions. Category A DAS may be used in the NE multispecies fishery to harvest and land stocks of regulated species or ocean pout, in accordance with all of the conditions and restrictions of this part.

* * * * *

(iii) For fishing year 2009 (May 1, 2009, through April 30, 2010), Category A DAS are defined as 45 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(iv) Starting in fishing year 2010 (beginning May 1, 2010), Category A DAS are defined as follows:

(A) For a vessel fishing under the provisions of the common pool, as defined in this part, Category A DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph (n)(1) of this section, or reduced pursuant to § 648.87(b)(1)(iii).

(B) For a Sector vessel, Category A DAS allocated for use when fishing in other fisheries that require the concurrent use of a NE multispecies DAS are defined as 45 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(2) * * *

(i) * * *

(B) *Calculation.* Regular B DAS are calculated as follows:

* * * * *

(*3*) For fishing year 2009 (May 1, 2009, through April 30, 2010), Regular B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(*4*) Starting in fishing year 2010 (beginning May 1, 2010), Regular B DAS are defined as follows:

(*i*) For a common pool vessel, Regular B DAS are defined as 36.25 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph (n)(1) of this section.

(*ii*) For a Sector vessel, Regular B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(ii) * * *

(B) *Calculation.* Reserve B DAS are calculated as follows:

* * * * *

(*3*) For fishing year 2009 (May 1, 2009, through April 30, 2010), Reserve B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

(*4*) Starting in fishing year 2010 (beginning May 1, 2010), Reserve B DAS are defined as follows:

(*i*) For a common pool vessel, Reserve B DAS are defined as 36.25 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section, unless otherwise revised pursuant to paragraph (n)(1) of this section.

(*ii*) For a Sector vessel, Reserve B DAS are defined as 27.5 percent of the vessel's used DAS baseline specified in paragraph (c)(1) of this section.

* * * * *

(e) * * *

(1) When a vessel is participating in the NE multispecies DAS program, as required by the regulations in this part, NE multispecies DAS shall accrue as specified in paragraphs (e)(1)(i) and (ii) of this section and shall be based upon the time called, or logged into the DAS program, consistent with the DAS notification requirements specified in § 648.10. For the purpose of calculating trip limits specified in this part, the amount of DAS deducted from a vessel's DAS allocation shall determine the amount of fish the vessel can land legally.

(i) *Common pool vessels.* For a common pool vessels, Category A shall accrue in 24-hr increments, unless otherwise required under paragraph (n) of this section. For example, a vessel that fished from 6 a.m. to 10 p.m. would be charged 24 hr of Category A DAS, not 16 hr; a vessel that fished for 25 hr would be charged 48 hr of Category A DAS instead of 25 hr.

(ii) *Sector vessels.* For the purposes of complying with the restrictions of other fisheries that require the use of a NE multispecies DAS, a vessel on a Sector trip shall accrue DAS to the nearest minute and shall be counted as actual time called, or logged into the DAS program, consistent with the DAS notification requirements specified in § 648.10.

* * * * *

(3) *Regular B DAS Program 24-hr clock.* For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), that remains fishing under a Regular B DAS for the entire fishing trip (without a DAS flip), DAS shall accrue at the rate of 1 full DAS for each calendar day, or part of a calendar day fished. For example, a vessel that fished on 1 calendar day from 6 a.m. to 10 p.m. would be charged 24 hr of Regular B DAS, not 16 hr; a vessel that

left on a trip at 11 p.m. on the first calendar day and returned at 10 p.m. on the second calendar day would be charged 48 hr of Regular B DAS instead of 23 hr, because the fishing trip would have spanned 2 calendar days. For the purpose of calculating trip limits specified under § 648.86, the amount of DAS deducted from a vessel's DAS allocation shall determine the amount of fish the vessel can land legally. For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), while also fishing in an area subject to differential DAS counting pursuant to paragraph (n)(1)(i) of this section, Category B DAS shall accrue at the rate described in this paragraph (e)(3), unless the vessel flips to a Category A DAS, in which case the vessel is subject to the pertinent DAS accrual restrictions of paragraph (n)(1) of this section for the entire trip. For vessels electing to fish in both the Regular B DAS Program, as specified in § 648.85(b)(8), and in the Eastern U.S./Canada Area, as specified in § 648.85(a), DAS counting will begin and end according to the DAS rules specified in § 648.10(e)(5)(iv).

* * * * *

(g) *Spawning season restrictions.* A vessel issued a valid Small Vessel or Handgear A category permit specified in paragraphs (b)(5) or (b)(6) of this section, respectively, or a vessel issued an open access Handgear B permit, as specified in § 648.88(a), may not fish for, possess, or land regulated species or ocean pout from March 1 through March 20 of each year. A common pool vessel must declare out and be out of the NE multispecies DAS program, and a Sector must declare that the vessel will not fish with gear capable of catching NE multispecies (*i.e.*, gear that is not defined as exempted gear under this part), for a 20-day period between March 1 and May 31 of each calendar year, using the notification requirements specified in § 648.10. A vessel fishing under a Day gillnet category designation is prohibited from fishing with gillnet gear capable of catching NE multispecies during its declared 20-day spawning block, unless the vessel is fishing in an exempted fishery, as described in § 648.80. If a vessel owner has not declared and been out of the fishery for a 20-day period between March 1 and May 31 of each calendar year on or before May 12 of each year, the vessel is prohibited from fishing for, possessing or landing any regulated species, ocean pout, or non-exempt species during the period May 12 through May 31, inclusive.

(h) *Declaring DAS and blocks of time out.* A vessel's owner or authorized representative shall notify the Regional Administrator of a vessel's participation in the DAS program; declaration of its 120 days out of the non-exempt gillnet fishery, if designated as a Day gillnet category vessel, as specified in paragraph (j) of this section; and declaration of its 20-day period out of the NE multispecies DAS program, or, for a Sector vessel that the vessel will not fish with gear capable of catching NE multispecies, using the notification requirements specified in § 648.10.

(j) *Gillnet restrictions.* A vessel issued a limited access NE multispecies permit may fish under a NE multispecies DAS, under the provisions of the small vessel permit category, or on a Sector trip with gillnet gear, provided the owner of the vessel obtains an annual designation as either a Day or Trip gillnet vessel, as described in § 648.4(c)(2)(iii), and provided the vessel complies with the gillnet vessel gear requirements and restrictions specified in § 648.80.

(1) *Day gillnet vessels.* Unless otherwise exempted in this part, a Day gillnet vessel fishing with gillnet gear under a NE multispecies DAS, the provisions of a small vessel permit category, or on a Sector trip is not required to remove gear from the water upon returning to the dock and calling out of the DAS program, as appropriate, provided the vessel complies with the restrictions specified in paragraphs (j)(1)(i) through (iii) of this section. Vessels electing to fish under the Day gillnet designation must have on board written confirmation, issued by the Regional Administrator, that the vessel is a Day gillnet vessel.

(ii) *Declaration of time out of the gillnet fishery.* (A) During each fishing year, a Day gillnet vessel must declare, and take, a total of 120 days out of the non-exempt gillnet fishery. Each period of time declared and taken must be a minimum of 7 consecutive days. At least 21 days of this time must be taken between June 1 and September 30 of each fishing year. The spawning season time out period required by paragraph (g) of this section shall be credited toward the 120 days time out of the non-exempt gillnet fishery. If a vessel owner has not declared and taken any or all of the remaining periods of time required to be out of the fishery by the last possible date to meet these requirements, the vessel is prohibited from fishing for, possessing, or landing regulated multispecies, ocean pout, or non-exempt species harvested with gillnet gear and from having gillnet gear on board the vessel that is not stowed in accordance with § 648.23(b) while fishing under a NE multispecies DAS, the provisions of the small vessel category permit, or on a Sector trip from that date through the end of the period between June 1 and September 30, or through the end of the fishing year, as applicable, unless otherwise exempt pursuant to § 648.87.

(B) Any such vessel shall declare its required time periods through the notification procedures specified in § 648.10(j)(2).

(C) During each period of time declared out, any such vessel is prohibited from fishing with non-exempted gillnet gear and must remove such gear from the water. However, the vessel may fish in an exempted fishery, as described in § 648.80, or it may fish under a NE multispecies DAS, under the provisions of the small vessel category permit, or on a Sector trip, provided it fishes with gear other than non-exempted gillnet gear.

(iii) *Method of counting DAS.* A Day gillnet vessel fishing with gillnet gear under a NE multispecies DAS shall accrue DAS as follows:

(A) A Day gillnet vessel fishing with gillnet gear that has elected to fish in the Regular B DAS Program, as specified in § 648.85(b)(6), under a Category B DAS, is subject to the DAS accrual provisions of paragraph (e)(1)(i) of this section.

(B) A Day gillnet vessel fishing with gillnet gear under a NE multispecies Category A DAS shall accrue DAS as follows:

(*1*) A Day gillnet vessel on a common pool trip is subject to the DAS accrual provisions of paragraph (e)(1)(i) of this section.

(*2*) A Day gillnet vessel on a Sector trip is subject to the DAS accrual provisions of paragraph (e)(1)(ii) of this section.

* * * * *

(2) *Trip gillnet vessels.* When fishing under a NE multispecies DAS, under the provisions of the small vessel category permit, or on a Sector trip, a Trip gillnet vessel is required to remove all gillnet gear from the water before returning to port upon the completion of a fishing trip and calling out of a NE multispecies DAS, as applicable, under § 648.10(e)(5) or (h)(5), respectively. When not fishing under a NE multispecies DAS, Trip gillnet vessels may fish in an exempted fishery with gillnet gear, as authorized by § 648.80. Vessels electing to fish under the Trip gillnet designation must have on board written confirmation issued by the Regional Administrator that the vessel is a Trip gillnet vessel.

(k) * * *

(2) * * *

(ii) Subject to the conditions and requirements of this part, DAS

associated with a confirmation of permit history may be leased to another vessel without placing the permit on an active vessel.

* * * * *

(4) * * *

(i) *Confirmation of permit history.* Pursuant to paragraph (k)(2)(ii) of this section, DAS associated with a confirmation of permit history may be leased.

* * * * *

(v) *History of leased DAS use.* The history of leased DAS use shall be presumed to remain with the Lessor vessel. In the case of multiple leases to one vessel, the history of leased DAS use shall be presumed to remain with the Lessor in the order in which such leases were approved by NMFS. For the purpose of accounting for leased DAS use, leased DAS will be accounted for (subtracted from available DAS) prior to allocated DAS.

* * * * *

(x) *Leasing by vessels fishing under a Sector allocation.* A Sector vessel may not lease DAS to or from common pool vessels, but may lease DAS to or from another Sector vessel during the fishing year in which the vessel is a member of a Sector.

(xi) *One-time downgrade of DAS Leasing Program baseline.* Unless otherwise specified in paragraph (k)(4)(xi)(B) and (C) of this section, for the purposes of determining eligibility for leasing DAS only, a vessel owner may elect to make a one-time downgrade to the vessel's DAS Leasing Program baseline length and horsepower as specified in paragraph (k)(4)(ix) of this section to match the length overall and horsepower specifications of the vessel that is currently issued the permit.

* * * * *

(B) *Applicability of the one-time DAS Leasing Program baseline downgrade.* The downgraded DAS Leasing Program baseline may only be used to determine eligibility for the DAS Leasing Program and does not affect or change the baseline associated with the DAS Transfer Program specified in paragraph (l)(1)(ii) of this section, or the vessel replacement or upgrade restrictions specified at § 648.4(a)(1)(i)(E) and (F), or any other provision.

(C) *Duration of the one-time DAS Leasing Program baseline downgrade.* Unless otherwise specified in this paragraph (k)(4)(xi)(C) of this section, the downgraded DAS Leasing Program baseline remains in effect until the DAS Leasing Program expires or the permit is transferred to another vessel via a vessel replacement, or through a DAS transfer. With the exception of vessels combining DAS Leasing Program baselines from two different vessels through the DAS Transfer Program as outlined in paragraph (k)(4)(xi)(C)(2) of this section, once the DAS Leasing Program baseline is downgraded for a particular permit, no further downgrades may be authorized for that permit.

(*1*) *Vessel replacement.* If the permit is transferred to another vessel via a vessel replacement, the DAS Leasing Program baseline reverts to the baseline horsepower and length overall specifications associated with the permit prior to the one-time downgrade.

(*2*) *DAS Transfer Program.* For vessels involved in a DAS Transfer Program transaction as described in paragraph (l) of this section, if the transferee vessel baseline is adopted, consistent with the regulations under paragraph (l)(1)(ii) of this section, and the DAS Leasing Program baseline of the transferee vessel was previously downgraded, consistent with the regulations under this paragraph (k)(4)(xi), the downgraded DAS Leasing Program baseline specifications remain valid. For vessels involved in a DAS Transfer Program transaction where a combination of the transferor and transferee vessel baselines is adopted resulting in a new vessel baseline, any previous DAS Leasing Program baseline downgrade for either the transferor or transferee vessel will be voided and the transferee vessel would have an additional opportunity to downgrade its combined DAS Leasing Program baseline.

(l) * * *

(1) * * *

(ii) NE multispecies DAS may be transferred only to a vessel with a baseline main engine horsepower rating that is no more than 20 percent greater than the baseline engine horsepower of the transferor vessel. NE multispecies DAS may be transferred only to a vessel with a baseline length overall that is no more than 10 percent greater than the baseline length overall of the transferor vessel. For the purposes of this program, the baseline horsepower and length overall are those associated with the permit as of January 29, 2004. Upon approval of the transfer, the baseline of the transferee vessel would be the smaller baseline of the two vessels or, if the transferee vessel had not previously upgraded either its size (including LOA, GRT, and NT) or HP under the vessel replacement rules, the vessel owner could choose to adopt the larger baseline of the two vessels, which would constitute the vessel's one-time upgrade, provided such an upgrade is consistent with provisions of this paragraph (l)(1)(ii). A subsequent upgrade to another specification through a subsequent action (either a vessel replacement or DAS transfer) is not permissible. A vessel that has executed a one-time downgrade of a DAS Leasing Program baseline in accordance with paragraph (k)(4)(xi) is subject to the restrictions of paragraph (k)(4)(xi)(C) of this section.

* * * * *

(iv) *DAS conservation tax.* Starting in fishing year 2010, any NE multispecies DAS transferred to another vessel under the DAS Transfer Program pursuant to paragraph (l) of this section are not subject to a DAS conservation tax specified in this paragraph (l)(1)(iv). Any DAS transferred under the DAS Transfer Program prior to fishing year 2010 that were reduced due to the DAS conservation tax specified in this paragraph (l)(1)(iv) may not be reinstated to the permit associated with the transferor vessel.

* * * * *

(vi) *Confirmation of permit history.* NE multispecies DAS associated with a Confirmation of Permit History may be transferred.

(vii) *Transfer by Sector vessels.* A Sector vessel may not transfer DAS to or from vessels that are fishing under the provisions of the common pool or another Sector, but may transfer DAS to or from another vessel participating in that vessel's Sector during the fishing year in which the vessel is a member of a particular Sector.

(viii) Unless otherwise restricted by this part, a vessel with a NE multispecies limited access Category D permit may transfer DAS only to a vessel with a NE multispecies limited access Category D permit, but may receive transferred DAS from any eligible NE multispecies vessel.

* * * * *

(2) * * *

(i) *Application information requirements.* An application to transfer NE multispecies DAS must contain the following information: Seller's/transferor's name, vessel name, permit number and official number or state registration number; buyer's/transferee's name, vessel name, permit number and official number or state registration number; total price paid for purchased DAS; signatures of seller and buyer; and date the form was completed. Information obtained from the transfer application will be held confidential, and will be used only in summarized form for management of the fishery.

(n) *NE multispecies common pool accountability measure (AM).* Common pool vessels are subject to the following AMs, in addition to the DAS accrual

provisions specified in paragraph (e) of this section and other measures specified in this part.

(1) *Differential DAS counting AM for fishing years 2010 and 2011.* Unless otherwise specified pursuant to § 648.90(a)(5), based upon catch and other information available to NMFS by February of each year, the Regional Administrator shall project the catch of regulated species or ocean pout by common pool vessels for the fishing year ending on April 30 and shall determine whether such catch will exceed any of the sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4). This projection shall be updated once available information regarding the catch of regulated species and ocean pout by vessels fishing for groundfish in state waters outside of the FMP, vessels fishing in exempted fisheries, and vessels fishing in the Atlantic sea scallop fishery to determine if excessive catch by such vessels resulted in the overall ACL for a particular stock to be exceeded. If such catch resulted in the overall ACL for a particular stock being exceeded, the common pool's share of the overage of the overall ACL for that stock shall be added to the catch of each stock of regulated species or ocean pout by common pool vessels pursuant to § 648.90(a)(5). If the Regional Administrator projects that any of the sub-ACLs specified for common pool vessels will be exceeded or underharvested, the Regional Administrator shall implement a differential DAS counting factor to all Category A DAS used within the stock area in which the sub-ACL was exceeded or underharvested, as specified in paragraph (n)(1)(i) of this section, during the following fishing year, in a manner consistent with the Administrative Procedure Act. The differential DAS counting factor shall be based upon the projected proportion of the sub-ACL of each NE multispecies stock caught by common pool vessels, rounded to the nearest even tenth, as specified in paragraph (n)(1)(ii) of this section, unless otherwise specified pursuant to § 648.90(a)(5). For example, if the Regional Administrator projects that common pool vessels will catch 1.18 times the sub-ACL for GOM cod during fishing year 2010, the Regional Administrator shall implement a differential DAS counting factor of 1.2 to all Category A DAS used by common pool vessels only within the Inshore GOM Differential DAS Area during fishing year 2011 (*i.e.*, Category A DAS will be charged at a rate of 28.8 hr for every 24-hr fished − 1.2 × 24-hr DAS counting). If it is projected that catch in a particular fishing year will exceed or underharvest the sub-ACLs for several regulated species stocks within a particular stock area, including both exceeding and underharvesting several sub-ACLs within a particular stock area, the Regional Administrator shall implement the most restrictive differential DAS counting factor derived from paragraph (n)(1)(ii) of this section for the sub-ACLs exceeded or underharvested to any Category A DAS used by common pool vessels within that particular stock area. For example, if it is projected that common pool vessels will be responsible for 1.2 times the GOM cod sub-ACL and 1.1 times the CC/GOM yellowtail flounder sub-ACL, the Regional Administrator shall implement a differential DAS counting factor of 1.2 to any Category A DAS fished by common pool vessels only within the Inshore GOM Stock Area during the following fishing year. For any differential DAS counting factor implemented in fishing year 2011, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section for the time spent fishing in the applicable differential DAS counting area based upon the first VMS position into the applicable differential DAS counting area and the first VMS position outside of the applicable differential DAS counting area pursuant to § 648.10. For example, if a vessel fished 12 hr inside a differential DAS counting area where a differential DAS counting factor of 1.2 would be applied, and 12 hr outside of the differential DAS counting area, the vessel would be charged 48 hr of DAS use because DAS would be charged in 24-hr increments ((12 hr inside the area × 1.2 = 14.4 hr) + 12 hr outside the area, rounded to the next 24-hr increment to determine DAS charged). For any differential DAS counting factor implemented in fishing year 2012, the differential DAS counting factor shall be applied against the DAS accrual provisions specified in paragraph (e)(1)(i) of this section, or if a differential DAS counting factor was implemented for that stock area during fishing year 2011, against the DAS accrual rate applied in fishing year 2011. For example, if a differential DAS counting factor of 1.2 was applied to the Inshore GOM Differential DAS Area during fishing year 2011 due to a 20-percent overage of the GOM cod sub-ACL, yet the GOM cod sub-ACL was exceeded again, but by 50 percent during fishing year 2011, an additional differential DAS factor of 1.5 would be applied to the DAS accrual rate applied during fishing year 2012 (*i.e.*, the DAS accrual rate in the Inshore GOM Differential DAS Counting Area during fishing year 2012 would be 43.2 hr charged for every 24-hr fished − 1.2 × 1.5 × 24-hr DAS charge). If the Regional Administrator determines that similar DAS adjustments are necessary in all stock areas, the Regional Administrator will adjust the ratio of Category A:Category B DAS specified in paragraph (d)(1) of this section to reduce the number of available Category A DAS available based upon the amount of the overage, rather than apply a differential DAS counting factor to all Category A DAS used in all stock areas.

(i) *Differential DAS counting areas.* The following differential DAS counting areas shall be used for the purposes of implementing the differential DAS counting AM specified in paragraph (n)(1) of this section:

(A) *Inshore GOM Differential DAS Area.* The Inshore GOM Differential DAS Area applies to the following stocks of regulated species: White hake, pollock, GOM cod, GOM haddock, CC/GOM yellowtail flounder, GOM winter flounder, and Atlantic wolffish. The Inshore GOM Differential DAS Area is defined as the area bounded on the west by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

INSHORE GOM DIFFERENTIAL DAS AREA

Point	N. Latitude	W. Longitude
INGOM1	(1)	69°30′
INGOM2	43°00′	69°30′
INGOM3	43°00′	70°00′
INGOM4	(2)	70°00′

[1] Intersection with ME shoreline.
[2] North-facing shoreline of Cape Cod, MA.

(B) *Offshore GOM Differential DAS Area.* The Offshore GOM Differential DAS Area applies to the following stocks of regulated species: GOM haddock, white hake, pollock, redfish, witch flounder, American plaice, and Atlantic halibut. The Offshore GOM Differential DAS Area is defined as the area bounded on the north by the shoreline of Maine, bounded on the east by the U.S./Canadian maritime boundary, and bounded on the south and west by straight lines connecting the following points in the order stated:

OFFSHORE GOM DIFFERENTIAL DAS AREA

Point	N. Latitude	W. Longitude
CII3	42°22′	67°20′
OFFGOM1	42°20′	67°20′
OFFGOM2	42°20′	70°00′
OFFGOM5	43°00′	70°00′
INGOM2	43°00′	69°30′
INGOM1	(1)	69°30′

1 Intersection with ME shoreline.

(C) *Inshore GB Differential DAS Area.* The Inshore GB Differential DAS Area applies to the following stocks of regulated species: Witch flounder, American plaice, white hake, Atlantic halibut, redfish, pollock, CC/GOM yellowtail flounder, GB cod, GB haddock, SNE/MA winter flounder, and Atlantic wolffish. The Inshore GB Differential DAS Area is defined as the area bounded by straight lines connecting the following points in the order stated:

INSHORE GB DIFFERENTIAL DAS AREA

Point	N. Latitude	W. Longitude
G9	42°00′	(1)
G10	42°20′	70°00′
IGB1	42°20′	68°50′
IGB2	41°00′	68°50′
IGB3	41°00′	69°30′
IGB4	41°10′	69°30′
IGB5	41°10′	69°50′
IGB6	41°20′	69°50′
IGB7	41°20′	70°00′
G12	(2)	70°00′

1 The intersection of the Cape Cod, MA, coastline and 70°00′ W. longitude.
2 South-facing shoreline of Cape Cod, MA.

(D) *Offshore GB Differential DAS Area.* The Offshore GB Differential DAS Area applies to the following stocks of regulated species: Witch flounder, American plaice, Atlantic halibut, northern windowpane flounder, GB cod, GB haddock, GB yellowtail flounder, and GB winter flounder. The Offshore GB Differential DAS Area is defined as the area bounded by straight lines connecting the following points in the order stated:

OFFSHORE GB DIFFERENTIAL DAS AREA

Point	N. Latitude	W. Longitude
IGB1	42° 20′	68°50′
OGB1	42°20′	67°20′
CII3	42°22′	67°20′
SNE1	40°27′	65°43′
OGB2	40°10′	(1)
OGB3	40°10′	68°50′
IGB1	42°20′	68°50′

1 The U.S./Canada maritime boundary as it intersects with the EEZ.

(E) *SNE/MA Differential DAS Area.* The SNE/MA Differential DAS Area applies to the following stocks of regulated species or ocean pout: SNE/MA winter flounder, SNE/MA yellowtail flounder, southern windowpane flounder, and ocean pout. The SNE/MA Differential DAS Area is defined as the area bounded on the north and west by the coastline of the United States, bounded on the east and south by straight lines connecting the following points in the order stated:

SNE/MA DIFFERENTIAL DAS AREA

Point	N. Latitude	W. Longitude
G12	(1)	70°00′
IGB7	41°20′	70°00′
IGB6	41°20′	69°50′
IGB5	41°10′	69°50′
IGB4	41°10′	69°30′
IGB3	41°00′	69°30′
IGB2	41°00′	68°50′
SNEDA1	40°10′	68°50′
SNEDA2	40°10′	73°10′
SNEDA3	39°50′	73°10′
SNEDA4	39°50′	(2)

1 South-facing shoreline of Cape Cod, MA.
2 East-facing shoreline of NJ.

(ii) *Differential DAS counting factor.* For determining the differential DAS counting AM specified in this paragraph (n)(1), the following differential DAS factor shall, except as provided for in paragraph (n)(1)(iii) of this section, be applied to the DAS accrual rate specified in paragraph (e)(1) of this section and implemented in a manner consistent with the Administrative Procedure Act.

Proportion of ACL caught	Differential DAS factor
0.5	0.5
0.6	0.6
0.7	0.7
0.8	0.8
0.9	No change.
1.0	No change.
1.1	1.1
1.2	1.2
1.3	1.3
1.4	1.4
1.5	1.5
1.6	1.6
1.7	1.7
1.8	1.8
1.9	1.9
2.0	2.0

(iii) *Mixed-stock exception.* When determining the differential DAS counting AM specified in this paragraph (n)(1), the Regional Administrator shall conduct an analysis to determine whether the mixed-stock exception, as specified in § 600.310(m), may be applicable. If the analysis concludes that the mixed-stock exception is applicable, the Regional Administrator shall modify or not apply a differential DAS counting AM on specific stocks, as appropriate, in accordance with the mixed-stock exception.

(iv) *Fishing year 2012.* Any adjustments to DAS counting necessary as a result of either underharvesting or overharvesting any of the sub-ACLs specified for common pool vessels during the 2011 fishing year pursuant to § 648.90(a)(4) shall become effective and remain effective for the duration of fishing year 2012 in addition to the implementation of the trimester TAC AM specified in paragraph (n)(2) of this section.

(2) *Trimester TAC AM for fishing years 2012 and beyond.* Beginning in fishing year 2012, common pool vessels shall be subject to the following restrictions:

(i) *Trimester TACs.* (A) *Trimester TAC distribution.* Any sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4) shall be apportioned into trimesters of four months in duration, beginning at the start of the fishing year (*i.e.*, Trimester 1: May 1–August 31; Trimester 2: September 1–December 31; Trimester 3: January 1–April 30), as follows):

PORTION OF COMMON POOL SUB-ACLS APPORTIONED TO EACH STOCK FOR EACH TRIMESTER

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
GOM Cod	27	36	37
GB Cod	25	37	38
GOM Haddock	27	26	47
GB Haddock	27	33	40

PORTION OF COMMON POOL SUB-ACLS APPORTIONED TO EACH STOCK FOR EACH TRIMESTER—Continued

Stock	Trimester 1 (percent)	Trimester 2 (percent)	Trimester 3 (percent)
CC/GOM Yellowtail Flounder	35	35	30
GB Yellowtail Flounder	19	30	52
SNE/MA Yellowtail Flounder	21	37	42
GOM Winter Flounder	37	38	25
GB Winter Flounder	8	24	69
SNE/MA Winter Flounder	36	50	14
Witch Flounder	27	31	42
American Plaice	24	36	40
Pollock	28	35	37
Redfish	25	31	44
White Hake	38	31	31
Northern Windowpane Flounder	33	33	34
Southern Windowpane Flounder	33	33	34
Ocean Pout	33	33	34
Atlantic Halibut	33	33	34
Atlantic Wolffish	75	13	12

(B) *Trimester TAC adjustment.* The distribution of trimester TACs specified in paragraph (n)(2)(i)(A) of this section may be adjusted pursuant to the biennial adjustment process specified in § 648.90. Future adjustments to the distribution of trimester TACs shall use catch data for the most recent 5-year period prior to the reevaluation of trimester TACs.

(ii) *Stock area closures.* With the exception of both stocks of windowpane flounder, ocean pout, and Atlantic halibut, if the Regional Administrator projects that 90 percent of the trimester TACs specified in paragraph (n)(2)(i) of this section will be caught based upon available information, the Regional Administrator shall close the area where 90 percent of the catch for each such stock occurred, according to available VTR data and other information, to all common pool vessels using gear capable of catching such stocks for the remainder of that trimester, as specified in paragraphs (n)(2)(ii)(A) through (P) of this section, in a manner consistent with the Administrative Procedure Act. For example, if the Regional Administrator projects that 90 percent of the CC/GOM yellowtail flounder Trimester 1 TAC will be caught, common pool vessels using trawl and gillnet gear shall be prohibited from fishing in the CC/GOM Yellowtail Flounder Closure Area specified in paragraph (n)(2)(ii)(G) of this section until the beginning of Trimester 2 on September 1 of that fishing year. For both stocks of windowpane flounder, ocean pout, and Atlantic halibut, the Regional Administrator shall monitor catch of these stocks and shall deduct any projected overages of the sub-ACLs for such stocks pursuant to paragraph (n)(2)(iii) of this section, instead of implementing a stock area closure when a Trimester TAC for any of these stocks is projected to be caught. Based upon all available information, the Regional Administrator is authorized to expand or narrow the areas closed under this paragraph (n)(2)(ii) in a manner consistent with the Administrative Procedure Act. If it is not possible to identify an area where only 90 percent of the catch occurred, the Regional Administrator shall close the smallest area possible where greater than 90 percent of the catch occurred.

(A) *GB Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

GB COD TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
GB1	42°20′	70°00′
GB2	42°20′	(1)
GB3	40°30′	65°40′
GB4	40°30′	66°40′
GB5	39°50′	66°40′
GB6	39°50′	66°40′
GB7	41°00′	68°50′
GB8	41°00′	69°30′
GB9	41°10′	69°30′
GB10	41°10′	69°50′
GB11	41°20′	69°50′
GB12	(2)	70°00′
GB13	(3)	70°00′
GB14	(4)	70°00′
GB15	(5)	70°00′
GB1	42°20′	70°00′

[1] U.S./Canada maritime boundary.
[2] East-facing shoreline of Nantucket, MA.
[3] North-facing shoreline of Nantucket, MA.
[4] South-facing shoreline of Cape Cod, MA.
[5] North-facing shoreline of Cape Cod, MA.

(B) *GOM Cod Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Cod Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded on the south, west, and north by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

GOM COD TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
GOM1	(1)	69°20′
GOM2	43°40′	69°20′
GOM3	43°40′	69°00′
GOM4	43°20′	69°00′
GOM5	43°20′	69°10′
GOM6	43°00′	69°10′
GOM7	43°00′	69°20′
GOM8	42°50′	69°20′
GOM9	42°50′	69°40′
GOM10	42°20′	69°40′
GOM11	42°20′	70°00′
GOM12	(2)	70°00′

[1] Intersection with ME shoreline.
[2] North-facing shoreline of Cape Cod, MA.

(C) *GB Haddock Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Haddock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

GB HADDOCK TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
GB1	42°20′	70°00′
GB2	42°20′	(1)
GB3	40°30′	65°40′
GB4	40°30′	66°40′
GB5	39°50′	66°40′
GB6	39°50′	66°40′
GB7	41°00′	68°50′
GB8	41°00′	69°30′
GB9	41°10′	69°30′
GB10	41°10′	69°50′
GB11	41°20′	69°50′
GB12	(2)	70°00′
GB13	(3)	70°00′
GB14	(4)	70°00′
GB15	(5)	70°00′
GB1	42°20′	70°00′

1 U.S./Canada maritime boundary.
2 East-facing shoreline of Nantucket, MA.
3 North-facing shoreline of Nantucket, MA.
4 South-facing shoreline of Cape Cod, MA.
5 North-facing shoreline of Cape Cod, MA.

(D) *GOM Haddock Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Haddock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded on the south, west, and north by the shoreline of the United States and bounded on the east by straight lines connecting the following points in the order stated:

GOM HADDOCK TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
GOM1	(1)	69°20′
GOM2	43°40′	69°20′
GOM3	43°40′	69°00′
GOM4	43°20′	69°00′
GOM5	43°20′	67°40′
GOM6	(2)	67°40′
GOM7	42°53.1′	67°44.4′
GOM8	(2)	67°40′
GOM9	42°20′	67°40′
GOM10	42°20′	70°00′
GOM10	(3)	70°00′

1 Intersection with ME shoreline.
2 U.S./Canada maritime boundary.
3 North-facing shoreline of Cape Cod, MA.

(E) *GB Yellowtail Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

GB YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
GB1	42°20′	68°50′
GB2	42°20′	(1)
GB3	40°30′	65°40′
GB4	40°30′	66°40′
GB5	39°50′	66°40′
GB6	39°50′	68°50′
GB1	42°20′	68°50′

1 U.S./Canada maritime boundary.

(F) *SNE/MA Yellowtail Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the SNE/MA Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

SNE/MA YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
SNEMA1	(1)	70°00′
SNEMA2	(2)	70°00′
SNEMA3	(3)	70°00′
SNEMA4	39°50′	70°00′
SNEMA5	39°50′	71°40′
SNEMA6	40°00′	71°40′
SNEMA7	40°00′	73°00′
SNEMA8	(4)	73°00′
SNEMA9	41°00′	(5)
SNEMA10	41°00′	71°40′
SNEMA11	(6)	71°40′

1 South-facing shoreline of Cape Cod, MA.
2 North-facing shoreline of Nantucket, MA.
3 South-facing shoreline of Nantucket, MA.
4 South-facing shoreline of Long Island, NY.
5 East-facing shoreline of Long Island, NY.
6 Intersection with RI shoreline.

(G) *CC/GOM Yellowtail Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the CC/GOM Yellowtail Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

CC/GOM YELLOWTAIL FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
CCGOM1	42°50′	(1)
CCGOM2	42°50′	69°40′
CCGOM3	42°20′	69°40′
CCGOM4	42°20′	68°50′

CC/GOM YELLOWTAIL FLOUNDER TRIMESTER TAC AREA—Continued

Point	N. Latitude	W. Longitude
CCGOM5	41°00′	68°50′
CCGOM6	41°00′	69°30′
CCGOM7	41°10′	69°30′
CCGOM8	41°10′	69°50′
CCGOM9	41°20′	69°50′
CCGOM10	41°20′	(2)
CCGOM11	(3)	70°00′
CCGOM12	(4)	70°00′

1 Intersection with MA shoreline.
2 East-facing shoreline of Nantucket, MA.
3 South-facing shoreline of MA.
4 North-facing shoreline of Nantucket, MA.

(H) *American Plaice Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the American Plaice Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

AMERICAN PLAICE TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
AP1	(1)	68°00′
AP2	44°10′	67°50′
AP3	44°00′	67°50′
AP4	44°00′	67°40′
AP5	(2)	67°40′
AP6	42°53.1′	67°44.4′
AP7	(2)	67°40′
AP8	41°20′	67°40′
AP9	41°10′	67°40′
AP10	41°10′	67°10′
AP11	41°00′	67°10′
AP12	41°00′	67°00′
AP13	40°50′	67°00′
AP14	40°50′	66°50′
AP15	40°40′	66°50′
AP16	40°40′	66°40′
AP17	39°50′	66°40′
AP18	39°50′	68°50′
AP19	41°00′	68°50′
AP20	41°00′	69°30′
AP21	41°10′	69°30′
AP22	41°10′	69°50′
AP23	41°20′	69°50′
AP24	41°20′	(3)
AP25	(4)	70°00′
AP26	(5)	70°00′

1 Intersection with ME shoreline.
2 U.S./Canada maritime boundary.
3 East-facing shoreline of Nantucket, MA.
4 North-facing shoreline of Nantucket, MA.
5 South-facing shoreline of Cape Cod, MA.

(I) *Witch Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Witch Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by

straight lines connecting the following points in the order stated:

WITCH FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
AP1	(1)	68°00′
AP2	44°10′	67°50′
AP3	44°00′	67°50′
AP4	44°00′	67°40′
AP5	(2)	67°40′
AP6	42°53.1′	67°44.4′
AP7	(2)	67°40′
AP8	41°20′	67°40′
AP9	41°10′	67°40′
AP10	41°10′	67°10′
AP11	41°00′	67°10′
AP12	41°00′	67°00′
AP13	40°50′	67°00′
AP14	40°50′	66°50′
AP15	40°40′	66°50′
AP16	40°40′	66°40′
AP17	39°50′	66°40′
AP18	39°50′	68°50′
AP19	41°00′	68°50′
AP20	41°00′	69°30′
AP21	41°10′	69°30′
AP22	41°10′	69°50′
AP23	41°20′	69°50′
AP24	41°20′	(3)
AP25	(4)	70°00′
AP26	(5)	70°00′

[1] Intersection with ME shoreline.
[2] U.S./Canada maritime boundary.
[3] East-facing shoreline of Nantucket, MA.
[4] North-facing shoreline of Nantucket, MA.
[5] South-facing shoreline of Cape Cod, MA.

(J) *GB Winter Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GB Winter Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

GB WINTER FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
GB1	42°20′	68°50′
GB2	42°20′	67°40′
GB3	41°50′	67°40′
GB4	41°50′	(1)
GB5	40°30′	65°40′
GB6	40°30′	66°40′
GB7	40°40′	66°40′
GB8	40°40′	66°50′
GB9	40°50′	66°50′
GB10	40°50′	67°00′
GB11	41°00′	67°00′
GB12	41°00′	67°10′
GB13	41°10′	67°10′
GB14	41°10′	67°00′
GB15	41°20′	67°40′
GB16	41°20′	68°10′
GB17	41°10′	68°10′
GB18	41°10′	68°20′

GB WINTER FLOUNDER TRIMESTER TAC AREA—Continued

Point	N. Latitude	W. Longitude
GB19	41°00′	68°20′
GB20	41°00′	68°50′
GB1	42°20′	68°50′

[1] U.S./Canada maritime boundary.

(K) *GOM Winter Flounder Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the GOM Winter Flounder Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

GOM WINTER FLOUNDER TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
GOM1	42°50′	(1)
GOM2	42°50′	69°40′
GOM3	42°20′	69°40′
GOM4	42°20′	70°00′
GOM5	(2)	70°00′

[1] Intersection with MA shoreline.
[2] North-facing shoreline of Cape Cod, MA.

(L) *SNE/MA Winter Flounder Trimester TAC AM Closure Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the SNE/MA Winter Flounder Trimester TAC Areas I and II shall apply to common pool vessels using trawl gear. The SNE/MA Winter Flounder Trimester TAC Area I is bounded by straight lines connecting the following points in the order stated:

SNE/MA WINTER FLOUNDER TRIMESTER TAC AREA I

Point	N. Latitude	W. Longitude
SNE/MA1	42°20′	70°00′
SNE/MA2	42°20′	68°50′
SNE/MA3	41°00′	68°50′
SNE/MA4	41°00′	69°30′
SNE/MA5	41°10′	69°30′
SNE/MA6	41°10′	69°50′
SNE/MA7	41°20′	69°50′
SNE/MA8	(1)	70°00′
SNE/MA9	(2)	70°00′
SNE/MA10	(3)	70°00′
SNE/MA11	(4)	70°00′
SNE/MA1	42°20′	70°00′

[1] East-facing shoreline of Nantucket, MA.
[2] North-facing shoreline of Nantucket, MA.
[3] South-facing shoreline of Cape Cod, MA.
[4] North-facing shoreline of Cape Cod, MA.

SNE/MA Winter Flounder Trimester TAC Area II is bound on the west by the U.S. coastline, defined by straight lines connecting the following points in the order stated:

SNE/MA WINTER FLOUNDER TRIMESTER TAC AREA II

Point	N. Latitude	W. Longitude
SNE/MA12	(1)	71°10′
SNE/MA13	41°20′	71°10′
SNE/MA14	41°20′	(2)
SNE/MA15	41°20′	(3)
SNE/MA16	41°20′	(4)
SNE/MA17	(5)	70°00′
SNE/MA18	39°50′	70°00′
SNE/MA19	39°50′	71°40′
SNE/MA20	40°00′	71°40′
SNE/MA21	40°00′	(6)

[1] Intersection with RI shoreline.
[2] West-facing shoreline of Martha's Vineyard, MA.
[3] East-facing shoreline of Martha's Vineyard, MA.
[4] West-facing shoreline of Nantucket, MA.
[5] South-facing shoreline of Nantucket, MA.
[6] Intersection with NJ shoreline.

(M) *Redfish Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Redfish Trimester TAC Area shall apply to common pool vessels using trawl gear within the area bounded by straight lines connecting the following points in the order stated:

REDFISH TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
RF1	(1)	69°20′
RF2	43°40′	69°20′
RF3	43°40′	69°00′
RF4	43°20′	69°00′
RF5	43°20′	67°40′
RF6	(2)	67°40′
RF7	42°53.1′	67°44.4′
RF8	(2)	67°40′
RF9	41°20′	67°40′
RF10	41°20′	68°10′
RF11	41°10′	68°10′
RF12	41°10′	68°20′
RF13	41°00′	68°20′
RF14	41°00′	69°30′
RF15	41°10′	69°30′
RF16	41°10′	69°50′
RF17	41°20′	69°50′
RF18	(3)	70°00′
RF19	(4)	70°00′
RF20	(5)	70°00′

[1] Intersection with ME shoreline.
[2] U.S./Canada maritime boundary.
[3] East-facing shoreline of Nantucket, MA.
[4] North-facing shoreline of Nantucket, MA.
[5] South-facing shoreline of Cape Cod, MA.

(N) *White Hake Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the White Hake Trimester TAC Area shall apply to common pool vessels using trawl gear,

sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

WHITE HAKE TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
RF1	(1)	69°20′
RF2	43°40′	69°20′
RF3	43°40′	69°00′
RF4	43°20′	69°00′
RF5	43°20′	67°40′
RF6	(2)	67°40′
RF7	42°53.1′	67°44.4′
RF8	(2)	67°40′
RF9	41°20′	67°40′
RF10	41°20′	68°10′
RF11	41°10′	68°10′
RF12	41°10′	68°20′
RF13	41°00′	68°20′
RF14	41°00′	69°30′
RF15	41°10′	69°30′
RF16	41°10′	69°50′
RF17	41°20′	69°50′
RF18	(3)	70°00′
RF19	(4)	70°00′
RF20	(5)	70°00′

[1] Intersection with ME shoreline.
[2] U.S./Canada maritime boundary.
[3] East-facing shoreline of Nantucket, MA.
[4] North-facing shoreline of Nantucket, MA.
[5] South-facing shoreline of Cape Cod, MA.

(O) *Pollock Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Pollock Trimester TAC Area shall apply to common pool vessels using trawl gear, sink gillnet gear, and longline/hook gear within the area bounded by straight lines connecting the following points in the order stated:

POLLOCK TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
RF1	(1)	69°20′
RF2	43°40′	69°20′
RF3	43°40′	69°00′
RF4	43°20′	69°00′
RF5	43°20′	67°40′
RF6	(2)	67°40′
RF7	42°53.1′	67°44.4′
RF8	(2)	67°40′
RF9	41°20′	67°40′
RF10	41°20′	68°10′
RF11	41°10′	68°10′
RF12	41°10′	68°20′
RF13	41°00′	68°20′
RF14	41°00′	69°30′
RF15	41°10′	69°30′
RF16	41°10′	69°50′
RF17	41°20′	69°50′
RF18	(3)	70°00′
RF19	(4)	70°00′
RF20	(5)	70°00′

[1] Intersection with ME shoreline.
[2] U.S./Canada maritime boundary.
[3] East-facing shoreline of Nantucket, MA.
[4] North-facing shoreline of Nantucket, MA.
[5] South-facing shoreline of Cape Cod, MA.

(P) *Atlantic Wolfish Trimester TAC Area.* For the purposes of the trimester TAC AM closure specified in paragraph (n)(2)(ii) of this section, the Atlantic Wolfish Trimester TAC Area shall apply to common pool vessels using trawl gear and sink gillnet gear within the area bounded by straight lines connecting the following points in the order stated:

ATLANTIC WOLFISH TRIMESTER TAC AREA

Point	N. Latitude	W. Longitude
ATWLF1	(1)	69°20′
ATWLF2	43°40′	69°20′
ATWLF3	43°40′	69°00′
ATWLF4	43°20′	69°00′
ATWLF5	43°20′	69°10′
ATWLF6	43°00′	69°10′
ATWLF7	43°00′	69°20′
ATWLF8	42°50′	69°20′
ATWLF9	42°50′	69°40′
ATWLF10	42°20′	69°40′
ATWLF11	42°20′	67°40′
ATWLF12	41°20′	67°40′
ATWLF13	41°20′	68°10′
ATWLF14	41°10′	68°10′
ATWLF15	41°10′	68°20′
ATWLF16	41°00′	68°20′
ATWLF17	41°00′	69°30′
ATWLF18	41°10′	69°30′
ATWLF19	41°10′	69°50′
ATWLF20	41°20′	69°50′
ATWLF21	(2)	70°00′
ATWLF22	(3)	70°00′
ATWLF23	(4)	70°00′

[1] Intersection with ME shoreline.
[2] East-facing shoreline of Nantucket, MA.
[3] North-facing shoreline of Nantucket, MA.
[4] South-facing shoreline of Cape Cod, MA.

(iii) *Trimester TAC overage/underage.* If any trimester TAC, as specified in paragraph (n)(2)(i) of this section, is not caught during Trimester 1 or 2, the uncaught portion of the trimester TAC shall be carried forward into the next trimester. Uncaught portions of any trimester TAC following Trimester 3 may not be carried over into the following fishing year. If any trimester TAC is exceeded during the Trimesters 1 or 2, the overage shall be deducted from the Trimester 3 TAC for that stock. If the entire sub-ACL for a particular stock that is allocated to the common pool is exceeded (*i.e.,* the common pool catch of that stock at the end of the fishing year, including the common pool's share of any overage of the overall ACL for a particular stock caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), exceeds all three trimester TACs for that stock combined), an amount equal to the overage shall be deducted from the sub-ACL for that stock that is allocated to common pool vessels pursuant to § 648.90(a)(4) for the following fishing year.

(iv) *Monitoring requirements.* Starting in fishing year 2012 (May 1, 2012), landings of regulated species or ocean pout by common pool vessels shall be monitored at the point of offload by independent, third-part service providers approved/certified to provide such services by NMFS, as specified in paragraphs (n)(2)(iv)(A) and (B) of this section. These service providers shall deploy dockside monitors to monitor the offload of catch directly to a dealer and roving monitors to monitor the offload of catch onto a truck for subsequent shipment to a dealer. The costs associated with monitoring vessel offloads shall be the responsibility of individual vessels and an individual vessel may only use one dockside monitoring service provider per fishing year. Both common pool vessels and service providers providing offloading monitoring services will be subject to the requirements specified in § 648.87(b)(5).

(A) *Coverage levels.* At least 20 percent of the trips taken by vessels operating under the provisions of the common pool shall be monitored. To ensure that this level of coverage is achieved, if a trip has been selected to be observed by a dockside/roving monitor, all offloading events associated with that trip must be monitored by a dockside/roving monitor, as specified in paragraph (n)(2) of this section. For example, a vessel offloading at more than one dealer or facility must have a dockside/roving monitor present during offload at each location. All landing events at remote ports that are selected to be observed by a dockside/roving monitor will be required to have a roving monitor present to witness offload activities to the truck, as well as a dockside monitor present at each dealer to certify weigh-out of all landings. Any service provider providing dockside/monitoring services required under this paragraph (n)(2)(iv) must ensure that coverage is randomly distributed among all such trips and that the landing events monitored are representative of fishing operations by common pool vessels throughout the fishing year, unless otherwise directed.

(B) *Dockside/roving monitor service provider standards.* For fishing year 2012 and beyond, a common pool vessel must employ a service provider approved/certified by NMFS to provide dockside/roving monitor services, as identified by the Regional Administrator. To be approved/certified to provide the services specified in

paragraph (n)(2) of this section, dockside/roving monitor service providers must meet the standards listed in § 648.87(b)(4).

(v) *Adjustments to trimester TACs.* The distribution of trimester TACs specified in paragraph (n)(2)(i) of this section may be revised pursuant to the biennial adjustment or framework process specified in § 648.90(a)(2) and shall use the distribution of landings of the most recent 5-year period available.

(vi) *Trip limit adjustment.* When 60 percent of the northern or southern windowpane flounder, ocean pout, or Atlantic halibut sub-ACLs specified for common pool vessels pursuant to § 648.90(a)(4)(iii)(E)(*2*) is projected to be caught, the Regional Administrator may specify a possession limit for these stocks that is calculated to prevent the yearly sub-ACL from being exceeded prior to the end of the fishing year.

12. In § 648.83, revise paragraph (a)(1) to read as follows:

§ 648.83 Multispecies minimum fish sizes.

(a) * * *

(1) Minimum fish sizes for recreational vessels and charter/party vessels that are not fishing under a NE multispecies DAS are specified in § 648.89. Except as provided in § 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

MINIMUM FISH SIZES (TL) FOR COMMERCIAL VESSELS

Species	Size (inches)
Cod	22 (55.9 cm)
Haddock	18 (45.7 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
American plaice (dab)	14 (35.6 cm)
Atlantic halibut	41 (104.1 cm)
Winter flounder (blackback).	12 (30.5 cm)
Redfish	9 (22.9 cm)

* * * * *

13. In § 648.85:

a. Revise the introductory text to paragraph (a)(1), (a)(3), (a)(3)(iii), (b)(8)(v)(A);

b. Revise paragraphs (a)(2), (a)(3)(i) and (ii), (a)(3)(iv) and (v), (a)(3)(vii), (b)(3) through (5), (b)(6)(iv)(D) through (F), (b)(6)(iv)(H) and (I), (b)(6)(iv)(J)(*1*), (b)(6)(v), (b)(7), (b)(8)(i), (b)(8)(v)(A)(*2*) through (*4*), (b)(8)(v)(B), (b)(8)(v)(D), (b)(8)(v)(E)(*1*) and (*3*), (b)(8)(v)(F), (b)(8)(v)(H) and (I), and (d); and

c. Add paragraphs (b)(6)(iv)(J)(*4*), (b)(9), and (e) to read as follows:

§ 648.85 Special management programs.

* * * * *

(a) * * *

(1) *U.S./Canada Management Areas.* A vessel issued a NE multispecies permit that meets the requirements of paragraph (a)(3) of this section may fish in the U.S./Canada Management Areas described in paragraphs (a)(1)(i) and (ii) of this section.

* * * * *

(2) *TAC allocation*—(i) *Process for establishing TACs.* The amount of GB cod and haddock TAC that may be harvested from the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section, and the amount of GB yellowtail flounder TAC that may be harvested from the Western U.S./Canada Area and the Eastern U.S./Canada Area, as described in paragraphs (a)(1)(i) and (ii) of this section, combined, shall be determined by the process specified in paragraphs (a)(2)(i)(A) through (D) of this section.

(A) To the extent practicable, by June 30 of each year, the Terms of Reference for the U.S./Canada shared resources for GB cod, haddock, and yellowtail flounder shall be established by the Steering Committee and the Transboundary Management Guidance Committee (TMGC).

(B) To the extent practicable, by July 31 of each year, a Transboundary Resource Assessment Committee (TRAC) joint assessment of the U.S./Canada shared resources for GB cod, haddock and yellowtail flounder shall occur.

(C) To the extent practicable, by August 31 of each year, the TMGC shall recommend TACs for the U.S./Canada shared resources for GB cod, haddock, and yellowtail flounder. Prior to October 31 of each year, the Council may refer any or all recommended TACs back to the TMGC and request changes to any or all TACs. The TMGC shall consider such recommendations and respond to the Council prior to October 31.

(D) To the extent practicable, by October 31 of each year, the Council shall review the TMGC recommended TACs for the U.S. portion of the U.S./Canada Management Area resources for GB cod, haddock, and yellowtail flounder. Based on the TMGC recommendations, the Council shall recommend to the Regional Administrator the U.S. TACs for the shared stocks for the subsequent fishing year as a subset of the ACLs for these stocks available to the commercial fishery pursuant to § 648.90(a)(4). NMFS shall review the Council's recommendations and shall publish the proposed TACs in the **Federal Register** and provide a 30-day public comment period. NMFS shall make a final determination concerning the TACs and publish notification of the approved TACs and responses to public comments in the **Federal Register.** The Council, at this time, may also consider modification of management measures in order to ensure compliance with the U.S./Canada Resource Sharing Understanding. Any changes to management measures will be modified pursuant to § 648.90.

(ii) *Adjustments to TACs.* Any overages of the GB cod and GB haddock TACs specified for either the common pool or individual Sectors, or any overages of the GB yellowtail flounder TAC specified for the common pool, individual Sectors, or the scallop fishery pursuant to this paragraph (a)(2) that occur in a given fishing year will be subtracted from the respective TAC in the following fishing year.

(iii) *Distribution of TACs.* For stocks managed by the U.S./Canada Resource Sharing Understanding, as specified in paragraph (a)(1) of this section, the TAC allocation determined pursuant to this paragraph (a)(2) shall be distributed between Sectors approved pursuant to § 648.87(c), common pool vessels, and scallop vessels, as specified in § 648.90(a)(4). Approved Sectors will be allocated ACE for Eastern GB cod and Eastern GB haddock proportional to the Sector's allocation of the overall ACL for these stocks, based upon the fishing histories of Sector vessels, as specified in § 648.87(b)(1)(i). Any ACE for Eastern GB cod and Eastern GB haddock allocated to an individual Sector is considered a subset of the overall GB cod and GB haddock ACE allocated to that Sector and may only be harvested from the Eastern U.S./Canada Area, while the remaining ACE for GB cod and GB haddock available to that Sector may only be harvested outside of the Eastern U.S./Canada Area. Any ACE allocated to that sector For example, if a Sector is allocated 10 percent of the GB haddock ACL, it will also be allocated 10 percent of the Eastern GB haddock TAC for that particular fishing year.

(3) *Requirements for vessels in U.S./Canada Management Areas.* Any common pool or Sector vessel, provided the Sector to which a vessel belongs is allocated ACE for stocks caught in the Eastern U.S./Canada Area pursuant to paragraph (a)(2)(iii) of this section and § 648.87(b)(1)(i), may fish in the U.S./Canada Management Areas, provided it complies with conditions and restrictions of this section. A vessel other than a NE multispecies vessel may

fish in the U.S./Canada Management Area, subject to the restrictions specified in paragraph (a)(3)(iv)(E) of this section and all other applicable regulations for such vessels.

(i) *VMS requirement.* A NE multispecies vessel fishing in the U.S./Canada Management Areas described in paragraph (a)(1) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(ii) *Declaration.* To fish in the U.S./Canada Management Area under a NE multispecies DAS or on a Sector trip, a NE multispecies vessel must declare through the VMS the specific area within the U.S./Canada Management Areas, as described in paragraphs (a)(1)(i) or (ii) of this section, or the specific SAP within the U.S./Canada Management Areas, as described in paragraph (b) of this section, the vessel will be fishing in prior to leaving the dock, in accordance with instructions to be provided by the Regional Administrator, and must comply with the restrictions and conditions in paragraphs (a)(3)(ii)(A) through (C) of this section. Vessels other than NE multispecies vessels are not required to declare into the U.S./Canada Management Areas.

(A) A common pool vessel fishing under a NE multispecies DAS in the Eastern U.S./Canada Area may fish both inside and outside of the Eastern U.S./Canada Area on the same trip, provided it complies with the most restrictive DAS counting requirements specified in § 648.10(e)(5), trip limits, and reporting requirements for the areas fished for the entire trip, and the restrictions specified in paragraphs (a)(3)(ii)(A)(*1*) through (*4*) of this section. A vessel on a Sector trip may fish both inside and outside of the Eastern U.S./Canada Area on the same trip, provided it complies with the restrictions specified in paragraphs (a)(3)(ii)(A)(*1*) through (*3*) of this section. When a vessel operator elects to fish both inside and outside of the Eastern U.S./Canada Area, all cod, haddock, and yellowtail flounder caught on that trip shall count toward the applicable hard TAC specified for the U.S./Canada Management Area.

(*1*) The vessel operator must notify NMFS via VMS prior to leaving the Eastern U.S./Canada Area (including at the time of initial declaration into the Eastern U.S./Canada Area) that it is also electing to fish outside the Eastern U.S./Canada Area, as instructed by the Regional Administrator. With the exception of vessels participating in the Regular B DAS Program and fishing under a Regular B DAS and vessels on a Sector trip that are not fishing under a NE multispecies DAS for the purposes of complying with the restrictions of other fisheries, once a vessel elects to fish outside of the Eastern U.S./Canada Area, Category A DAS shall accrue from the time the vessel crosses the VMS Demarcation Line at the start of its fishing trip until the time the vessel crosses the VMS Demarcation Line on its return to port, in accordance with § 648.10(e)(5)(iii).

(*2*) Unless otherwise exempted pursuant to this part, the vessel must comply with the reporting requirements of the U.S./Canada Management Area specified in § 648.85(a)(3)(v) for the duration of the trip.

(*3*) [Reserved]

(*4*) If a common pool vessel fishing under a NE multispecies DAS possesses yellowtail flounder in excess of the trip limits for CC/GOM yellowtail flounder or SNE/MA yellowtail flounder, as specified in § 648.86(g), the vessel may not fish in either the CC/GOM or SNE/MA yellowtail flounder stock area during that trip (*i.e.,* may not fish outside of the U.S./Canada Management Area).

(B) A common pool vessel fishing under a NE multispecies DAS in the Western U.S./Canada Area may fish inside and outside the Western U.S./Canada Area on the same trip, provided it complies with the more restrictive regulations applicable to the area fished for the entire trip (*e.g.,* the possession restrictions specified in paragraph (a)(3)(iv)(C)(*4*) of this section), and the reporting requirements specified in § 648.85(a)(3)(v). A vessel on a Sector trip in the Western U.S./Canada Area may fish inside and outside the Western U.S./Canada Area on the same trip, provided it complies with the more restrictive reporting requirements specified in § 648.85(a)(3)(v), unless otherwise exempted pursuant to this part.

(C) For the purposes of selecting vessels for observer deployment, a vessel fishing in either of the U.S./Canada Management Areas specified in paragraph (a)(1) of this section must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and the date, time, and port of departure, at least 48 hr prior to the beginning of any trip that it declares into the U.S./Canada Management Area as required under this paragraph (a)(3)(ii).

(iii) *Gear requirements.* A NE multispecies vessel fishing with trawl gear in the Eastern U.S./Canada Area defined in paragraph (a)(1)(ii) of this section, unless otherwise provided in paragraphs (b)(6) and (8) of this section, must fish with a Ruhle trawl, as described in paragraph (b)(6)(iv)(J)(*1*) of this section, or a haddock separator trawl, or a flounder trawl net, as described in paragraphs (a)(3)(iii)(A) and (B) of this section (all three nets may be onboard the fishing vessel simultaneously). Unless otherwise restricted by § 648.80(n), gear other than the Ruhle trawl, haddock separator trawl, or the flounder trawl net, or gear authorized under paragraphs (b)(6) and (8) of this section, may be on board the vessel during a trip to the Eastern U.S./Canada Area, provided the gear is stowed according to the regulations in § 648.23(b). The description of the haddock separator trawl and the flounder trawl net, and the description of the Ruhle trawl may be further specified by the Regional Administrator through publication of such specifications in the **Federal Register,** in a manner consistent with the Administrative Procedure Act.

* * * * *

(iv) *Harvest controls.* Unless otherwise specified in this paragraph (a)(3)(iv), any NE multispecies vessel fishing in the U.S./Canada Management Areas is subject to the following restrictions. For common pool vessels, the trip limits specified in this paragraph (a)(3)(iv) are in addition to any other possession or landing limits applicable to vessels not fishing in the U.S./Canada Management Areas. A Sector vessel is subject to the trip limits specified in § 648.87(b)(1)(ix).

(A) *Cod landing limit restrictions.* Notwithstanding other applicable possession and landing restrictions under this part, a common pool vessel fishing in the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section may not land more than 500 lb (226.8 kg) of cod per DAS, or any part of a DAS, up to 5,000 lb (2,268 kg) per trip. A vessel fishing in the Eastern U.S./Canada Area may be further restricted by participation in other Special Management Programs, as required under this section.

(*1*) *Initial cod landing limit.* Unless modified pursuant to paragraph (a)(3)(iv)(D) of this section, notwithstanding other applicable possession and landing restrictions under this part, a common pool vessel fishing in the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section may not land more than 500 lb (226.8 kg) of cod per DAS, or any part of a DAS, up to 5,000 lb (2,268 kg) per trip. A vessel fishing in the Eastern U.S./Canada Area may be further restricted by participation in other

Special Management Programs, as required under this section.

(*2*) *Possession restriction when 100 percent of TAC is harvested.* When the Regional Administrator projects that 100 percent of the TAC allocation for cod specified in paragraph (a)(2) of this section will be harvested, NMFS shall, in a manner consistent with the Administrative Procedure Act, close the Eastern U.S./Canada Area to NE multispecies DAS vessels as specified in paragraph (a)(3)(iv)(E) of this section, and prohibit all vessels from harvesting, possessing, or landing haddock in or from the Eastern U.S./Canada Area.

(B) *Haddock landing limit*—(*1*) *Initial haddock landing limit.* The initial haddock landing limit for common pool vessels is specified in § 648.86(a), unless adjusted pursuant to paragraphs (a)(3)(iv)(B)(*2*) and (*3*) of this section.

(*2*) *Implementation of haddock landing limit for Eastern U.S./Canada Area.* When the Regional Administrator projects that 70 percent of the haddock TAC allocation specified for common pool vessels, as described in paragraph (a)(2) of this section, will be harvested, NMFS shall implement, in a manner consistent with the Administrative Procedure Act, a haddock trip limit for common pool vessels fishing in the Eastern U.S./Canada Area of 1,500 lb (680.4 kg) per day, and 15,000 lb (6,804.1 kg) per trip.

(*3*) *Possession restriction when 100 percent of TAC is harvested.* When the Regional Administrator projects that 100 percent of the TAC allocation for haddock distributed to either common pool vessels or a particular Sector, as specified in paragraph (a)(2) of this section, will be harvested, NMFS shall, in a manner consistent with the Administrative Procedure Act, close the Eastern U.S./Canada Area to all limited access NE multispecies vessels subject to that particular TAC allocation, as specified in paragraph (a)(3)(iv)(E) of this section, and prohibit such vessels and all other vessels not issued a limited access NE multispecies permit from harvesting, possessing, or landing haddock in or from the Eastern U.S./Canada Area.

(C) *Yellowtail flounder landing limit*—(*1*) *Initial yellowtail flounder landing limit.* Unless further restricted under paragraphs (a)(3)(iv)(C)(*2*) or (D) of this section (gear performance incentives), or modified pursuant to paragraph (a)(3)(iv)(D) of this section, there is no initial limit to the amount of yellowtail flounder that could be landed for each fishing year.

(*2*) *Regional Administrator authority to adjust the yellowtail flounder landing limit mid-season.* If, based upon available information, the Regional Administrator projects that the yellowtail flounder catch may exceed the yellowtail flounder TAC for a fishing year, the Regional Administrator may implement, adjust, or remove the yellowtail flounder landing limit at any time during that fishing year in order to prevent yellowtail flounder catch from exceeding the TAC, or to facilitate harvesting the TAC, in a manner consistent with the Administrative Procedure Act. If, based upon available information, the Regional Administrator projects that the yellowtail flounder catch is less than 90 percent of the TAC, the Regional Administrator may adjust or remove the yellowtail flounder landing limit at any time during the fishing year in order to facilitate the harvest of the TAC, in a manner consistent with the Administrative Procedure Act. The Regional Administrator may specify yellowtail flounder trip limits that apply to the entire U.S./Canada Management Area or to only the Western or Eastern Area.

(*3*) *Possession restriction when 100 percent of TAC is harvested.* When the Regional Administrator projects that 100 percent of the TAC allocation for yellowtail flounder distributed to either common pool vessels or a particular Sector, as specified in paragraph (a)(2) of this section, will be harvested, NMFS shall, in a manner consistent with the Administrative Procedure Act, close the Eastern U.S./Canada Area to all limited access NE multispecies vessels subject to that particular TAC allocation, as specified in paragraph (a)(3)(iv)(E) of this section, and prohibit such vessels and all other vessels not issued a limited access NE multispecies permit from harvesting, possessing, or landing yellowtail flounder from the U.S./Canada Management Area.

(*4*) *Yellowtail flounder landing limit for vessels fishing both inside and outside the Western U.S./Canada Area on the same trip.* A vessel fishing both inside and outside of the Western U.S./Canada Area on the same trip, as allowed under paragraph (a)(3)(ii)(B) of this section, is subject to the most restrictive landing limits that apply to any of the areas fished, for the entire trip.

(D) *Other restrictions or inseason adjustments.* In addition to the possession restrictions specified in paragraph (a)(3)(iv) of this section, the Regional Administrator, in a manner consistent with the Administrative Procedure Act, may modify the gear requirements, modify or close access to the U.S./Canada Management Areas, or modify the total number of trips into the U.S./Canada Management Area, to prevent over-harvesting or to facilitate achieving the TAC specified in paragraph (a)(2) of this section. Such adjustments may be made at any time during the fishing year, or prior to the start of the fishing year. If necessary to give priority to using Category A DAS versus using Category B DAS, the Regional Administrator may implement different management measures for vessels using Category A DAS than for vessels using Category B DAS. If the Regional Administrator, under this authority, requires use of a particular gear type in order to reduce catches of stocks of concern, unless further restricted elsewhere in this part, the following gear performance incentives will apply: Possession of flounders (all species combined), monkfish, and skates is limited to 500 lb (226.8 kg) (whole weight) each (*i.e.,* no more than 500 lb (226.8 kg) of all flounders, no more than 500 lb (226.8 kg) of monkfish, and no more than 500 lb (226.8 kg) of skates), and possession of lobsters is prohibited.

(E) *Closure of Eastern U.S./Canada Area.* Based upon available information, when the Regional Administrator projects that any individual TAC allocation specified in paragraph (a)(2)(iii) of this section will be caught, NMFS shall close, in a manner consistent with the Administrative Procedure Act, the Eastern U.S./Canada Area to all vessels subject to that particular TAC allocation, unless otherwise allowed under this paragraph (a)(3)(iv)(E). For example, if the Eastern GB cod TAC specified for common pool vessels is projected to be caught, NMFS shall close the Eastern U.S./Canada Area to all common pool vessels operating under a NE multispecies DAS. Should the Eastern U.S./Canada Area close as described in this paragraph (a)(3)(iv)(E), common pool vessels fishing under a DAS may continue to fish in a SAP within the Eastern U.S./Canada Area, provided that the TAC for the target stock identified for that particular SAP (*i.e.,* haddock for the Eastern U.S./Canada Haddock SAP or haddock or yellowtail flounder for the CA II Yellowtail Flounder/Haddock SAP) has not been fully harvested. A vessel fishing on a Sector trip may only fish in a SAP if that vessel's Sector has ACE available for all stocks caught in that SAP. For example, should the GB cod TAC allocation specified for common pool vessels in paragraph (a)(2)(iii) of this section be attained, and the Eastern U.S./Canada Area closure implemented for common pool vessels, common pool vessels could continue to fish for yellowtail flounder within the SAP

identified as the Closed Area II Yellowtail Flounder/Haddock SAP, described in paragraph (b)(3) of this section, in accordance with the requirements of that program. Upon closure of the Eastern U.S./Canada Area, vessels may transit through this area as described in paragraph (a)(1)(ii) of this section, provided that its gear is stowed in accordance with the provisions of § 648.23(b), unless otherwise restricted under this part.

(v) *Reporting.* The owner or operator of a common pool vessel must submit reports via VMS, in accordance with instructions provided by the Regional Administrator, for each day of the fishing trip when declared into either of the U.S./Canada Management Areas. A vessel fishing on a Sector trip is subject to the reporting requirements specified in this paragraph (a)(3)(v) unless the Regional Administrator determines that weekly Sector catch reports, as required by § 648.87(b)(1)(v), are sufficient to monitor Sector catch within the U.S./Canada Management Areas, and the Regional Administrator makes that determination in a manner consistent with the Administrative Procedure Act. Vessels subject to this reporting requirement must continue to report daily, even after exiting the U.S./Canada Management Area. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2359 hr, and must be submitted by 0900 hr of the following day, or as instructed by the Regional Administrator. The reports must include at least the following information:

(A) VTR serial number or other universal ID specified by the Regional Administrator;

(B) Date fish were caught; and

(C) Total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, Atlantic halibut, ocean pout, Atlantic wolffish, and white hake kept (in pounds, live weight) in each broad stock area, specified in § 648.10(k)(3), as instructed by the Regional Administrator.

* * * * *

(vii) *Transiting.* A NE multispecies vessel that has declared into the Eastern U.S./Canada Area, as defined in paragraph (a)(1)(ii) of this section, and that is not fishing in the CA II Yellowtail Flounder/Haddock SAP described in paragraph (b)(3) of this section, may transit the CA II Yellowtail Flounder/Haddock SAP Area, as described in paragraph (b)(3)(ii) of this section, provided all fishing gear is stowed in accordance with the regulations in § 648.23(b).

* * * * *

(b) * * *

(3) *Closed Area II Yellowtail Flounder/Haddock SAP*—(i) *Eligibility.* Any vessel issued a valid limited access NE multispecies permit fishing under a NE multispecies DAS or on a Sector trip, provided the Sector to which the vessel belongs has been allocated ACE for all stocks that may be caught within the Eastern U.S./Canada Area pursuant to § 648.87(b)(1)(i), are eligible to participate in the Closed Area II Yellowtail Flounder/Haddock SAP, and may fish in the Closed Area II Yellowtail Flounder/Haddock Access Area, as described in paragraph (b)(3)(ii) of this section, for the period specified in paragraph (b)(3)(iii) of this section, provided the Eastern U.S./Canada Area, as described in paragraph (a)(1)(ii) of this section, is not closed according to the provisions specified in paragraph (a)(3)(iv)(E) of this section, or that the Sector to which a vessel belongs no longer has ACE available for all stocks caught within the Eastern U.S./Canada Area pursuant to § 648.87(b)(1)(i). All eligible vessels must comply with the requirements of this section, unless otherwise specified in this paragraph (b)(3).

(ii) *Closed Area II Yellowtail Flounder/Haddock SAP Area.* The Closed Area II Yellowtail Flounder/Haddock SAP Area is the area defined by straight lines connecting the following points in the order stated:

CLOSED AREA II YELLOWTAIL FLOUNDER/HADDOCK SAP AREA

Point	N. Latitude	W. Longitude
Ytail 1	41°30′	67°20′
Ytail 2	41°30′	66°34.8′
G5	41°18.6′	66°24.8′1
CII 2	41°00′	66°35.8′
CII 1	41°00′	67°20′
Ytail 1	41°30′	67°20′

(iii) *Season*—(A) *Season when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder.* When the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, eligible vessels may fish in the Closed Area II Yellowtail Flounder/Haddock SAP from July 1 through December 31.

(B) *Season when the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock.* When the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock, as specified in paragraph (b)(3)(vii) of this section, eligible vessels may fish in the CA II Yellowtail Flounder/Haddock SAP from August 1 through January 31.

(iv) *VMS requirement.* All NE multispecies vessels fishing in the U.S./Canada Management Areas described in paragraph (a)(1) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(v) *Declaration.* For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; date, time and port of departure; and special access program to be fished, at least 48 hr prior to the beginning of any trip that it declares into the SAP as required under this paragraph (b)(3)(v). To fish in the Closed Area II Yellowtail Flounder/Haddock SAP, a vessel must declare into this area through the VMS prior to departure from port, in accordance with instructions provided by the Regional Administrator. A vessel declared into the Closed Area II Yellowtail Flounder/Haddock SAP may also fish in the area outside the Eastern U.S./Canada Area, as defined in paragraph (a)(1)(ii) of this section, on the same trip, provided the vessel also declares into this area prior to departure from port and fishes under the most restrictive DAS counting requirements specified in § 648.10(e)(5), trip limits, and reporting requirements for the areas fished during the entire trip.

(vi) *Number of trips per vessel*—(A) *Number of trips allowed when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder.* When the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, eligible common pool vessels are restricted to one trip per calendar month during the season described in paragraph (b)(3)(iii) of this section.

(B) *Number of trips allowed when the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock.* When the CA II Yellowtail Flounder/Haddock SAP is open only to target haddock, as specified in paragraph (b)(3)(vii) of this section, there is no limit on the number of trips that can be taken by eligible vessels during the season described in paragraph (b)(3)(iii) of this section.

(vii) *Opening criteria*—(A) *Opening the CA II Yellowtail Flounder/Haddock SAP to target yellowtail flounder.* Unless otherwise authorized by the Regional Administrator, as specified in paragraph

(a)(3)(iv)(D) of this section, the total number of allowed trips by common pool vessels that may be declared into the Closed Area II Yellowtail Flounder/Haddock SAP for each fishing year shall be as announced by the Regional Administrator on or about June 1, after consultation with the Council, in a manner consistent with the Administrative Procedure Act. Except as provided in paragraph (b)(3)(vii)(B) of this section, the total number of trips by all common pool vessels that may be declared into this SAP when the SAP is open to target yellowtail flounder shall not exceed 320 per year. When determining the total number of trips, the Regional Administrator shall consider the available yellowtail flounder TAC under the U.S./Canada Resource Sharing Understanding, the potential catch of GB yellowtail flounder by all vessels fishing outside of the SAP, recent discard estimates in all fisheries that catch yellowtail flounder, the expected number of SAP participants, and any other available information. If the Regional Administrator determines that the available catch, as determined by subtracting the potential catch of GB yellowtail flounder by all vessels outside of the SAP from the GB yellowtail flounder TAC allocation specified in paragraph (a)(2) of this section, is insufficient to allow for at least 150 trips with a possession limit of 15,000 lb (6,804 kg) of yellowtail flounder per trip, the Regional Administrator may choose not to authorize any trips into the SAP during a fishing year.

(B) *Opening the CA II Yellowtail/Haddock SAP to only target haddock.* If the CA II Yellowtail Flounder/Haddock SAP is not open to targeting yellowtail flounder due to an insufficient amount of yellowtail flounder TAC, or because the maximum number of trips allowed into the CA II Yellowtail Flounder/Haddock SAP to target yellowtail flounder has been achieved pursuant to paragraph (b)(3)(vii)(A) of this section, eligible vessels may target haddock in the CA II Yellowtail Flounder/Haddock Access Area, as specified in paragraph (b)(3)(ii) of this section, provided the Eastern GB haddock TAC specified in paragraph (a)(2) of this section has not been caught, the Eastern U.S./Canada Area is not closed pursuant to paragraph (a)(3)(iv)(D) of this section; and, for vessels on a Sector trip, the Sector to which the Sector vessel belongs has ACE remaining for the stocks caught in the Eastern U.S./Canada Area.

(viii) *Trip limits.* Vessels subject to the provisions of the common pool that are fishing in the Closed Area II Yellowtail Flounder/Haddock SAP are subject to the following trip limits, unless otherwise restricted in this part. Vessels subject to the restrictions and conditions of an approved Sector operations plan fishing in the Closed Area II Yellowtail Flounder/Haddock SAP are subject to the trip limits specified in § 648.87(b)(1)(ix).

(A) *Yellowtail flounder trip limit*—(*1*) *Trip limits when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder.* Unless otherwise authorized by the Regional Administrator as specified in paragraph (a)(3)(iv)(D) of this section, when the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, a vessel subject to the provisions of the common pool that is fishing in the CA II Yellowtail Flounder/Haddock SAP may fish for, possess, and land up to 10,000 lb (4,536 kg) of yellowtail flounder per trip. The Regional Administrator may adjust this limit to a maximum of 30,000 lb (13,608 kg) per trip after considering the factors listed in paragraph (b)(3)(vii) of this section for the maximum number of trips.

(*2*) *Trip limits when the CA II Yellowtail Flounder/Haddock SAP is open to target haddock.* Unless otherwise specified by the Regional Administrator pursuant to paragraph (a)(3)(iv)(D) of this section, when the CA II Yellowtail Flounder/Haddock SAP is only open to target haddock, as specified in paragraph (b)(3)(vii) of this section, the trip limit for yellowtail flounder is specified in paragraph (b)(3)(viii)(C) of this section.

(B) *Cod and haddock trip limit.* Unless otherwise restricted, a common pool vessel fishing any portion of a trip in the Closed Area II Yellowtail Flounder/Haddock SAP on a NE multispecies DAS may not fish for, possess, or land more than 1,000 lb (453.6 kg) of cod per trip, regardless of trip length. A common pool vessel fishing on a NE multispecies DAS in the Closed Area II Yellowtail Flounder/Haddock SAP is subject to the haddock requirements described in § 648.86(a), unless further restricted under paragraph (a)(3)(iv) of this section.

(C) *Other species trip limits.* A common pool vessel fishing on a NE multispecies DAS in the CA II Yellowtail Flounder/Haddock SAP using a haddock separator trawl, a Ruhle trawl, or any other gear specified pursuant to paragraph (b)(3)(x)(B) must comply with the trip limits specified in § 648.86, unless further restricted by the trip limits specified in paragraph (e) of this section.

(ix) *Area fished.* Eligible vessels that have declared a trip into the Closed Area II Yellowtail Flounder/Haddock SAP, and other areas as specified in paragraph (b)(3)(v) of this section, may not fish for, possess, or land fish in or from outside of the declared area during the same trip.

(x) *Gear requirements*—(A) *Approved gear.* When the CA II Yellowtail Flounder/Haddock SAP is open to target yellowtail flounder, as specified in paragraph (b)(3)(vii) of this section, NE multispecies vessels must fish with a haddock separator trawl or a flounder trawl net, as described in paragraph (a)(3)(iii) of this section, or the Ruhle trawl, as described in paragraph (b)(6)(iv)(J)(*3*) of this section (all three nets may be onboard the fishing vessel simultaneously). When this SAP is only open to target haddock, NE multispecies vessels must use a haddock separator trawl, a Ruhle trawl, or hook gear. Gear other than the haddock separator trawl, the flounder trawl, or the Ruhle trawl may be on board the vessel during a trip to the Eastern U.S./Canada Area outside of the CA II Yellowtail Flounder/Haddock SAP, provided the gear is stowed according to the regulations at § 648.23(b).

(B) *Approval of additional gear.* The Regional Administrator may authorize additional gear for use in the CA II Yellowtail Flounder/Haddock SAP in accordance with the standards and requirements specified in paragraph (b)(6)(iv)(J)(*2*) of this section.

(xi) *No-discard provision and DAS flips.* A vessel fishing in the CA II Yellowtail Flounder/Haddock SAP under a NE multispecies DAS or on a Sector trip may not discard legal-sized regulated NE multispecies, unless the possession of the species is prohibited pursuant to § 648.86, or unless otherwise specified in this paragraph (b)(3)(xi). A vessel may discard Atlantic halibut exceeding the one fish per trip possession limit. If a vessel fishing in the CA II Yellowtail Flounder/Haddock SAP exceeds an applicable trip limit, the vessel must exit the SAP. If a common pool vessel operator fishing in the CA II Yellowtail Flounder/Haddock SAP under a Category B DAS harvests and brings on board more legal-sized regulated NE multispecies or Atlantic halibut than the maximum landing limits allowed per trip, as specified in paragraph (b)(3)(iv) or (viii) of this section, or in § 648.86, the vessel operator must immediately notify NMFS via VMS to initiate a DAS flip (from a Category B DAS to a Category A DAS). Once this notification has been received by NMFS, the vessel's entire trip will accrue as a Category A DAS trip. For a

vessel that notifies NMFS of a DAS flip, the Category B DAS that have accrued between the time the vessel started accruing Category B DAS (*i.e.,* either at the beginning of the trip, or at the time the vessel crossed into the Eastern U.S./Canada Area) and the time the vessel declared its DAS flip shall be accrued as Category A DAS, and not Category B DAS.

(xii) *Minimum Category A DAS.* For vessels fishing under a Category B DAS, the number of Category B DAS that can be used on a trip cannot exceed the number of available Category A DAS the vessel has at the start of the trip.

(xiii) *Catch distribution.* All catch of GB haddock from vessels declared into the CA II Yellowtail Flounder/Haddock SAP shall be applied against the Eastern GB haddock TAC, as specified in paragraph (a)(2) of this section, for either common pool vessels or individual approved Sectors.

(4) [Reserved]

(5) *Incidental Catch TACs.* Unless otherwise specified in this paragraph (b)(5), Incidental Catch TACs shall be based upon the portion of the ACL for a stock specified for the common pool vessels pursuant to § 648.90(a)(4), and allocated as described in this paragraph (b)(5), for each of the following stocks: GOM cod, GB cod, GB yellowtail flounder, GB winter flounder, CC/GOM yellowtail flounder, American plaice, white hake, SNE/MA yellowtail flounder, SNE/MA winter flounder, witch flounder, and pollock. Because GB yellowtail flounder and GB cod are transboundary stocks, the incidental catch TACs for these stocks shall be based upon the portion of the ACL available to U.S. vessels. NMFS shall send letters to limited access NE multispecies permit holders notifying them of such TACs.

(i) *Stocks other than GB cod, GB yellowtail flounder, GB winter flounder, and pollock.* With the exception of GB cod, GB yellowtail flounder, GB winter flounder, and pollock, 100 percent of the Incidental Catch TACs specified in this paragraph (b)(5) shall be allocated to the Regular B DAS Program described in paragraph (b)(6) of this section.

(ii) *GB cod and pollock.* Each of the Incidental Catch TACs for GB cod and pollock specified in this paragraph (b)(5) shall be subdivided as follows: 50 percent to the Regular B DAS Program described in paragraph (b)(6) of this section; 16 percent to the CA I Hook Gear Haddock SAP described in paragraph (b)(7) of this section; and 34 percent to the Eastern U.S./Canada Haddock SAP described in paragraph (b)(8) of this section.

(iii) *GB yellowtail flounder and GB winter flounder.* Each of the Incidental Catch TACs for GB yellowtail flounder and GB winter flounder specified in this paragraph (b)(5) shall be subdivided as follows: 50 percent to the Regular B DAS Program described in paragraph (b)(6) of this section and 50 percent to the Eastern U.S./Canada Haddock SAP described in paragraph (b)(8) of this section.

(6) * * *

(iv) * * *

(D) *Landing limits.* Unless otherwise specified in this paragraph (b)(6)(iv)(D), or restricted pursuant to § 648.86, a NE multispecies vessel fishing in the Regular B DAS Program described in this paragraph (b)(6), and fishing under a Regular B DAS, may not land more than 100 lb (45.5 kg) per DAS, or any part of a DAS, up to a maximum of 1,000 lb (454 kg) per trip, of any of the following species/stocks from the areas specified in paragraph (b)(6)(v) of this section: Cod (both GOM and GB), American plaice, white hake, witch flounder, SNE/MA winter flounder, GB winter flounder, GB yellowtail flounder, and pollock; and may not land more than 25 lb (11.3 kg) per DAS, or any part of a DAS, up to a maximum of 250 lb (113 kg) per trip of CC/GOM or SNE/MA yellowtail flounder. In addition, trawl vessels, which are required to fish with a haddock separator trawl, as specified in paragraph (a)(3)(iii)(A), or a Ruhle trawl, as specified in paragraph (b)(6)(iv)(J) of this section, and other gear that may be required in order to reduce catches of stocks of concern as described in paragraph (b)(6)(iv)(J) of this section, are restricted to the trip limits specified in paragraph (e) of this section.

(E) *No-discard provision and DAS flips.* A vessel fishing in the Regular B DAS Program under a Regular B DAS may not discard legal-sized regulated species, ocean pout, or monkfish. This prohibition on discarding does not apply in areas or times where the possession or landing of regulated species or ocean pout is prohibited, as specified in §§ 648.85 and 648.86. If such a vessel harvests and brings on board legal-sized regulated species or ocean pout in excess of the allowable landing limits specified in paragraph (b)(6)(iv)(D) of this section or § 648.86, the vessel operator must notify NMFS immediately via VMS to initiate a DAS flip from a B DAS to an A DAS. Once this notification has been received by NMFS, the vessel shall automatically be switched by NMFS to fishing under a Category A DAS for its entire fishing trip. Thus, any Category B DAS that accrued between the time the vessel declared into the Regular B DAS Program at the beginning of the trip (*i.e.,* at the time the vessel crossed the demarcation line at the beginning of the trip) and the time the vessel declared its DAS flip shall be accrued as Category A DAS, and not Regular B DAS. After flipping to a Category A DAS, the vessel is subject to the applicable trip limits specified in § 648.85(a) or § 648.86 and may discard fish in excess of the applicable trip limits.

(F) *Minimum Category A DAS and B DAS accrual.* For a vessel fishing under the Regular B DAS Program, the number of Regular B DAS that may be used on a trip cannot exceed the number of Category A DAS that the vessel has at the start of the trip. If a vessel is fishing in an area subject to differential DAS counting pursuant to § 648.82(n)(1), the number of Regular B DAS that may be used on a trip cannot exceed the number of Category A DAS that the vessel has at the start of the trip divided by the applicable differential DAS counting factor specified in § 648.82(n)(1)(ii). For example, if a vessel plans a trip under the Regular B DAS Program in the Inshore GOM Differential DAS Area during a fishing year in which the area is subject to a differential DAS counting factor of 1.2, and the vessel has 10 Category A DAS available at the start of the trip, the maximum number of Regular B DAS that the vessel may fish under the Regular B Program is 8 (10 divided by 1.2 = 8.33, but since Regular B DAS are charged in 24-hr intervals, 8 Regular B DAS is the maximum that can be used for this trip). A vessel fishing in the Regular B DAS Program for its entire trip shall accrue DAS in accordance with § 648.82(e)(1).

* * * * *

(H) *Closure of Regular B DAS Program and quarterly DAS limits.* Unless otherwise closed as a result of the harvest of an Incidental Catch TAC as described in paragraph (b)(6)(iv)(G) of this section, or as a result of an action by the Regional Administrator under paragraph (b)(6)(vi) of this section, the use of Regular B DAS shall, in a manner consistent with the Administrative Procedure Act, be prohibited when 500 Regular B DAS have been used during the first quarter of the fishing year (May–July), or when 1,000 Regular B DAS have been used during any of the remaining quarters of the fishing year, in accordance with § 648.82(e)(1).

(I) *Reporting requirements.* The owner or operator of a NE multispecies DAS vessel must submit catch reports via VMS in accordance with instructions provided by the Regional Administrator,

for each day fished when declared into the Regular B DAS Program. The reports must be submitted in 24-hr intervals for each day, beginning at 0000 hr and ending at 2359 hr. The reports must be submitted by 0900 hr of the following day. For vessels that have declared into the Regular B DAS Program in accordance with paragraph (b)(6)(iv)(C) of this section, the reports must include at least the following information: VTR serial number or other universal ID specified by the Regional Administrator; date fish were caught; and the total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, Atlantic halibut, ocean pout, Atlantic wolffish, and white hake kept in each broad stock area (in pounds, live weight), specified in § 648.10(k)(3), as instructed by the Regional Administrator. Daily reporting must continue even if the vessel operator is required to flip, as described in paragraph (b)(6)(iv)(E) of this section.

(J) * * *

(*1*) Vessels fishing with trawl gear in the Regular B DAS Program must use the haddock separator trawl or Ruhle trawl, as described in paragraphs (a)(3)(iii)(A) and (b)(6)(iv)(J)(*3*) of this section, respectively, or other type of gear if approved as described in this paragraph (b)(6)(iv)(J). Other gear may be on board the vessel, provided it is stowed when the vessel is fishing under the Regular B DAS Program pursuant to § 648.23(b).

* * * * *

(*4*) *Mesh size.* An eligible vessel fishing in the Regular B DAS Program pursuant to paragraph (b)(6) of this section must use trawl gear described in this paragraph (b)(6)(iv)(J) with a minimum codend mesh size of 6-inch (15.24-cm) square or diamond mesh.

(v) *Definition of stock areas.* The species stock areas associated with the incidental catch TACs for the Regular B DAS Program are defined in paragraphs (b)(6)(v)(A) through (K) of this section. Where specified, these areas also identify stock areas applicable for trip limits specified in § 648.86 and for determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b). Copies of a chart depicting these areas are available from the Regional Administrator upon request.

(A) *GOM cod stock area.* The GOM cod stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

GOM COD STOCK AREA

Point	N. Latitude	W. Longitude
GOM1	(1)	70°00′
GOM2	42°20′	70°00′
GOM3	42°20′	67°40′
GOM4	43°50′	67°40′
GOM5	43°50′	66°50′
GOM6	44°20′	66°50′
GOM7	44°20′	67°00′
GOM8	(2)	67°00′

1 Intersection of the north-facing coastline of Cape Cod, MA, and 70°00′ W. long.
2 Intersection of the south-facing ME coastline and 67°00′ W. long.

(B) *GB cod stock area.* The GB cod stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

GB COD STOCK AREA

Point	N. Latitude	W. Longitude
GB1	(1)	70°00′
GB2	42°20′	70°00′
GB3	42°20′	66°00′
GB4	42°10′	66°00′
GB5	42°10′	65°50′
GB6	42°00′	65°50′
GB7	42°00′	65°40′
GB8	40°30′	65°40′
GB9	39°00′	65°40′
GB10	39°00′	70°00′
GB11	35°00′	70°00′
GB12	35°00′	(2)

1 Intersection of the north-facing coastline of Cape Cod, MA, and 70°00′ W. long.
2 Intersection of the east-facing coastline of Outer Banks, NC, and 35°00′ N. lat.

(C) *CC/GOM yellowtail flounder stock area.* For the purposes of the Regular B DAS Program, the CC/GOM yellowtail flounder stock area is the area defined by straight lines connecting the following points in the order stated:

CC/GOM YELLOWTAIL FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
CCGOM1	43°00′	(1)
CCGOM2	43°00′	70°00′
CCGOM3	42°30′	70°00′
CCGOM4	42°30′	69°30′
CCGOM5	41°30′	69°30′
CCGOM6	41°30′	69°00′
CCGOM7	41°00′	69°00′
CCGOM8	41°00′	69°30′
CCGOM5	41°30′	69°30′
CCGOM9	41°30′	70°00′
CCGOM10	(2)	70°00′

CC/GOM YELLOWTAIL FLOUNDER STOCK AREA—Continued

Point	N. Latitude	W. Longitude
CCGOM11	42°00′	(3)
CCGOM12	42°00′	(4)
CCGOM13	(5)	70°00′

1 Intersection with the NH coastline.
2 Intersection of the south-facing shoreline of Cape Cod, MA.
3 Intersection with the east-facing shoreline of Cape Cod, MA.
4 Intersection with the west-facing shoreline of Cape Cod, MA.
5 Intersection with the east-facing shoreline of Massachusetts.

(D) *American plaice stock area.* The American plaice stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

AMERICAN PLAICE STOCK AREA

Point	N. Latitude	W. Longitude
AMP1	(1)	67°00′
AMP2	44°20′	67°00′
AMP3	44°20′	66°50′
AMP4	43°50′	66°50′
AMP5	43°50′	67°40′
AMP6	42°30′	67°40′
AMP7	42°30′	66°00′
AMP8	42°10′	66°00′
AMP9	42°10′	65°50′
AMP10	42°00′	65°50′
AMP11	42°00′	65°40′
AMP12	40°30′	65°40′
AMP13	39°00′	65°40′
AMP14	39°00′	70°00′
AMP15	35°00′	70°00′
AMP16	35°00′	(2)

1 Intersection of south-facing ME coastline and 67°00′ W. long.
2 Intersection of east-facing coastline of Outer Banks, NC, and 35°00′ N. lat.

(E) *SNE/MA yellowtail flounder stock area.* For the purposes of the Regular B DAS Program, the SNE/MA stock area is the area bounded on the north, east, and south by straight lines connecting the following points in the order stated:

SNE/MA YELLOWTAIL FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
SNEMA1	40°00′	74°00′
SNEMA2	40°00′	72°00′
SNEMA3	40°30′	72°00′
SNEMA4	40°30′	69°30′
SNEMA5	41°30′	69°30′
SNEMA6	41°30′	70°00′
SNEMA7	41°00′	70°00′

SNE/MA YELLOWTAIL FLOUNDER STOCK AREA—Continued

Point	N. Latitude	W. Longitude
SNEMA8	41°00′	70°30′
SNEMA9	41°00′	70°30′
SNEMA10	41°30′	70°30′
SNEMA11	(1)	72°00′
SNEMA12	(2)	72°00′
SNEMA13	(3)	73°00′
SNEMA14	40°30′	73°00′
SNEMA15	40°30′	74°00′
SNEMA16	40°00′	74°00′

[1] South-facing shoreline of CT.
[2] North-facing shoreline of Long Island, NY.
[3] South-facing shoreline of Long Island, NY.

(F) *SNE/MA winter flounder stock area.* The SNE winter flounder stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

SOUTHERN NEW ENGLAND/MID-ATLANTIC WINTER FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
SNEW1	(1)	70°00′
SNEW2	42°20′	70°00′
SNEW3	42°20′	68°50′
SNEW4	39°50′	68°50′
SNEW5	39°50′	71°40′
SNEW6	39°00′	71°40′
SNEW7	39°00′	70°00′
SNEW8	35°00′	70°00′
SNEW9	35°00′	(2)

[1] Intersection of the north-facing Coastline of Cape Cod, MA, and 70°00′ W. long.
[2] The intersection of the east-facing coastline of Outer Banks, NC, and 35°00′ N. lat.

(G) *Witch flounder stock area.* The witch flounder stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area defined by straight lines connecting the following points in the order stated:

WITCH FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
WF1	(1)	67°00′
WF2	44°20′	67°00′
WF3	44°20′	66°50′
WF4	43°50′	66°50′
WF5	43°50′	67°40′
WF6	42°20′	67°40′
WF7	42°20′	66°00′
WF8	42°10′	66°00′
WF9	42°10′	65°50′

WITCH FLOUNDER STOCK AREA—Continued

Point	N. Latitude	W. Longitude
WF10	42°00′	65°50′
WF11	42°00′	65°40′
WF12	40°30′	65°40′
WF13	40°30′	66°40′
WF14	39°50′	66°40′
WF15	39°50′	70°00′
WF16	(2)	70°00′
WF17	(3)	70°00′
WF18	(4)	70°00′

[1] Intersection of south-facing ME coastline and 67°00′ W. long.
[2] Intersection of south-facing coastline of Nantucket, MA, and 70°00′ W. long.
[3] Intersection of north-facing coastline of Nantucket, MA, and 70°00′ W. long.
[4] Intersection of south-facing coastline of Cape Cod, MA, and 70°00′ W. long.

(H) *GB yellowtail flounder stock area.* The GB yellowtail flounder stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area defined as the U.S./Canada Management Areas, as specified in paragraphs (a)(1)(i) and (ii) of this section.

(I) *GB winter flounder stock area.* The GB winter flounder stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area defined as the U.S./Canada Management Areas, as specified in paragraphs (a)(1)(i) and (ii) of this section.

(J) *White hake stock area.* The white hake stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area bounded on the north and west by the coastline of the United States, bounded on the south and east by a line running east from the intersection of the east-facing coastline of Outer Banks, NC, at 35°00′ N. lat. to the boundary of the EEZ, and running northward to the U.S.-Canada border.

(K) *Pollock stock area.* The pollock stock area, for the purposes of the Regular B DAS Program, identifying stock areas for trip limits specified in § 648.86, and determining areas applicable to Sector allocations of ACE pursuant to § 648.87(b), is the area bounded on the north by the coastline of the United States, bounded on the east by the boundary of the EEZ running southward from the U.S.-Canada border to its intersection with 39°00′ N. lat., bounded on the south by 39°00′ N. lat., and bounded on the west by a line running northward along 71°40′ W. long. from its intersection with 39°00′ N. lat. until it intersects with the south-facing shoreline of RI.

* * * * *

(7) *CA I Hook Gear Haddock SAP*—(i) *Eligibility.* A vessel issued a valid limited access NE multispecies permit operating under a NE multispecies DAS or on a Sector trip, provided the Sector to which the vessel belongs has been allocated ACE for all stocks caught within the CA I Hook Gear Haddock Access Area pursuant to § 648.87(b)(1)(i), is eligible to participate in the CA I Hook Gear Haddock SAP and may fish in the CA I Hook Gear Haddock Access Area, as described in paragraph (b)(7)(ii) of this section, for the season specified in paragraph (b)(7)(iii) of this section, provided any such vessel complies with the requirements of this section, the SAP is not closed according to the provisions specified in paragraph (b)(7)(iv)(H) or (b)(7)(vi)(F) of this section, or the Sector in which the vessel is participating no longer has ACE available for all stocks caught within the CA I Hook Gear Haddock Access Area pursuant to § 648.87(b)(1)(i). Copies of a chart depicting this area are available from the Regional Administrator upon request.

(ii) *CA I Hook Gear Haddock SAP Area.* The CA I Hook Gear Haddock SAP Area is the area defined by straight lines connecting the following points in the order stated:

CA I HOOK GEAR HADDOCK SAP AREA

Point	N. Latitude	W. Longitude
Hook 1	41°09′	68°30′
CI4	41°30′	68°30′
CI1	41°30′	69°23′
Hook 2	41°04′	69°01.1′

(iii) *Season.* The season for the CA I Hook Gear Haddock SAP is May 1 through January 31.

(iv) *General program restrictions.* General program restrictions specified in this paragraph (b)(7)(iv) apply to all eligible vessels, as specified in paragraph (b)(7)(i) of this section. Further program restrictions specific to Sector and common pool vessels are specified in paragraphs (b)(7)(v) and (vi) of this section, respectively.

(A) *DAS use restrictions.* A vessel fishing in the Closed Area I Hook Gear Haddock SAP under a NE multispecies

DAS may not initiate a DAS flip. A vessel is prohibited from fishing in the Closed Area I Hook Gear Haddock SAP while making a trip under the Regular B DAS Program described in paragraph (b)(6) of this section. DAS will be charged as described in § 648.10.

(B) *VMS requirement.* An eligible NE multispecies vessel fishing in the CA I Hook Gear Haddock SAP specified in this paragraph (b)(7) must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(C) *Observer notifications.* For the purpose of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and date, time, and port of departure at least 48 hr prior to the beginning of any trip that it declares into the CA I Hook Gear Haddock SAP, as required in paragraph (b)(7)(iv)(C) of this section, and in accordance with instructions provided by the Regional Administrator.

(D) *VMS declaration.* To fish in the CA I Hook Gear Haddock SAP Prior to departure from port, a vessel must declare into the SAP via VMS, and, for a vessel fishing under a NE multispecies DAS, indicate the type of DAS that it intends to fish, prior to departure from port, as instructed by the Regional Administrator. A vessel declared into the CA I Hook Gear Haddock SAP may fish only in the CA I Hook Gear Haddock Special Access Area described in paragraph (b)(7)(ii) of this section on a declared trip.

(E) *Gear restrictions.* A vessel declared into and fishing in the CA I Hook Gear Haddock SAP may fish with and possess on board demersal longline gear or tub trawl gear only, unless further restricted as specified in paragraph (b)(7)(v)(A) of this section. Such vessels are prohibited from using as bait, or possessing on board, squid or mackerel during a trip into the CA I Hook Gear Haddock SAP.

(F) *Haddock TAC.* The maximum total amount of haddock that may be caught (landings and discards) in the CA I Hook Gear Haddock SAP Area in any fishing year is based upon the size of the TAC allocated for the 2004 fishing year (1,130 mt live weight), adjusted according to the growth or decline of the western GB (WGB) haddock exploitable biomass (in relationship to its size in 2004), according to the following formula: Biomass YEAR X= (1,130 mt live weight) × (Projected WGB Haddock Exploitable Biomass YEAR X/WGB Haddock Exploitable Biomass 2004). The size of the western component of the stock is considered to be 35 percent of the total stock size, unless modified by a stock assessment. The Regional Administrator shall specify the haddock TAC for the SAP, in a manner consistent with the Administrative Procedure Act.

(G) *Trip restrictions.* A vessel is prohibited from deploying fishing gear outside of the CA I Hook Gear Haddock SAP Area on the same fishing trip on which it is declared into the CA I Hook Gear Haddock SAP. A vessel operating under a NE multispecies DAS must end the trip if the vessel exceeds the applicable landing limits described in paragraphs (b)(7)(v)(B) and (b)(7)(vi)(C) of this section.

(H) *Landing limits.* For all vessels legally declared into the CA I Hook Gear Haddock SAP described in paragraph (b)(7)(i) of this section, landing limits for NE multispecies are specified in paragraphs (b)(7)(v)(B) and (b)(7)(vi)(C) of this section, respectively. Unless otherwise specified in this part, such vessels are prohibited from discarding legal-sized regulated species and ocean pout, and must exit the SAP and cease fishing if any trip limit is achieved or exceeded.

(I) *Mandatory closure of CA I Hook Gear Haddock Access Area.* When the Regional Administrator determines that the haddock TAC specified in paragraph (b)(7)(iv)(F) of this section has been caught, NMFS shall close, in a manner consistent with the Administrative Procedure Act, the CA I Hook Gear Haddock SAP Area as specified in paragraph (b)(7)(ii) of this section, to all eligible vessels, including both common pool and Sector vessels.

(v) *Sector vessel program restrictions.* In addition to the general program restrictions specified in paragraph (b)(7)(iv) of this section, a Sector vessel declared into the CA I Hook Gear Haddock SAP is also required to comply with the restrictions specified in this paragraph (b)(7)(v).

(A) *Gear restrictions.* A Sector vessel is subject to the gear requirements of the Sector Operations Plan as approved under § 648.87(c) and those specified under paragraph (b)(7)(iv)(E) of this section.

(B) *Landing limits.* A Sector vessel declared into the CA I Hook Gear Haddock SAP described in paragraph (b)(7)(i) of this section is subject to the landing limits for regulated species in effect under the Sector's Operations Plan, as approved under § 648.87(c).

(C) *Reporting requirements.* The owner or operator of a Sector vessel declared into the CA I Hook Gear Haddock SAP must submit reports to the Sector Manager, consistent with instructions to be provided by the Sector Manager, for each day fished in the CA I Hook Gear Haddock SAP Area. The Sector Manager shall provide daily reports to NMFS, including at least the following information: Total pounds of haddock, cod, yellowtail flounder, winter flounder, witch flounder, pollock, ocean pout, Atlantic halibut, Atlantic wolffish, and white hake kept; total pounds of haddock, cod, yellowtail flounder, winter flounder, witch flounder, pollock, ocean pout, Atlantic halibut, Atlantic wolffish, and white hake discarded; date fish were caught; and VTR serial numbers for each trip declared into the CA I Hook Gear Haddock SAP, as instructed by the Regional Administrator. Daily reporting must continue even if the vessel operator is required to exit the SAP as required under paragraph (b)(7)(iv)(G) or (H) of this section.

(D) *Incidental catch TACs.* There are no incidental catch TACs specified for regulated species or ocean pout for Sector vessels declared into the CA I Hook Gear Haddock SAP. All regulated species or ocean pout caught by Sector vessels fishing in the SAP count toward the Sector's annual ACE for each stock, as specified in § 648.87(b)(1)(i).

(vi) *Common pool vessel program restrictions.* In addition to the general program restrictions specified in paragraph (b)(7)(iv) of this section, a common pool vessel declared into the CA I Hook Gear Haddock SAP is also required to comply with the restrictions specified in this paragraph (b)(7)(vi).

(A) *DAS use restrictions.* A common pool vessel may only use Regular B or Reserve B DAS, in accordance with § 648.82(d)(2)(i)(A) and (d)(2)(ii)(A). A common pool vessel is prohibited from using Category A DAS and may not initiate a DAS flip when declared into the SAP. A common pool vessel is prohibited from fishing in the CA I Hook Gear Haddock SAP while making a trip under the Regular B DAS Program described under paragraph (b)(6) of this section. DAS will be charged as described in § 648.10.

(B) *Gear restrictions.* A common pool vessel is exempt from the maximum number of hooks restriction specified in § 648.80(a)(4)(v), but must comply with the gear restrictions in paragraph (b)(7)(iv)(E) of this section.

(C) *Landing limits.* A common pool vessel may not land, fish for, or possess on board more than 1,000 lb (453.6 kg) of cod per trip. A common pool vessel is not permitted to discard legal-sized cod prior to reaching the landing limit, and is required to end its trip if the cod trip limit is achieved or exceeded.

(D) *Reporting requirements.* The owner or operator of a common pool

vessel must submit reports via VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished in the Closed Area I Hook Gear Haddock SAP Area. The reports must be submitted in 24-hr intervals for each day fished, beginning at 0000 hr local time and ending at 2359 hr local time. The reports must be submitted by 0900 hr local time of the day following fishing. The reports must include at least the following information: VTR serial number or other universal ID specified by the Regional Administrator; date fish were caught; and the total pounds of cod, haddock, yellowtail flounder, winter flounder, witch flounder, pollock, American plaice, redfish, ocean pout, Atlantic halibut, Atlantic wolffish, and white hake kept in each broad stock area (in pounds, live weight), specified in § 648.10(k)(3), as instructed by the Regional Administrator. Daily reporting must continue even if the vessel operator is required to exit the SAP as required under paragraph (b)(7)(iv)(G) of this section.

(E) *Incidental catch TACs.* The maximum amount of GB cod and pollock (landings and discards) that may be cumulatively caught by a common pool vessel from the CA I Hook Gear Haddock SAP Area in a fishing year is the amount specified in paragraph (b)(5)(ii) of this section.

(F) *Mandatory closure of CA I Hook Gear Haddock Access Area due to catch of any incidental catch TAC.* When the Regional Administrator determines that either the GB cod or pollock incidental catch TAC specified in paragraph (b)(7)(vi)(E) of this section has been caught, the CA I Hook Gear Haddock SAP Area shall be closed to all common pool vessels in a manner consistent with the Administrative Procedure Act.

(8) * * *

(i) *Eligibility.* A vessel issued a valid limited access NE multispecies permit and fishing with trawl gear as specified in paragraph (b)(8)(v)(E) of this section while operating under a NE multispecies DAS or on a Sector trip, provided the Sector to which the vessel belongs has been allocated ACE for all stocks caught within the Eastern U.S./Canada Area pursuant to § 648.87(b)(1)(i), is eligible to participate in the Eastern U.S./Canada Haddock SAP and may fish in the Eastern U.S./Canada Haddock SAP Area, as described in paragraph (b)(8)(ii) of this section, during the season specified in paragraph (b)(8)(iv) of this section, provided such vessel complies with the requirements of this section and provided the SAP is not closed according to the provisions specified in paragraph (b)(8)(v)(K) or (L) of this section, the Eastern U.S./Canada Area is not closed as described under paragraph (a)(3)(iv)(E) of this section, or the Sector to which the vessel belongs no longer has ACE available for all stocks caught within the Eastern U.S./Canada Area pursuant to § 648.87(b)(1)(i).

* * * * *

(v) * * *

(A) *Area and DAS use restrictions.* A common pool vessel fishing under a NE multispecies DAS in the Eastern U.S./Canada Haddock SAP may elect to fish under a Category A or Category B DAS in accordance with § 648.82(d)(2), or in multiple areas in accordance with the restrictions of this paragraph (b)(8)(v)(A). A vessel on a Sector trip in the Eastern U.S./Canada Haddock SAP may elect to fish in multiple areas in accordance with the restrictions of this paragraph (b)(8)(v)(A).

* * * * *

(*2*) A vessel that is declared into the Eastern U.S./Canada Haddock SAP described in paragraph (b)(8)(i) of this section may fish, on the same trip, in the Eastern U.S./Canada Haddock SAP Area and in the Closed Area II Yellowtail Flounder/Haddock SAP Area, as described in paragraph (b)(3)(ii) of this section, and, for common pool vessels fishing a NE multispecies DAS, while under either a Category A DAS or a Category B DAS.

(*3*) A vessel may choose, on the same trip, to fish in either/both the Eastern U.S./Canada Haddock SAP Program and the Closed Area II Yellowtail Flounder/Haddock SAP Area, and in the portion of the Eastern U.S./Canada Area described in paragraph (a)(1)(ii) of this section that lies outside of these two SAPs, provided a common pool vessel fishes under a Category A DAS and all eligible vessels comply with the VMS restrictions of paragraph (b)(8)(v)(D) of this section. Such a vessel may also elect to fish outside of the Eastern U.S./Canada Area on the same trip, in accordance with the restrictions of paragraph (a)(3)(ii)(A) of this section.

(*4*) A common pool vessel fishing under a NE multispecies DAS that elects to fish in multiple areas, as described in this paragraph (b)(8)(v)(A), must fish under the most restrictive DAS counting requirements specified in § 648.10(e)(5), trip limits, and reporting requirements of the areas fished for the entire trip. A vessel on a Sector trip that elects to fish in multiple areas, as described in this paragraph (b)(8)(v)(A), must comply with the most restrictive reporting requirements of the areas fished for the entire trip, unless otherwise specified by the Regional Administrator in a manner consistent with the Administrative Procedure Act.

(B) *VMS requirement.* A vessel issued a limited access NE multispecies permit fishing in the Eastern U.S./Canada Haddock SAP Program specified in paragraph (b)(8)(i) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

* * * * *

(D) *VMS declaration.* To fish in the Eastern U.S./Canada Haddock SAP, a vessel issued a limited access NE multispecies permit must declare into the SAP via VMS and provide information on the areas within the Eastern U.S./Canada Area that it intends to fish and the type of DAS (Category A, Regular B, or Reserve B) that it intends to fish, if operating under the provisions of the common pool, prior to departure from port, in accordance with paragraph (b)(8)(v)(A) of this section and any instructions provided by the Regional Administrator.

(E) * * *

(*1*) A vessel issued a limited access NE multispecies permit fishing in the Eastern U.S./Canada Haddock SAP must use the haddock separator trawl or the Ruhle Trawl, as described in paragraphs (a)(3)(iii)(A) and (b)(6)(iv)(J)(*3*) of this section, respectively, or another type of gear, if approved as described in this paragraph (b)(8)(v)(E). Other gear may be on board the vessel when on a trip in the Eastern U.S./Canada Haddock SAP, provided that the gear is stowed in accordance with § 648.23(b).

* * * * *

(*3*) *Mesh size.* A vessel eligible to fish in the Eastern U.S./Canada Haddock SAP pursuant to paragraph (b)(8) of this section must use trawl gear described in this paragraph (b)(8)(v)(E) with a minimum codend mesh size of 6-inch (15.24-cm) square or diamond mesh.

(F) *Landing limits.* Unless otherwise restricted under this part, a vessel fishing any portion of a trip in the Eastern U.S./Canada Haddock SAP under a NE multispecies DAS may not fish for, possess, or land more than 1,000 lb (453.6 kg) of cod, per trip, regardless of trip length. A common pool vessel fishing in the Eastern U.S./Canada Haddock SAP under a NE multispecies DAS is subject to the haddock requirements described in § 648.86(a), unless further restricted under paragraph (a)(3)(iv) of this section. A common pool vessel fishing in the Eastern U.S./Canada Haddock SAP may not land more than 100 lb (45.5 kg) per DAS, or any part of a DAS, of GB yellowtail flounder and 100 lb

(45.5 kg) of GB winter flounder, up to a maximum of 500 lb (227 kg) of all flatfish species, combined. Possession of monkfish (whole weight) and skates (whole weight) is limited to 500 lb (227 kg) each, unless otherwise restricted by § 648.94(b)(3), and possession of lobsters is prohibited.

* * * * *

(H) *Incidental TACs.* The maximum amount of GB cod, GB yellowtail flounder, GB winter flounder, and pollock, both landings and discards, that may be caught when fishing in the Eastern U.S./Canada Haddock SAP Program in a fishing year by vessels fishing under a Category B DAS, as authorized in paragraph (b)(8)(v)(A), is the amount specified in paragraphs (b)(5)(ii) and (iii) of this section. All regulated species and ocean pout caught by a vessel on a Sector trip will be applied against the ACE for each stock that is specified for the Sector in which the vessel participates.

(I) *No discard provision and DAS flips.* A vessel fishing in the Eastern U.S./Canada Haddock SAP Program may not discard legal-sized regulated or ocean pout unless otherwise required due to a prohibition of the possession of such species specified in this part. If a common pool vessel fishing in the Eastern U.S./Canada Haddock SAP under a Category B DAS exceeds the applicable maximum landing limit per trip specified in paragraph (b)(8)(v)(F) of this section, or in § 648.86, the vessel operator must retain the fish and immediately notify NMFS via VMS to initiate a DAS flip (from a Category B DAS to a Category A DAS). After flipping to a Category A DAS, the vessel is subject to all applicable landing limits specified in § 648.85(a) or § 648.86. If a common pool vessel fishing in this SAP while under a Category B DAS or a Category A DAS exceeds a trip limit specified in paragraph (b)(8)(v)(F) of this section or § 648.86, or other applicable trip limit, the vessel must immediately exit the SAP area defined in paragraph (b)(8)(ii) of this section for the remainder of the trip. For a common pool vessel that notifies NMFS of a DAS flip, the Category B DAS that have accrued between the time the vessel started accruing Category B DAS and the time the vessel declared its DAS flip will be accrued as Category A DAS pursuant to § 648.82(e)(1), and not Category B DAS.

* * * * *

(9) *GOM Haddock Sink Gillnet Pilot Program* –(i) *Eligibility.* A vessel that has been issued a valid limited access NE multispecies permit that has also declared its intent to participate in the GOM Haddock Sink Gillnet Pilot Program pursuant to paragraph (b)(9)(v)(B) of this section is eligible to participate in the GOM Haddock Sink Gillnet Pilot Program, provided any such vessel complies with the requirements of this paragraph (b)(9), the pilot program is not closed according to the provisions specified in paragraph (b)(9)(viii) of this section, and, for vessels on a Sector trip, the Sector to which the vessel belongs has been allocated ACE for all stocks caught within the GOM Regulated Mesh Area pursuant to § 648.87(b)(1)(i).

(ii) *GOM Haddock Sink Gillnet Pilot Program Area.* The GOM Haddock Sink Gillnet Pilot Program Area is the area encompassed by the GOM Regulated Mesh Area, as defined in § 648.80(a)(1). Copies of a map depicting this area are available from the Regional Administrator upon request.

(iii) *Gear Restrictions* –(A) *Mesh size.* An eligible vessel participating in the GOM Haddock Sink Gillnet Pilot Program may fish with and possess on board sink gillnets comprised of 6-inch (15.2-cm) mesh.

(B) *Net restriction.* A Day gillnet vessel participating in the GOM Haddock Sink Gillnet Pilot Program may not fish with, possess, haul, or deploy more than 30 sink gillnets. A Trip gillnet vessel is not subject to the limit on the number of nets that can be used under the GOM Haddock Sink Gillnet Pilot Program. Tie-down gillnets may not be used by any vessel participating in the GOM Haddock Sink Gillnet Pilot Program.

(iv) *Season.* An eligible vessel participating in the GOM Haddock Sink Gillnet Pilot Program may fish in the GOM Haddock Sink Gillnet Pilot Program from January 1 through April 30.

(v) *Program Restrictions* –(A) *DAS Use.* An eligible vessel participating in the GOM Haddock Sink Gillnet Pilot Program must use Category A DAS for any fishing trip during the time the vessel is participating in this program pursuant to paragraph (b)(9)(v)(B)(*1*), including trips where gear is deployed, but no catch is landed.

(B) *Observer notification* –(*1*) *Notice of participation.* To be eligible to participate in the GOM Haddock Sink Gillnet Pilot Program, a vessel must notify the NMFS Observer Program by October 1 of its intent to participate in this pilot program and the duration of its participation in this program, as instructed by the Regional Administrator. Any vessel participating in this program must participate for the entire season specified in paragraph (b)(9)(iv) of this section. Upon notification of a vessel operator's intent to participate in this pilot program pursuant to this paragraph (b)(9)(v)(B), the Regional Administrator shall issue a letter of authorization to participate in this pilot program to the eligible vessel.

(*2*) *Notice of fishing.* For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; and date, time, and port of departure at least 48 hr prior to the beginning of any trip that it fishes under the provisions of the GOM Haddock Sink Gillnet Pilot Program, as specified in paragraph (b)(9) of this section, in accordance with instructions provided by the Regional Administrator.

(C) *Letter of authorization requirement.* A vessel eligible to participate in the GOM Haddock Sink Gillnet Pilot Program must retain on board the letter of authorization issued by the Regional Administrator pursuant to paragraph (b)(9)(v)(B) of this section for the duration of the period specified in paragraph (b)(9)(v)(B) of this section.

(vi) *Reporting requirements.* There are no additional reporting requirements for vessels participating in this pilot program.

(vii) *Duration of GOM Haddock Sink Gillnet Pilot Program.* This program is in effect from May 1, 2010, through April 30, 2013.

(viii) *Closure of the GOM Haddock Sink Gillnet Pilot Program.* The Regional Administrator may suspend participation in the GOM Sink Gillnet Pilot Program to any or all eligible vessels if the Pilot Program is determined to be inconsistent with the goals and objectives of the NE Multispecies FMP.

* * * * *

(d) *Incidental catch allowance for some limited access herring vessels.* The incidental catch allowance for all vessels that have an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit is 0.2 percent of the combined ACLs for GOM haddock and GB haddock (U.S. landings only) specified according to § 648.90(a)(4) for a particular NE multispecies fishing year.

(e) *Authorized gear performance standards.* Unless otherwise restricted in this part, in areas and times when a special management program, as specified in this section, requires the use of gear authorized by that program to reduce catches of stocks of concern, participating vessels are restricted to the following trip limits: 500 lb (227 kg) of all flatfish species (American plaice,

witch flounder, winter flounder, windowpane flounder, and GB yellowtail flounder), combined; 500 lb (227 kg) of monkfish (whole weight); 500 lb (227 kg) of skates (whole weight); and zero possession of lobsters, unless otherwise restricted by § 648.94(b)(3).

14. In § 648.86, revise the introductory text to this section; revise paragraphs (a)(1), (a)(2)(iii), (b), (e), (g), and (j); and add paragraphs (p), and (q) to read as follows:

§ 648.86 Multispecies possession restrictions.

Except as provided in § 648.17 or elsewhere in this part, the following possession restrictions apply:

(a) * * *

(1) *NE multispecies DAS vessels*—(i) *Implementation and adjustments to the haddock trip limit to prevent exceeding the common pool sub-ACL.* At any time prior to or during the fishing year, if the Regional Administrator projects that the haddock sub-ACL allocated to the common pool vessels pursuant to § 648.90(a)(4) will be exceeded in that fishing year, NMFS may implement or adjust, in a manner consistent with the Administrative Procedure Act, a per DAS possession limit and/or a maximum trip limit in order to prevent exceeding the haddock sub-ACL allocated to the common pool in that fishing year.

(ii) *Implementation and adjustments to the haddock trip limit to facilitate harvest of the haddock sub-ACL allocated to the common pool.* At any time prior to or during the fishing year, if the Regional Administrator projects that less than 75 percent of the haddock sub-ACL allocated to the common pool pursuant to § 648.90(a)(4) for that fishing year will be harvested, NMFS may remove or adjust, in a manner consistent with the Administrative Procedure Act, a per DAS possession limit and/or a maximum trip limit in order to facilitate a haddock harvest and enable the total catch to approach, but not exceed, the haddock sub-ACL allocated to the common pool for that fishing year.

(2) * * *

(iii) Unless otherwise authorized by the Regional Administrator as specified in paragraph (f) of this section, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg) of haddock, except as specified in § 648.88(c), provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels also issued limited access NE multispecies permits that are fishing under a multispecies DAS. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

(b) *Cod* —(1) *GOM cod landing limit.* Except as provided in paragraph (b)(4) of this section, or unless otherwise restricted under § 648.85, a vessel fishing under a NE multispecies DAS permit, including a vessel issued a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, may land up to 2,000 lb (907.2 kg) of cod for each DAS, or part of a DAS, up to 12,000 lb (5443.2 kg) per trip. Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(2) *GB cod landing and maximum possession limits.* Unless otherwise restricted under § 648.85, a vessel fishing under a NE multispecies DAS permit, including a vessel issued a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, may land up to 2,000 lb (907.2 kg) of cod per DAS, or part of a DAS, up to 20,000 lb (9,072 kg) provided it complies with the requirements specified in paragraph (b)(4) of this section and this paragraph (b)(2). Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(3) [Reserved]

(4) *Exemption.* A common pool vessel fishing under a NE multispecies DAS is exempt from the landing limit described in paragraph (b)(1) of this section when fishing south of the GOM Regulated Mesh Area, defined in § 648.80(a)(1), provided that it complies with the requirement of this paragraph (b)(4).

(i) *Declaration.* With the exception of a vessel declared into the U.S./Canada Management Area, as described in § 648.85(a)(3)(ii), a common pool vessel that fishes or intends to fish under a NE multispecies DAS south of the line described in paragraph (b)(4) of this section, under the cod trip limits described in paragraph (b)(2) of this section, must, prior to leaving port, declare its intention to do so through the VMS, in accordance with instructions to be provided by the Regional Administrator. In lieu of a VMS declaration, the Regional Administrator may authorize such vessels to obtain a letter of authorization. If a letter of authorization is required, such vessel may not fish north of the exemption area for a minimum of 7 consecutive days (when fishing under the multispecies DAS program), and must carry the letter of authorization on board.

(ii) A common pool vessel exempt from the GOM cod landing limit pursuant to paragraph (b)(4)(i) of this section may not fish north of the line specified in paragraph (b)(4) of this section for the duration of the trip, but may transit the GOM Regulated Mesh Area, provided that its gear is stowed in accordance with the provisions of § 648.23(b). A vessel fishing north and south of the line on the same trip is subject to the most restrictive applicable cod trip limit.

* * * * *

(e) *White hake.* Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions is not restricted in the amount of white hake the vessel may land per trip during fishing years 2010 and 2011. Starting in fishing year 2012, unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions may land up to 500 lb (226.8 kg) of white hake per DAS, or any part of a DAS, up to 2,000 lb (907.2 kg) per trip.

* * * * *

(g) *Yellowtail flounder* —(1) *CC/GOM and SNE/MA yellowtail flounder landing limit.* Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, and fishing exclusively outside of the U.S./Canada Management Area, as defined in § 648.85(a)(1), may land or possess on board up to 250 lb (113.6 kg) of yellowtail flounder per DAS, or any part of a DAS, up to a maximum possession limit of 1,500 lb (680.4 kg) per trip. A vessel fishing outside and inside of the U.S./Canada Management Area on the same trip is subject to the more restrictive yellowtail flounder trip limit (*i.e.,* that specified by this paragraph (g) or § 648.85(a)(3)(iv)(C)).

(2) *GB yellowtail flounder landing limit.* Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions, and fishing in the U.S./Canada Management Area defined in § 648.85(a)(1) is subject to the GB yellowtail flounder limit described in paragraph § 648.85(a)(3)(iv)(c).

* * * * *

(j) *GB winter flounder.* Unless otherwise restricted under this part, a common pool vessel fishing under a NE multispecies DAS, a limited access Handgear A permit, an open access Handgear B permit, or a monkfish limited access permit and fishing under the monkfish Category C or D permit provisions and fishing in the U.S./Canada Management Area defined in § 648.85(a)(1) is not restricted in the amount of GB winter flounder the vessel may land per trip.

* * * * *

(p) *Ocean pout, winter flounder, SNE/MA winter flounder, and Atlantic wolffish.* A vessel issued a limited access NE multispecies permit, an open access NE multispecies Handgear B permit, or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions may not fish for, possess, or land ocean pout, windowpane flounder, or Atlantic wolffish. In addition, such vessels may not fish for, possess, or land winter flounder caught in or from the SNE/MA winter flounder stock area, as defined in § 648.85(b)(6)(v)(F). Vessels may transit this area with GOM or GB winter flounder on board the vessel, provided that gear is stowed in accordance with the provisions of § 648.23(b).

(q) *Additional possession restrictions*—(1) *Daily landing restriction.* A vessel issued a limited access NE multispecies permit, an open access NE multispecies Handgear B permit, or a limited access monkfish permit and fishing under the monkfish Category C or D permit provisions may only land regulated species or ocean pout once in any 24-hr period. For example, a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 2,000 lb (907.2 kg) of GOM cod, but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day.

(2) *Possession limits for vessels fishing in multiple areas.* If a vessel fishes in more than one stock area on the same trip, as defined in § 648.85(b)(6)(v) or § 648.87(b)(1)(ii), the most restrictive trip limit for a species applies for the entire trip.

15. Revise § 648.87 to read as follows:

§ 648.87 Sector allocation.

(a) *Procedure for approving/implementing a Sector allocation proposal.* (1) Any person may submit a Sector allocation proposal for a group of limited access NE multispecies vessels to the Council and request that the Sector be implemented through either a biennial adjustment or framework adjustment, as specified in § 648.90(a)(2), as long as it is submitted at least 1 year prior to the date the Sector wants to begin operations in accordance with the conditions and restrictions of this section. The Sector allocation proposal must contain an appropriate analysis that assesses the impact of the proposed Sector, in compliance with the National Environmental Policy Act.

(2) Upon receipt of a Sector allocation proposal, the Council must decide whether to initiate a management action to implement the Sector proposal. Should a biennial adjustment or framework adjustment to authorize a Sector allocation proposal be initiated, the Council will follow the framework adjustment provisions of § 648.90(a)(2). Any biennial adjustment or framework adjustment developed to implement a Sector allocation proposal must be in compliance with the general requirements specified in paragraphs (b) and (c) of this section.

(3) *Eligibility.* Any valid limited access NE multispecies permit, including a Handgear A permit and those permits held in confirmation of permit history pursuant to § 648.4(a)(1)(i)(J) as of May 1, 2008, is eligible to join a NE multispecies Sector, provided the permit complies with the restrictions specified in this section. Any valid limited access Category A or B monkfish permit may be eligible to join a NE multispecies Sector, as described in this section, pursuant to any measures adopted by a future revision to the Monkfish FMP by both the New England and Mid-Atlantic Fishery Management Councils. Vessels that do not join a Sector remain subject to the NE multispecies regulations for common pool vessels.

(4) *Minimum size.* To be authorized to operate as a Sector under this section, a Sector must be comprised of at least three NE multispecies permits issued to at least three different persons, none of whom have any common ownership interests in the permits, vessels, or businesses associated with the permits issued the other two or more persons in that Sector. Having an ownership interest in a permit includes, but is not limited to, persons or entities who are shareholders, officers, or partners in a corporation owning a permit; who are partners (general or limited) to a permit owner; who, in any way, partly own a permit; or who derive any financial benefit, or exercise any control over, another permit. As long as at least three persons issued a NE multispecies permit meet these requirements, permit owners may have common ownership interests in other permits, vessels, or businesses associated with such permits.

(b) *General requirements applicable to all approved Sectors.* (1) All Sectors approved under the provisions of paragraph (a) of this section must submit the documents specified in paragraphs (a)(1), (b)(2), and (b)(3) of this section, and comply with the conditions and restrictions of this paragraph (b)(1).

(i) *TAC allocation*—(A) *Allocated stocks.* Each Sector shall be allocated a TAC in the form of an ACE for each NE multispecies stock with the exception of Atlantic halibut, SNE/MA winter flounder, ocean pout, windowpane flounder (both the GOM/GB and the SNE/MA stocks), and Atlantic wolffish based upon the cumulative PSCs of vessels participating in each Sector during a particular fishing year, as described in paragraph (b)(1)(i)(E) of this section. In the event that a future allocation of SNE/MA winter flounder can be made available pursuant to the biennial adjustment or framework process specified in § 648.90(a)(2), an ACE for this stock will be specified pursuant to paragraph (b)(1)(i)(E)(*1*) of this section.

(B) *Eastern GB stocks.* Each Sector allocated ACE for stocks managed under the terms of the U.S./Canada Resource Sharing Understanding in the Eastern U.S./Canada Area, as specified in § 648.85(a), shall be allocated a specific portion of the ACE for such stocks that can only be harvested from the Eastern U.S./Canada Area, as specified in § 648.85(a)(1). The ACE specified for the Eastern U.S./Canada Area portions of these stocks shall be proportional to the Sector's allocation of the overall ACL available to all vessels issued a limited access NE multispecies permit for these stocks pursuant to § 648.90(a)(4). For example, if a Sector is allocated 10 percent of the GB cod ACL available to all vessels issued a limited access NE multispecies permit, that Sector would also be allocated and may harvest 10 percent of that ACE from the Eastern U.S./Canada Area. In this example, if the overall GB cod ACL available to all vessels issued a limited access NE

multispecies permit is 1,000 mt, of which 100 mt is specified to the Eastern U.S./Canada Area, the Sector would be allocated 100 mt of GB cod, of which no more than 10 mt could be harvested from the Eastern U.S./Canada Area and no more than 90 mt could be harvested from the rest of the GB cod stock area.

(C) *Carry-over.* With the exception of GB yellowtail flounder, a Sector may carry over up to 10 percent of unused ACE for each stock into the following fishing year. Any unused ACE allocated for Eastern GB stocks pursuant to paragraph (b)(1)(i)(B) of this section will contribute to the 10-percent carry-over allowance for each stock, as specified in this paragraph (b)(1)(i)(C), but will not increase an individual Sector's allocation of Eastern GB stocks during the following year. This carry-over ACE remains effective during the subsequent fishing year even if vessels that contributed to the Sector allocation during the previous fishing year are no longer participating in the same Sector for the subsequent fishing year.

(D) *Maximum ACE allocation.* There is no maximum amount of ACE that can be allocated to a particular Sector during each fishing year.

(E) *Potential sector contribution (PSC).* For the purposes of allocating a share of the available ACL for each NE multispecies stock to approved Sectors pursuant to § 648.90(a)(4), the landings history of all limited access NE multispecies permits shall be evaluated to determine each permit's share of the overall landings for each NE multispecies stock as specified in paragraphs (b)(1)(i)(E)(*1*) and (*2*) of this section. When calculating an individual permit's share of the overall landings for a particular regulated species or ocean pout stock, landed weight shall be converted to live weight to maintain consistency with the way ACLs are calculated pursuant to § 648.90(a)(4) and the way ACEs are allocated to Sectors pursuant to this paragraph (b)(1)(i). The PSC calculated pursuant to this paragraph (b)(1)(i)(E) shall remain with the permit indefinitely, but may be permanently reduced or eliminated due to a permit sanction or other enforcement action.

(*1*) *Calculation of PSC for all NE multispecies stocks except GB cod.* Unless otherwise specified in paragraph (b)(1)(i)(E)(*2*) of this section, for each valid limited access NE multispecies permit, including limited access NE multispecies Handgear A permits, dealer landings of each stock of NE multispecies caught while operating under the restrictions associated with a limited access NE multispecies permit, including regulated species or ocean pout caught under a NE multispecies DAS when participating in the skate or monkfish fisheries, that are available in the commercial dealer database to NMFS shall be summed for fishing years 1996 through 2006. This value shall then be divided by the total landings of each NE multispecies stock during the same period by all permits eligible to join Sectors as of May 1, 2008. This produces an individual permit's share of the ACL for each regulated species or ocean pout stock available to the NE multispecies fishery. The landings history for each permit includes all landings that can be attributed to that permit pursuant to this paragraph (b)(1)(i)(E). For limited access NE multispecies Handgear A permits, this includes landings by the permitted vessel during fishing years 1996 through 2003 before the adoption of the limited access Handgear A permit category in 2004.

(*2*) *Calculation of GB cod PSC.* The GB cod PSC shall be calculated as specified in this paragraph (b)(1)(i)(E)(*2*) and shall remain with the permit indefinitely regardless whether the vessel participates in either the GB Cod Hook Gear Sector or the GB Cod Fixed Gear Sector, as defined in § 648.87(d)(1) or (2), joins a new Sector, or fishes pursuant to the provisions of the common pool.

(*i*) *GB cod PSC for permits committed to participate in the GB Cod Hook Gear Sector or GB Cod Fixed Gear Sector.* For each valid NE multispecies permit that committed to participate in either the GB Cod Hook Gear Sector or the GB Cod Fixed Gear Sector as evidenced by a valid signature executed on or before March 1, 2008, on a preliminary roster for either of these Sectors, the PSC for GB cod shall be based upon the sum of dealer landings of GB cod for fishing years 1996 through 2001, divided by the total landings of GB cod by permits eligible to join Sectors as of May 1, 2008, during that period. The PSC for all other regulated species or ocean pout stocks specified for these permits shall be calculated pursuant to paragraph (b)(1)(i)(E)(*1*) of this section.

(*ii*) *GB cod PSC for all other permits.* For all NE multispecies permits that have not committed to participate in either the GB Cod Hook Gear Sector or GB Cod Fixed Gear Sector, as specified in paragraph (o)(2)(i) of this section, the GB cod PSC shall be based upon the GB cod PSC available after accounting for the GB cod PSC calculated pursuant to paragraph (o)(2)(i) of this section. First, each permit's individual share of the available GB cod PSC shall be calculated by dividing the sum of the individual permit's landings of GB cod available in the commercial dealer database for fishing years 1996 through 2006 by the total landings of GB cod by permits eligible to join Sectors as of May 1, 2008, during that period, after subtracting the total landings of GB cod by permits that committed to participate in either the GB Cod Hook Sector or GB Cod Fixed Gear Sector as of March 1, 2008, during that period. This individual share shall then multiplied by the available GB cod PSC calculated by subtracting the GB cod PSC allocated pursuant to paragraph (b)(1)(i)(E)(*2*)(*i*) of this section from one. This shall provide each vessel's share of the available GB cod PSC.

(ii) *Areas that can be fished.* Vessels in a Sector may only fish in a particular stock area, as specified in paragraphs (b)(1)(ii)(A) through (F) of this section, and § 648.85(b)(6)(v), or the Eastern U.S./Canada Area, as specified in § 648.85(a)(1), if the Sector has been allocated, or acquires pursuant to paragraph (b)(1)(viii) of this section, ACE for all stocks caught in that stock area. A Sector must project when its ACE for each stock will be exceeded and must ensure that all vessels in the Sector cease fishing operations prior to exceeding it. Once a Sector has harvested its ACE for a stock, all vessels in that Sector must cease fishing operations in that stock area with gear capable of catching NE multispecies (*i.e.*, gear not listed as exempted gear in this part) unless and until it acquires additional ACE from another Sector pursuant to paragraph (b)(1)(viii) of this section, or as otherwise specified in an approved operations plan pursuant to paragraph (b)(2)(xiv) of this section. For the purposes of this paragraph (b)(1)(ii), an ACE overage means catch of regulated species or ocean pout by vessels participating in a particular Sector that exceed the ACE allocated to that Sector, as of the date received or purchased by the dealer, whichever occurs first.

(A) *CC/GOM Yellowtail Flounder Stock Area.* The CC/GOM Yellowtail Flounder Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86, and for determining areas applicable to Sector allocations of CC/GOM yellowtail flounder ACE pursuant to paragraph (b) of this section, is the area bounded by straight lines connecting the following points in the order stated:

CC/GOM YELLOWTAIL FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
CCGOM1	(1)	70°00′
CCGOM2	41°20′	(2)
CCGOM3	41°20′	69°50′
CCGOM4	41°10′	69°50′
CCGOM5	41°10′	69°30′
CCGOM6	41°00′	69°30′
CCGOM7	41°00′	68°50′
CCGOM8	42°20′	68°50′
CCGOM9	42°20′	67°40′
CCGOM10	43°50′	67°40′
CCGOM11	43°50′	66°50′
CCGOM12	44°20′	66°50′
CCGOM13	44°20′	67°00′
CCGOM14	(3)	67°00′

[1] Intersection of south-facing coastline of Cape Cod, MA, and 70°00′ W. long.
[2] Intersection of east-facing coastline of Nantucket, MA, and 41°20′ N. lat.
[3] Intersection of south-facing ME coastline and 67°00′ W. long.

(B) *SNE/MA Yellowtail Flounder Stock Area.* The SNE/MA Yellowtail Flounder Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86, and for determining areas applicable to Sector allocations of SNE/MA yellowtail flounder ACE pursuant to paragraph (b) of this section, is the area bounded by straight lines connecting the following points in the order stated:

SNE/MA YELLOWTAIL FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
SNE1	35°00′	(1)
SNE2	35°00′	70°00′
SNE3	39°00′	70°00′
SNE4	39°00′	71°40′
SNE5	39°50′	71°40′
SNE6	39°50′	68°50′
SNE7	41°00′	68°50′
SNE8	41°00′	69°30′
SNE9	41°10′	69°30′
SNE10	41°10′	69°50′
SNE11	41°20′	69°50′
SNE12	(2)	70°00′
SNE13	(3)	70°00′
SNE14	(4)	70°00′

[1] Intersection of east-facing coastline of Outer Banks, NC, and 35°00′ N. lat.
[2] Intersection of south-facing coastline of Nantucket, MA, and 70°00′ W. long.
[3] Intersection of north-facing coastline of Nantucket, MA, and 70°00′ W. long.
[4] Intersection of south-facing coastline of Cape Cod, MA, and 70°00′ W. long.

(C) *GOM Haddock Stock Area.* The GOM Haddock Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to Sector allocations of GOM haddock ACE pursuant to paragraph (b) of this section is the area bounded by straight lines connecting the following points in the order stated:

Point	N. Latitude	W. Longitude
GOMSA1	(1)	(1)
GOMSA2	43°58′	67°22′
GOMSA3	43°50′	(2)
GOMSA4	43°50′	67°40′
GOMSA5	(2)	67°40′
GOMSA6	42°53.1′	67°44.4′
GOMSA7	(2)	67°40′
GOMSA8	42°20′	67°40′
GOMSA9	42°20′	70°00′
GOMSA10	(3)	70°00′

[1] The intersection of the shoreline and the U.S./Canada maritime boundary.
[2] U.S./Canada maritime boundary.
[3] North-facing shoreline of Cape Cod, MA.

(D) *GB Haddock Stock Area.* The GB Haddock Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to Sector allocations of GB haddock ACE pursuant to paragraph (b) of this section, is the area bounded by straight lines connecting the following points in the order stated:

Point	N. Latitude	W. Longitude
GBSA1	(1)	70°00′
GBSA2	42°20′	70°00′
GBSA3	42°20′	(2)
GBSA4	40°30′	65°40′
GBSA5	40°30′	66°40′
GBSA6	39°50′	66°40′
GBSA7	39°50′	71°40′
GBSA8	(3)	71°40′

[1] North-facing shoreline of Cape Cod, MA.
[2] U.S./Canada maritime boundary.
[3] Intersection With RI Shoreline

(E) *Redfish Stock Area.* The Redfish Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to Sector allocations of redfish ACE pursuant to paragraph (b) of this section, is the area bounded by straight lines connecting the following points in the order stated:

Point	N. Latitude	W. Longitude
RFSA1	(1)	(1)
RFSA2	43°58′	67°22′
RFSA3	43°50′	67°40′
RFSA4	43°50′	67°40′
RFSA5	(2)	67°40′
RFSA6	42°53.1′	67°44.4′
RFSA7	(2)	67°40′
RFSA8	42°20′	67°40′
RFSA9	42°20′	(2)
RFSA10	40°30′	65°40′
RFSA11	39°00′	(2)
RFSA12	39°00′	71°40′
RFSA13	(3)	71°40′

[1] The intersection of the shoreline and the U.S./Canada maritime boundary.
[2] U.S./Canada maritime boundary.
[3] Intersection with RI shoreline.

(F) *GOM Winter Flounder Stock Area.* The GOM Winter Flounder Stock Area, for the purposes of identifying stock areas for trip limits specified in § 648.86 and for determining areas applicable to Sector allocations of GOM winter flounder ACE pursuant to paragraph (b) of this section, is the area bounded by straight lines connecting the following points in the order stated:

GOM WINTER FLOUNDER STOCK AREA

Point	N. Latitude	W. Longitude
GOM1	(1)	70°00′
GOM2	42°20′	70°00′
GOM3	42°20′	67°40′
GOM4	43°50′	67°40′
GOM5	43°50′	66°50′
GOM6	44°20′	66°50′
GOM7	44°20′	67°00′
GOM8	(2)	67°00′

[1] Intersection of the north-facing coastline of Cape Cod, MA, and 70°00′ W. long.
[2] Intersection of the south-facing Maine coastline and 67°00′ W. long.

(iii) *Sector AMs.* At the end of the fishing year, NMFS shall evaluate Sector catch using VTR, VMS, IVR, and any other available information to determine whether a Sector has exceeded any of its ACE allocations based upon the cumulative catch by participating permits/vessels, as identified in the final operations plan approved by the Regional Administrator pursuant to paragraph (c) of this section, and each Sector's share of any overage of the overall ACL for any stock caused by excessive catch by other sub-components of the fishery pursuant to § 648.90(a)(5), if necessary. Should an ACE allocated to a Sector be exceeded in a given fishing year, the Sector's ACE shall be reduced by the overage on a pound-for-pound basis during the following fishing year, and the Sector, each vessel, vessel operator and/or vessel owner participating in the Sector may be charged, as a result of said overages, jointly and severally for civil penalties and permit sanctions pursuant to 15 CFR part 904. For the purposes of this paragraph (b)(1)(iii), an ACE overage means catch of regulated species or ocean pout by vessels participating in a particular Sector that exceed the ACE allocated to that Sector, as of the date received or purchased by the dealer, whichever occurs first, after

considering all ACE transfer requests received and/or approved by NMFS during the current fishing year (including those that are submitted up to 2 weeks into the following fishing year), pursuant to paragraph (b)(1)(viii) of this section, unless otherwise specified pursuant to § 648.90(a)(5). If an ACE allocated to a Sector is not exceeded in a given fishing year pursuant to this paragraph (b)(1)(iii), the Sector's ACE allocation shall not be reduced for the following fishing year as a result of an overage of an ACE by non-compliant Sectors or an overage of sub-ACLs allocated to common pool vessels, but may be reduced if the excessive catch of a particular stock by other sub-components of the fishery causes the overall ACL of a particular stock to be exceeded pursuant to § 648.90(a)(5). If declining stock conditions result in a need to reduce fishing mortality, and all Sectors and common pool vessels have operated within their ACE or sub-ACL limits, a Sector's percentage share shall not be changed, but the amount this share represents may be reduced due to reduced overall ACL for a particular stock. If stock conditions improve, and certain Sectors stay within their ACE while other Sectors or the common pool exceed their respective ACEs or sub-ACLs, the Sectors that stay within their ACEs shall receive a temporary increase in ACE equal to the amount that other Sectors or the common pool exceeded their ACE or sub-ACL, divided among such Sectors proportional to each Sector's share of the ACL available to vessels issued a limited access NE multispecies permit.

(A) *Overage penalty if there is sufficient ACE to cover the overage.* If a Sector exceeds an ACE allocated to it during the previous fishing year, but has sufficient ACE to address the overage pursuant to this paragraph (b)(1)(iii) based upon the cumulative PSCs of participating vessels during the fishing year following the overage, no overage penalty shall be applied to any member permit/vessel that leaves that Sector to fish under the provisions of the common pool or in another Sector in the year following the overage. Any impacts to departing member permits/vessels may be specified and addressed by the Sector operations plan and associated Sector contract.

(B) *Overage penalty if there is insufficient ACE to cover an overage.* If a Sector exceeds an ACE allocated to it during the previous fishing year, but disbands in the year following the overage, or otherwise does not have sufficient ACE to address the overage pursuant to this paragraph (b)(1)(iii) based upon the cumulative PSCs of permits/vessels participating in that Sector during the fishing year following the overage, individual permit holders that participated in the Sector during the fishing year in which the overage occurred shall be responsible for reducing their DAS/PSC to account for that overage in the subsequent fishing year, as follows:

(*1*) *PSC reduction.* If a Sector disbands following an overage, and the owner of an individual permit joins another Sector for the subsequent fishing year, that permit's contribution toward the ACE for the stock for which the overage occurred to the other Sector in the subsequent fishing year shall be reduced by an amount equal to the overage divided by the number of permits/vessels participating in the Sector during the fishing year in which the overage occurred. For example, if a Sector comprised of 10 permits/vessels exceeded its GB cod ACE by 10,000 lb (4,536 kg) during the previous fishing year, but later disbands, each permit/vessel that was in that Sector, but then joins another Sector during the following fishing year shall have its contribution of GB cod to another Sector temporarily reduced by 1,000 lb (453.6 kg) during the subsequent fishing year for the purposes of calculating the available GB cod ACE allocated to another Sector during that fishing year.

(*2*) *DAS reduction.* If a Sector disbands following an overage and the owner of an individual permit elects to fish under the provisions of the common pool during the subsequent fishing year, that permit/vessel's NE multispecies Category A DAS allocation for the subsequent fishing year shall be temporarily reduced by an amount proportional to the highest percentage overage by that Sector of any of the stocks for which an overage occurred. For example, if a Sector exceeded its GB cod ACE by 10 percent and its pollock ACE by 15 percent, each permit would receive a 15-percent reduction in its Category A DAS allocation for the subsequent fishing year if fishing under the provisions of the common pool.

(*3*) *Fishing prohibition.* If a Sector does not disband following an overage, but otherwise does not have sufficient ACE to cover an overage based upon the PSC of participating permits, that Sector's ACE for the stock for which the overage occurred shall be temporarily reduced to zero for the following fishing year, and that Sector shall be prohibited from fishing in the stock area associated with the stock for which the ACE was exceeded during the following year, unless and until that Sector can acquire sufficient ACE from another Sector to cover the remaining overage from the previous fishing year. For example, if a Sector comprised of 10 permits/vessels was allocated 10 mt of GB cod ACE, but caught 25 mt during the previous fishing year (*i.e.*, it exceeded its GB cod ACE by 15 mt), each permit/vessel that participating in that Sector during the following fishing year would have its GB cod PSC temporarily reduced to zero during the subsequent fishing year, and that Sector would not be able to fish with gear capable of catching NE multispecies (*i.e.*, gear not listed as exempted gear in this part) in the GB cod stock area until it could acquire at least an additional 5 mt of GB cod ACE from another Sector (*i.e.*, 15 mt overage − 10 mt ACE for the following year = 5 mt overage remaining).

(C) *ACE buffer.* At the beginning of each fishing year, NMFS shall withhold 20 percent of a Sector's ACE for each stock for a period of up to 61 days (*i.e.*, through June 30) to allow time to process any ACE transfers submitted by May 15 pursuant to paragraph (b)(1)(viii) of this section and to determine whether the ACE allocated to any Sector needs to be reduced, or any overage penalties need to be applied to individual permits/vessels in the current fishing year to accommodate an ACE overage by that Sector during the previous fishing year, as specified in paragraph (b)(1)(iii) of this section.

(iv) *Sector enforcement*—(A) *Sector compliance and joint/several liability.* Unless exempted through a letter of authorization specified in paragraph (c)(2) of this section, each vessel operator and/or vessel owner fishing under an approved Sector must comply with all NE multispecies management measures of this part and other applicable law. Each vessel and vessel operator and/or vessel owner participating in a Sector must also comply with all applicable requirements and conditions of the operations plan specified in paragraph (b)(2) of this section and the letter of authorization issued pursuant to paragraph (c)(2) of this section. Pursuant to 15 CFR part 904, each Sector, permit/vessel owner, and vessel operator participating in the Sector may be charged jointly and severally for violations of the following Sector operations plan requirements, which may result in an assessment of civil penalties and permit sanctions: ACE overages, discarding of legal-sized NE multispecies, and misreporting of catch, including both landings and discards. For the purposes of enforcement, a Sector is a legal entity that can be subject to NMFS enforcement action for violations of the regulations pertaining to Sectors, as specified in this paragraph (b)(1)(iv).

(B) *Commitment to a Sector.* A permit/vessel participating in a Sector must remain in the Sector for the remainder of the fishing year. Such permits/vessels cannot fish under both the Sector provisions and the provisions of the common pool during that same fishing year for any reason, including, but not limited to, expulsion from the Sector pursuant to enforcement actions specified in an approved Sector operations plan, permit replacement, or permit/vessel sale to another owner. For example, if a permit/vessel is sold by a Sector participant during the fishing year, the new owner must comply with the Sector regulations for the remainder of the fishing year. If a permit/vessel has been expelled from a Sector, the Sector must notify NMFS of such an expulsion immediately. Any permit/vessel, vessel operator, or vessel owner removed from a Sector during a specific fishing year for violation of the Sector rules shall not be eligible to fish under the NE multispecies regulations for common pool vessels specified in this part for the remainder of that fishing year.

(v) *Sector monitoring.* Each Sector shall monitor catch by participating Sector vessels to ensure that ACEs are not exceeded during the fishing year, as specified in this paragraph (b)(1)(v). The Sector shall summarize trips validated by dealer reports; oversee the use of electronic monitoring equipment and review of associated data; maintain a database of VTR, dealer, observer, and electronic monitoring reports; determine all species landings by stock areas; apply discard estimates to landings; deduct catch from ACEs allocated to Sectors; and report Sector catch on a weekly basis to NMFS, as required in paragraph (b)(1)(vi) of this section. Unless otherwise specified in this paragraph (b)(1)(v), all catches of stocks allocated to Sectors by vessels on a Sector trip shall be deducted from the Sector's ACE for each NE multispecies stock regardless of what fishery the vessel was participating in when the fish was caught. For the purposes of this paragraph (b)(1)(v), any regulated species or ocean pout caught using gear capable of catching NE multispecies (*i.e.*, gear not listed as exempted gear under this part) would be deducted from a Sector's ACE if such catch contributed to the specification of PSC, as described in § 648.87(b)(1)(i)(E), and would not apply to another ACL sub-component pursuant to § 648.90(a)(4). For example, any regulated species or ocean pout caught while fishing for or catching skates or monkfish pursuant to the regulations for those fisheries would be deducted from the Sector's ACE for each stock because such regulated species or ocean pout were caught while also operating under a NE multispecies DAS. However, if a Sector vessel is issued a limited access General Category Atlantic Sea Scallop permit and fishes for scallops under the provisions specific to that permit, any yellowtail flounder caught by the vessel on such trips would be deducted from the other sub-component of the appropriate stock of yellowtail flounder's ACL specified for the Atlantic Sea Scallop fishery and not from the yellowtail flounder ACE for the Sector.

(A) *Discards.* A Sector vessel may not discard any legal-sized regulated species or ocean pout allocated to Sectors pursuant to paragraph (b)(1)(i) of this section, unless otherwise required pursuant to § 648.86(l). Discards of undersized regulated species or ocean pout by a Sector vessel must be reported to NMFS consistent with the reporting requirements specified in paragraph (b)(1)(vi) of this section. Discards shall not be included in the information used to calculate a vessel's PSC, as described in § 648.87(b)(1)(i)(E), but shall be counted against a Sector's ACE for each NE multispecies stock allocated to a Sector.

(B) *Independent third-party monitoring program.* Beginning in fishing year 2010, a Sector must develop, implement, and pay for, to the extent not funded by NMFS, an independent third-party dockside/roving and at-sea/electronic monitoring program that is satisfactory to, and approved by, NMFS for monitoring landings and utilization of Sector ACE, as specified in this paragraph (b)(1)(v)(B). Any service providers providing dockside/roving and at-sea monitoring services pursuant to this paragraph (b)(1)(v)(B) must meet the service provider standards specified in paragraph (b)(4) of this section, and any dockside/roving and at-sea/electronic monitoring program proposed by Sectors must meet the operational standards specified in paragraph (b)(5) and (b)(6) of this section, respectively, and be approved/certified by NMFS in a manner consistent with the Administrative Procedure Act.

(*1*) *Dockside/roving monitors.* Dockside/roving monitors shall monitor landings of regulated species and ocean pout by Sector vessels at the first point of offload, whether directly to a federally permitted dealer or to a truck for transfer to a federally permitted dealer, to verify such landings at the time the landings are weighed by a federally permitted dealer and to certify the landing weights are accurate as reported on the dealer report. The level of coverage for landings by Sector vessels is specified in paragraph (b)(1)(v)(B)(*3*) of this section. To ensure that these levels of coverage are achieved, if a trip has been selected to be observed by a dockside/roving monitor, all offloading events associated with that trip, regardless of how many or the location of offloading events, must be monitored. For example, if a trip is selected to be observed by a dockside/roving monitor, a vessel offloading at more than one dealer or facility must have a dockside/roving monitor present during the offload at each location. The details of the dockside/roving monitoring program used by each Sector must be specified in the Sector's operations plan and must be consistent with the operational standards specified in paragraph (b)(5) of this section. The Regional Administrator shall review the dockside/roving monitoring program and approve/disapprove it as part of the yearly operations plan in a manner consistent with the Administrative Procedure Act.

(*2*) *At-sea/electronic monitoring program.* Beginning in fishing year 2012, in addition to the dockside/roving monitoring requirement specified in paragraph (b)(1)(v)(B)(*1*) of this section, an at-sea/electronic monitoring program must be implemented to verify area fished as well as catch and discards by species and gear type. A Sector may elect to develop an at-sea/electronic monitoring program before fishing year 2012 and specify the details of such a program in its operations plan. Electronic monitoring may be used in place of actual observers if the technology is deemed sufficient by NMFS for a specific trip type based on gear type and area fished, in a manner consistent with the Administrative Procedure Act. No electronic monitoring technology may be used in place of an at-sea monitor unless approved by NMFS as part of the Sector's annual operations plan. If either an at-sea monitor or electronic monitoring is assigned to a particular trip, a vessel may not leave port without the appropriate at-sea monitor or electronic monitoring equipment on board. The at-sea/electronic monitoring program developed and implemented by each Sector must be consistent with the operational standards specified in paragraph (b)(6) of this section, with details of the program specified in the Sector's annual operations plan. The Regional Administrator shall review the at-sea/electronic monitoring program and approve/disapprove it as part of the annual operations plan in a manner

consistent with the Administrative Procedure Act. The level of coverage for landings by Sector vessels is specified in paragraph (b)(1)(v)(B)(*3*) of this section.

(*3*) *Coverage levels.* Any service provider providing dockside/roving or at-sea monitoring services required under this paragraph (b)(1)(v)(B)(*3*) must provide coverage that is fair, equitable, and distributed in a statistically random manner among all trips such that coverage is representative of fishing activities by all vessels within each Sector and by all Sector vessel operations throughout the fishing year.

(*i*) *Dockside/roving monitoring.* For fishing year 2010, at least 50 percent of all Sector trips shall be monitored by dockside/roving monitors. Beginning in fishing year 2011, at least 20 percent of all Sector trips shall be monitored by dockside/roving monitors.

(ii) At-sea/electronic monitoring. Beginning in fishing year 2012, coverage levels for an at-sea monitoring program shall be specified by NMFS, but shall be less than 100 percent of all Sector trips. Such coverage levels must be sufficient to at least meet the coefficient of variation specified in the Standardized Bycatch Reporting Methodology and accurately monitor Sector operations. In the event that a NMFS-sponsored observer and a third-party at-sea monitor are assigned to the same trip, only the NMFS observer must observe that trip.

(*4*) *Hail reports.* For the purposes of the dockside/roving and at-sea monitoring requirements specified in this paragraph (b)(1)(v)(B), Sector vessels must submit all hail reports for a Sector trip in which the NE multispecies catch applies against the ACE allocated to a Sector, as specified in this part, to service providers offering dockside/roving and at-sea monitoring services pursuant to this paragraph (b)(1)(v)(B). The mechanism and timing of the transmission of such hail reports must be specified in the annual Sector operations plan, consistent with paragraphs (b)(5) and (6) of this section.

(*5*) *Notification of service provider change.* If for any reason a Sector decides to change service providers used to provide the dockside/roving and at-sea monitoring services required in this paragraph (b)(1)(v), the Sector manager must first inform NMFS of the effective date of the change in service providers in conjunction with the submission of the next weekly Sector catch report specified in paragraph (b)(1)(vi)(B) of this section. A Sector may employ more than one service provider at any time, provided any service provider employed by a Sector meets the standards specified in paragraph (b)(4) of this section.

(vi) *Sector reporting requirements.* In addition to the other reporting/recordkeeping requirements specified in this part, a Sector's vessels must comply with the reporting requirements specified in this paragraph (b)(1)(vi).

(A) *VMS declarations and trip-level catch reports.* Prior to each Sector trip, a Sector vessel must declare into broad stock areas in which the vessel fishes and submit the VTR serial number associated with that trip pursuant to § 648.10(k). The Sector vessel must also submit a VMS catch report detailing regulated species and ocean pout catch by broad stock areas when fishing in multiple stock areas on the same trip, pursuant to § 648.10(k).

(B) *Weekly catch report.* Each Sector must submit weekly reports to NMFS stating the remaining balance of ACE allocated to each Sector based upon regulated species and ocean pout landings and discards of vessels participating in that Sector and any compliance/enforcement concerns. These reports must include at least the following information, as instructed by the Regional Administrator: Week ending date; species, stock area, gear, number of trips, reported landings (landed pounds and live pounds), discards (live pounds), total catch (live pounds), status of the Sector's ACE (pounds remaining and percent remaining), and whether this is a new or updated record of Sector catch for each NE multispecies stock allocated to that particular Sector; Sector enforcement issues, including any discrepancies noted by dockside/roving monitors between dealers and offloads; summary of offloads witnessed by dockside/roving monitors for that reporting week; and a list of vessels landing for that reporting week. These weekly catch reports must be submitted no later than 2359 hr on Thursday of the week following the reporting week, as defined in this part. The frequency of these reports must be increased to more than a weekly submission when the balance of remaining ACE is low, as specified in the Sector operations plan and approved by NMFS. If requested, Sectors must provide detailed trip-by-trip catch data to NMFS for the purposes of auditing Sector catch monitoring data based upon guidance provided by the Regional Administrator.

(C) *Year-end report.* An approved Sector must submit an annual year-end report to NMFS and the Council, no later than 60 days after the end of the fishing year, that summarizes the fishing activities of participating permits/vessels, which must include at least the following information: Catch, including landings and discards, of all species by Sector vessels; the permit number of each Sector vessel that fished for regulated species or ocean pout; the number of vessels that fished for non-regulated species or ocean pout; the method used to estimate discards by Sector vessels; the landing port used by Sector vessels; enforcement actions; and other relevant information required to evaluate the biological, economic, and social impacts of Sectors and their fishing operations consistent with confidentiality requirements of applicable law.

(vii) *Interaction with other fisheries*—(A) *Use of DAS.* A Sector vessel must comply with all measures specified for another fishery pursuant to this part, including any requirement to use a NE multispecies DAS. If the regulations of another fishery require the use of a NE multispecies DAS, the DAS allocation and accrual provisions specified in § 648.82(d) and (e), respectively, apply to each trip by a Sector vessel, as applicable. For example, if a Sector vessel is also issued a limited access monkfish Category C permit and is required to use a NE multispecies DAS concurrent with a monkfish DAS under this part, any NE multispecies DAS used by the Sector vessel accrues, as specified in § 648.82(e)(1)(ii) based upon the vessel's NE multispecies DAS allocation calculated pursuant to § 648.82(d)(1)(iv)(B).

(B) *Availability of ACE.* Notwithstanding the requirements in paragraph (b)(1)(vii)(A) of this section, if a Sector has not been allocated or does not acquire sufficient ACE available to cover the catch of a particular stock of NE multispecies while participating in another fishery in which such catch would apply to the ACE allocated to a Sector, vessels participating in that Sector cannot participate in those other fisheries unless NMFS has approved a Sector operations plan that ensures that regulated species or ocean pout will not be caught while participating in these other fisheries.

(viii) *ACE transfers.* Unless otherwise specified pursuant to paragraph (b)(1)(viii)(D) of this section, all or a portion of a Sector's ACE for any NE multispecies stock may be transferred to another Sector at any time during the fishing year and up to 2 weeks into the following fishing year (*i.e.*, through May 14) to cover any overages during the previous fishing year. A Sector is not required to transfer ACE to another Sector. An ACE transfer only becomes effective upon approval by NMFS, as specified in paragraph (b)(1)(viii)(B).

(A) *Application to transfer ACE.* ACE may be transferred from one Sector to another through written request to the Regional Administrator. This request must include the name of the Sectors involved, the amount of each ACE to be transferred, the fishing year in which the ACE transfer applies, and the amount of compensation received for any ACE transferred, as instructed by the Regional Administrator.

(B) *Approval of an ACE transfer request.* NMFS shall approve/disapprove a request to transfer ACE based upon compliance by each Sector and its participating vessels with the reporting requirements specified in this part. The Regional Administrator shall inform both Sectors in writing whether the ACE transfer request has been approved within 2 weeks of the receipt of the ACE transfer request.

(C) *Duration of transfer.* Notwithstanding ACE carried over into the next fishing year pursuant to paragraph (b)(1)(i)(C) of this section, ACE transferred pursuant to this paragraph (b)(1)(viii) is only valid for the fishing year in which the transfer is approved, with the exception of ACE transfer requests that are submitted up to 2 weeks into the subsequent fishing year to address any potential ACE overages from the previous fishing year, as provided in paragraph (b)(1)(iii) of this section.

(D) *Transfer of ACE by NOAA-sponsored permit banks.* A state-operated permit bank sponsored by NOAA shall be considered a Sector for the exclusive purpose of transferring ACE to qualifying Sectors. Such permit banks will be allocated ACE for a fishing year based on the PSCs of permits owned by the permit bank that are declared as ACE permits for that fishing year. All or a portion of a permit bank's ACE for any NE multispecies stock may be transferred to a qualifying Sector at any time during the fishing year. Permit banks may only act as the transferor in an ACE transfer.

(ix) *Trip limits.* With the exception of stocks listed in § 648.87(l), a Sector vessel is not limited in the amount of allocated NE multispecies stocks that can be harvested on a particular fishing trip, unless otherwise specified in the operations plan.

(2) *Operations plan and Sector contract.* To be approved to operate, each Sector must submit an operations plan and Sector contract to the Regional Administrator no later than September 1 prior to the fishing year in which the Sector intends to begin operations. This operations plan may cover a 1- or 2-year period, provided the analysis required in paragraph (b)(3) of this section is sufficient to assess the impacts of Sector operations during the 2-year period and that Sector membership, or any other parameter that may affect Sector operations during the second year of the approved operations plan, does not differ to the point where the impacts analyzed by the supporting NEPA document are compromised. Each vessel and vessel operator and/or vessel owner participating in a Sector must agree to and comply with all applicable requirements and conditions of the operations plan specified in this paragraph (b)(2) and the letter of authorization issued pursuant to paragraph (c)(2) of this section. It shall be unlawful to violate any such conditions and requirements unless such conditions or restrictions are identified as administrative only in an approved operations plan. At least the following elements must be contained in either the operations plan or Sector contract:

(i) A list of all parties, vessels, and vessel owners who will participate in the Sector;

(ii) A list of all Federal and state permits held by persons participating in the Sector, including an indication for each permit whether it is enrolled and will actively fish in a Sector, or will be subject to the provisions of the common pool;

(iii) A contract signed by all Sector participants indicating their agreement to abide by the operations plan;

(iv) The name of a designated representative or agent of the Sector for service of process;

(v) If applicable, a plan for consolidation or redistribution of ACE detailing the quantity and duration of such consolidation or redistribution within the Sector;

(vi) A list of the specific management rules the Sector participants will agree to abide by in order to avoid exceeding the allocated ACE for each stock, including a plan of operations or cessation of operations once the ACEs of one or more stocks are harvested and detailed plans for enforcement of the Sector rules;

(vii) A plan that defines the procedures by which members of the Sector that do not abide by the rules of the Sector will be disciplined or removed from the Sector, and a procedure for notifying NMFS of such expulsions from the Sector;

(viii) If applicable, a plan of how the ACE allocated to the Sector is assigned to each vessel;

(ix) If the operations plan is inconsistent with, or outside the scope of the NEPA analysis associated with the Sector proposal/framework adjustment as specified in paragraph (a)(1) of this section, a supplemental NEPA analysis may be required with the operations plan;

(x) Detailed information about overage penalties or other actions that will be taken if a Sector exceeds its ACE for any stock;

(xi) Detailed plans for the monitoring and reporting of landings and discards by Sector participants, including, but not limited to, detailed information describing the Sector's dockside/roving and at-sea/electronic monitoring program for monitoring utilization of ACE allocated to that Sector; identification of the independent third-party service providers employed by the Sector to provide dockside/roving and at-sea/electronic monitoring services; the mechanism and timing of any hail reports necessary to coordinate the deployment of dockside/roving and at-sea monitors and electronic monitoring equipment; a list of specific ports where participating vessels will land fish, with specific exemptions noted for safety, weather, etc., allowed, provided the Sector provides reasonable notification to NMFS concerning a deviation from the listed ports; and any other information about such a program required by NMFS;

(xii) ACE thresholds that may trigger revisions to Sector operations to ensure allocated ACE is not exceeded, and details regarding the Sector's plans for notifying NMFS once the specified ACE threshold has been reached;

(xiii) Identification of any potential redirection of effort into other fisheries expected as a result of Sector operations, and, if necessary, proposed limitations to eliminate any adverse effects expected from such redirection of effort;

(xiv) If applicable, description of how regulated species and ocean pout will be avoided while participating in other fisheries that have a bycatch of regulated species or ocean pout if the Sector does not have sufficient ACE for stocks of regulated species or ocean pout caught as bycatch in those fisheries, as specified in paragraph (b)(1)(vii)(B) of this section; and

(xv) A list of existing regulations that the Sector is requesting exemption from during the following fishing year pursuant to paragraph (c)(2) of this section.

(3) *NEPA analysis.* In addition to the documents required by paragraphs (a)(1) and (b)(2) of this section, before NMFS can approve a Sector to operate during a particular fishing year, each Sector must develop and submit to NMFS, in conjunction with the yearly operations plan and Sector contract, an appropriate

NEPA analysis assessing the impacts of forming the Sector and operating under the measures described in the Sector operations plan.

(4) *Independent third-party monitoring provider standards.* Any service provider intending to provide dockside/roving and at-sea/electronic monitoring services described in § 648.82(n)(2) and paragraph (b)(1)(v) of this section must apply to and be approved/certified by NMFS in a manner consistent with the Administrative Procedure Act. NMFS shall approve/certify service providers and associated dockside, roving, and/or at-sea monitors as eligible to provide Sector monitoring services specified in this part and can disapprove/decertify service providers and/or individual monitors through notice in writing to individual service providers/monitors if the following criteria are no longer being met:

(i) *Service provider information.* As part of the application for service provider approval/certification, potential service providers must include at least the following information:

(A) Identification of corporate structure, including the names and duties of controlling interests in the company such as owners, board members, authorized agents, and staff; and articles of incorporation, or a partnership agreement, as appropriate;

(B) Contact information for official correspondence and communication with any other office;

(C) A statement, signed under penalty of perjury, from each owner, board member, and officer that they are free from a conflict of interest with fishing-related parties including, but not limited to, vessels, dealers, shipping companies, Sectors, Sector managers, advocacy groups, or research institutions and will not accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from such parties;

(D) A statement, signed under penalty of perjury, from each owner, board member, and officer describing any criminal convictions, Federal contracts they have had, and the performance rating they received on the contract, and previous decertification action while working as an observer or observer service provider;

(E) A description of any prior experience the applicant may have in placing individuals in remote field and/or marine work environments including, but not limited to, recruiting, hiring, deployment, and personnel administration;

(F) A description of the applicant's ability to carry out the responsibilities and duties of a Sector monitoring/reporting service provider and the arrangements to be used, including whether the service provider is able to offer dockside and/or at-sea monitoring services;

(G) Evidence of adequate insurance (copies of which shall be provided to the vessel owner, operator, or vessel manager, when requested) to cover injury, liability, and accidental death to cover dockside, roving, and at-sea monitors (including during training); vessel owner; and service provider;

(H) Proof of benefits and personnel services provided in accordance with the terms of each monitor's contract or employment status;

(I) Proof that the service provider's dockside, roving, and at-sea monitors have passed an adequate training course sponsored by the service providers to the extent not funded by NMFS that is consistent with the curriculum used in the current yearly NEFOP training course, unless otherwise specified by NMFS;

(J) An Emergency Action Plan describing the provider's response to an emergency with a dockside, roving, and at-sea monitors, including, but not limited to, personal injury, death, harassment, or intimidation; and

(K) Evidence that the company is in good financial standing;

(ii) *Service provider performance requirements.* Dockside/roving and at-sea monitoring service providers must be able to document compliance with the following criteria and requirements:

(A) A service provider must establish and carry out a comprehensive plan to deploy NMFS-certified dockside, roving, and/or at-sea monitors, or other at-sea monitoring mechanism, such as electronic monitoring equipment that is approved by NMFS, according to a prescribed coverage level (or level of precision for catch estimation), as specified by NMFS, including all of the necessary vessel reporting/notice requirements to facilitate such deployment, as follows:

(*1*) A service provider must be available to industry 24 hr per day, 7 days per week, with the telephone system monitored a minimum of four times daily to ensure rapid response to industry requests;

(*2*) A service provider must be able to deploy dockside, roving, and/or at-sea monitors, or other approved at-sea monitoring mechanism to all ports in which service is required by Sectors, or a subset of ports as part of a contract with a particular Sector;

(*3*) A service provider must report dockside, roving, and at-sea monitors and other approved at-sea monitoring mechanism deployments to NMFS and the Sector manager in a timely manner to determine whether the predetermined coverage levels are being achieved for the appropriate Sector;

(*4*) A service provider must assign dockside, roving, and at-sea monitors and other approved at-sea monitoring mechanisms without regard to any preference by the Sector manager or representatives of vessels other than when the service is needed and the availability of approved/certified monitors and other at-sea monitoring mechanisms;

(*5*) A service provider's dockside, roving, and at-sea monitor assignment must be fair, equitable, representative of fishing activities within each Sector, and able to monitor fishing activity throughout the fishing year;

(*6*) For service providers offering catch estimation or at-sea monitoring services, a service provider must be able to determine an estimate of discards for each trip and provide such information to the Sector manager and NMFS, as appropriate and as required by this section;

(B) The service provider must ensure that dockside, roving, and at-sea monitors remain available to NMFS, including NMFS Office for Law Enforcement, for debriefing for at least 2 weeks following any monitored trip/offload;

(C) The service provider must report possible dockside, roving, and at-sea monitor harassment; discrimination; concerns about vessel safety or marine casualty; injury; and any information, allegations, or reports regarding dockside, roving, or at-sea monitor conflict of interest or breach of the standards of behavior to NMFS and/or the Sector manager, as specified by NMFS;

(D) The service provider must submit to NMFS, if requested, a copy of each signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the service provider and those entities requiring services (*i.e.*, Sectors and participating vessels) and between the service provider and specific dockside, roving, or at-sea monitors;

(E) The service provider must submit to NMFS, if requested, copies of any information developed and used by the service providers distributed to vessels, such as informational pamphlets, payment notification, description of duties, etc.;

(F) A service provider may refuse to deploy a dockside, roving, or at-sea monitor or other approved at-sea monitoring mechanism on a requesting

fishing vessel for any reason including, but not limited to, the following:

(*1*) If the service provider does not have an available dockside/roving monitor prior to a vessel's intended date/time of landing, or if the service provider does not have an available at-sea monitor or other at-sea monitoring mechanism approved by NMFS within the advanced notice requirements established by the service provider;

(*2*) If the service provider is not given adequate notice of vessel departure or landing from the Sector manager or participating vessels, as specified by the service provider;

(*3*) For the purposes of at-sea monitoring, if the service provider has determined that the requesting vessel is inadequate or unsafe pursuant to the reasons described in § 600.746; and

(*4*) Failure to pay for previous deployments of dockside, roving, or at-sea monitors, or other approved at-sea monitoring mechanism.

(G) With the exception of a service provider offering reporting, dockside, and/or at-sea monitoring services to participants of another fishery managed under Federal regulations, a service provider must not have a direct or indirect interest in a fishery managed under Federal regulations, including, but not limited to, fishing vessels, dealers, shipping companies, Sectors, Sector managers, advocacy groups, or research institutions and may not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fishing-related activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of service providers;

(H) A system to record, retain, and distribute the following information to NMFS, as requested, for a period specified by NMFS, including:

(*1*) Dockside, roving, and/or at-sea monitor and other approved monitoring equipment deployment levels, including the number of refusals and reasons for such refusals;

(*2*) Incident/non-compliance reports (*e.g.*, failure to offload catch); and

(*3*) Hail reports, landings records, and other associated interactions with vessels and dealers.

(I) A means to protect the confidentiality and privacy of data submitted by vessels, as required by the Magnuson-Stevens Act; and

(J) A service provider must be able to supply dockside and at-sea monitors with sufficient safety and data-gathering equipment, as specified by NMFS.

(iii) *Standards for individual dockside/roving monitors.* For an individual to be approved/certified as a dockside or roving monitor, the service provider must demonstrate that each potential monitor meets the following criteria:

(A) A high school diploma or legal equivalent;

(B) Successful completion of all NMFS-required training and briefings before deployment;

(C) Physical and mental capacity for carrying out the responsibilities of a dockside/roving monitor pursuant to standards established by NMFS, such as being certified by a physician to be physically fit to work as a dockside/roving monitor after consideration that a monitor may be required to climb a ladder to inspect fish holds and/or trucks;

(D) Absence of fisheries-related convictions based upon a thorough background check; and

(E) Independence from fishing-related parties including, but not limited to, vessels, dealers, shipping companies, Sectors, Sector managers, advocacy groups, or research institutions to prevent conflicts of interest.

(iv) *Standards for individual at-sea monitors.* For an individual to be approved/certified as an at-sea monitor, the service provider must demonstrate that each potential monitor meets the following criteria:

(A) A high school diploma or legal equivalent;

(B) Successful completion of all NMFS-required training and briefings before deployment;

(C) Physical and mental capacity for carrying out the responsibilities of an at-sea monitor on board fishing vessels, pursuant to standards established by NMFS such as being certified by a physician to be physically fit to work as an at-sea monitor after consideration of at least the following work-related issues:

(*1*) Susceptibility to chronic motion sickness;

(*2*) Ability to live in confined quarters;

(*3*) Ability to tolerate stress;

(*4*) Ability to lift and carry heavy objects up to 50 lb (22.7 kg);

(*5*) Ability to drag heavy objects up to 200 lb (90.7 kg); and

(*6*) Ability to climb a ladder.

(D) A current Red Cross (or equivalent) CPR/first aid certification;

(E) Absence of fisheries-related convictions, based upon a thorough background check; and

(F) Independence from fishing-related parties including, but not limited to, vessels, dealers, shipping companies, Sectors, Sector managers, advocacy groups, or research institutions to prevent conflicts of interest.

(5) *Dockside monitoring operational standards.* In addition to the independent third-party monitoring provider standards specified in paragraph (b)(4) of this section, any dockside monitoring program developed as part of a Sector's yearly operations plan pursuant to paragraph (b)(1)(v)(B)(*1*) of this section, or required as part of the trimester TAC AM specified in § 648.82(n)(2) must meet the following operational standards to be approved by NMFS:

(i) *Vessel requirements*—(A) *Reporting/recordkeeping requirements.* In addition to all other reporting/recordkeeping requirements specified in this part, to facilitate the deployment of independent dockside and roving monitors pursuant to § 648.82(n)(2)(iv) and paragraph (b)(1)(v) of this section, the operator of a vessel fishing under the provisions of the common pool or on a Sector trip must comply with the following requirements:

(*1*) *Trip-start hail report.* The vessel operator must submit a trip-start hail report notifying the Sector manager and/or dockside/roving monitor service provider of the vessel permit number; trip ID number in the form of the VTR serial number of the first VTR page for that trip, or another trip identifier specified by NMFS; and an estimate of the trip duration prior to departing port at the beginning of each trip. If the vessel operator does not receive confirmation of the receipt of the trip-start hail report from the dockside/roving monitor service provider within 10 minutes of sending the original trip-start hail report, the operator must contact the service provider to confirm the trip-start hail report via an independent back-up system developed by the service provider.

(*2*) *Trip-end hail report.* Prior to returning to port upon the completion of a fishing trip, the vessel operator must submit a trip-end hail report notifying the dockside/roving monitor service provider of the vessel permit number; trip ID submitted pursuant to paragraph (b)(5)(i)(A)(*1*) of this section; intended offloading location(s), including the dock/dealer, port/harbor, and state for all dealers/facilities where the vessel intends to offload catch; estimated date/time of arrival; estimated date/time of offload; and estimated total weight of each species on board. The trip-end hail report must be submitted at least 6 hr in advance of landing for all trips at least 6 hr in duration or occurring more than 6 hr from port. For shorter trips, the trip-end hail reports must be

submitted within sufficient time to allow the deployment of the dockside/roving monitor to the offloading site, as specified by the dockside/roving monitoring service provider in consultation with NMFS Office of Law Enforcement. These reports may be in the form of an e-mail to the dockside/roving monitor service provider or another means of communication specified by the service provider.

(B) *Copies of trip documents.* The operator of a Sector vessel that is issued a waiver from the dockside/roving monitoring requirements specified in paragraph (b)(1)(v)(B) of this section for a particular trip must provide copies of all VTRs and dealer receipts associated with that trip to the Sector or designated third party contractor, as appropriate, within 24 hr of offloading.

(C) *Vessel offloads.* A vessel may not offload any fish from a trip that was selected to be observed by a dockside/roving monitor until the dockside/roving monitor(s) assigned to that trip is present, as specified in paragraph (b)(5)(ii)(A) of this section.

(ii) *Dockside/roving monitor service provider requirements*—(A) *Confirmation of vessel hail reports.* Upon receipt of a trip-start or trip-end hail reports pursuant to paragraphs (b)(5)(i)(A)(*1*) and (*2*) of this section, the service provider shall immediately send confirmation that the trip-start or trip-end hail report was received to the vessel. A service provider must establish an independent back-up system to the primary hail report system (*e.g.*, a phone number if the primary hail report system is based upon e-mail) to ensure receipt of such trip-start or trip-end hail reports. In confirming the receipt of a trip-end hail report, the service provider will inform the vessel operator that the offload(s) associated with that trip will be monitored by a dockside/roving monitor or that the vessel is issued a dockside/roving monitor waiver for that trip. If a dockside/roving monitor is assigned to observe a trip's offloads, but cannot meet the vessel as scheduled, the service provider must inform the vessel, the Sector, and NMFS Office of Law Enforcement, as appropriate, as soon as possible, to specify the time when the dockside/roving monitor will arrive, or issue the vessel a waiver for that particular trip. The service provider or Sector manager must also provide NMFS Office of Law Enforcement with the information contained in the trip-start and trip-end hail reports, including whether the vessel has been assigned a dockside/roving monitor for that trip, at the same time that the confirmation is sent to the vessel.

(B) *Documentation of offloads*—(*1*) *Offloads directly to a dealer.* Upon the completion of the offload, the dockside/roving monitor shall retain a copy of all VTRs associated with the trip, including all information submitted (*i.e.*, no blocked cells) provided by the Sector vessel; record whether the dealer scales were certified by an appropriate state agency; observe and record whether ice and box weights are tared by the dealer before catch is added, or record the estimated weight of ice and the box from the dealer; record the weight of catch offloaded by species (and market category, if culled); determine and record whether all fish have been offloaded, including an estimate of the weight of fish being retained by captain and crew for personal consumption or other use and the reason for retention of such catch; sign the dealer receipt associated with the offload for each trip (*i.e.*, dealer/weighout slip or other form of documentation of the amount of catch offloaded by the dealer), or have the dealer sign the dockside/roving monitor report, as appropriate; provide data summarizing the offloads of each trip, including copies of the VTR(s), dockside/roving monitor report, and dealer receipt(s), if separate from the dockside/roving monitor report, to the Sector manager or designated third party contractor, as appropriate, within 24 hr of offloading; and retain a copy of such information to document that the offload was monitored, as instructed by the Regional Administrator.

(*2*) *Offloads to a truck.* A roving monitor observing offloads into a truck shall retain copies of all VTRs filled out for that trip with all information submitted (*i.e.*, no blocked cells) provided by the Sector vessel; if there are no scales at the offload site, record the number of totes of each species and the captain's estimate of the weight in each tote; if there are scales at the offload site, record whether the scales were certified by an appropriate state agency and observe and record whether ice and box weights are tared before catch is added, or record the estimated weight of ice and the box; determine and record whether all fish have been offloaded, including an estimate of the weight of fish being retained by captain and crew for personal consumption or other use and the reason for retention of such catch; record all offloaded catch by species and market class in a report, unless the driver creates such a report that the roving monitor may use which shall be signed by the roving monitor; document that each tote is labeled with the appropriate identifying information including, but not limited to, the serial number of the first VTR page filled out for that trip or another trip ID specified by NMFS, the roving monitor's name, tote number, and species; provide data summarizing the offloads of each trip, including copies of the VTR(s) and roving monitor report to the Sector manager or designated third party contractor, as appropriate, within 24 hr of offloading; and retain a copy of such information to document that the offload was monitored, as instructed by the Regional Administrator. The roving monitor must submit copies of the VTR(s); driver manifest(s), if separate from the roving monitor's report; and the roving monitor's report to the Sector manager or third-party service provider, as appropriate.

(C) *Record retention.* The dockside/roving monitor service provider shall retain an electronic record of each offload observed and make electronic and other records that document an offload available to NMFS upon request.

(D) *Safe-harbor provision.* The dockside/roving monitor service provider must work with the Sector and NMFS Office of Law Enforcement to establish an acceptable process for safe-harbor situations where a vessel is unable to follow normal dockside/roving monitor protocols outlined in paragraph (b)(5) of this section due to an emergency situation.

(iii) *Adjustment to operational standards.* The dockside/roving monitor operational standards specified in paragraph (b)(5) of this section may be revised by the Regional Administrator in a manner consistent with the Administrative Procedure Act.

(6) *At-sea/electronic monitoring operational standards.* In addition to the independent third-party monitoring provider standards specified in paragraph (b)(4) of this section, any at-sea/electronic monitoring program developed as part of a Sector's yearly operations plan pursuant to paragraph (b)(1)(v)(B)(*2*) of this section must meet the following operational standards to be approved by NMFS:

(i) *Gear.* Each at-sea monitor must be provided with all of the equipment specified by the Northeast Fisheries At-sea Monitoring Program. A list of such equipment is available from the Northeast Fisheries Science Center upon request. At-sea/electronic monitoring service providers are responsible for the cost of providing such gear to at-sea monitors to the extent not funded by NMFS. This gear shall be inspected by NMFS upon the completion of training required pursuant to paragraph (b)(4)(i)(I) of this section.

(ii) *Vessel selection protocol.* An at-sea/electronic monitoring program

service provider must develop a formal vessel-selection protocol to deploy at-sea monitors and electronic monitoring equipment in a statistically random manner consistent with the coverage levels required pursuant to paragraph (b)(1)(v)(B)(*3*)(*a*) of this section. This protocol must include a method to allow for waivers in specific circumstances, including how waivers would be requested, assessed, and recorded.

(iii) *Reporting/recordkeeping requirements*—(A) *Vessel requirements.* In addition to all other reporting/recordkeeping requirements specified in this part, to facilitate the deployment of at-sea monitors and electronic monitoring equipment pursuant to paragraph (b)(1)(v)(B)(*2*) of this section, the operator of a vessel fishing on a Sector trip must provide at-sea/electronic monitoring service providers with at least the following information: The vessel name, permit number, trip ID number in the form of the VTR serial number of the first VTR page for that trip or another trip identifier specified by NMFS, and an estimate of the date/time of departure in advance of each trip. The timing of such notice shall be sufficient to allow ample time for the service provider to determine whether an at-sea monitor or electronic monitoring equipment will be deployed on each trip and allow the at-sea monitor or electronic monitoring equipment to prepare for the trip and get to port, or to be installed on the vessel, respectively. The details of the timing, method (*e.g.,* phone, e-mail, etc.), and information needed for such pre-trip notifications shall be included as part of a Sector's yearly operations plan. If a vessel has been informed by a service provider that an at-sea monitor or electronic monitoring equipment has been assigned to a particular trip pursuant to paragraph (b)(6)(iii)(B)(*1*) of this section, the vessel may not leave port to begin that trip until the at-sea monitor has arrived and boarded the vessel, or the electronic monitoring equipment has been properly installed.

(B) *At-sea/electronic monitoring service provider requirements*—(*1*) *Confirmation of pre-trip notification.* Upon receipt of a pre-trip notification pursuant to paragraph (b)(6)(iii)(A) of this section, the service provider shall inform the vessel operator whether the vessel will be monitored by an at-sea observer or electronic monitoring equipment for that trip, or will be issued an at-sea/electronic monitoring waiver for that trip based upon the vessel selection protocol specified in paragraph (b)(6)(ii) of this section.

(*2*) *At-sea/electronic monitoring report.* A report detailing area fished and the amount of each species kept and discarded shall be submitted electronically in a standard acceptable form to the appropriate Sector and NMFS within 48 hr of the completion of the trip, as instructed by the Regional Administrator. The data elements to be collected and the format for submission shall be specified by NMFS and distributed to all approved at-sea/electronic monitoring service providers and Sectors. At-sea/electronic monitoring data shall not be accepted until such data pass automated NMFS data quality checks.

(iv) *Safety hazards*—(A) *Vessel requirements.* The operator of a Sector vessel must detail and identify any safety hazards to any at-sea monitor assigned pursuant to paragraph (b)(6)(iii)(B)(*1*) of this section prior to leaving port. A vessel cannot begin a trip if it has failed a review of safety issues pursuant to paragraph (b)(6)(iv)(B) of this section, until the identified safety deficiency has been resolved pursuant to § 600.746(i).

(B) *At-sea/electronic monitoring service provider requirements.* An at-sea monitor must complete a pre-trip vessel safety checklist provided by NMFS before an at-sea monitor can leave port onboard a vessel on a Sector trip. If the vessel fails a review of safety issues pursuant to this paragraph (b)(6)(iv)(B), an at-sea monitor cannot be deployed on that vessel for that trip.

(v) *Adjustment to operational standards.* The at-sea/electronic monitoring operational standards specified in paragraph (b)(6) of this section may be revised by the Regional Administrator in a manner consistent with the Administrative Procedure Act.

(c) *Approval of a Sector and granting of exemptions by the Regional Administrator.* (1) Once the Regional Administrator has made a preliminary determination that the documents submitted pursuant to paragraphs (a)(1), (b)(2), and (b)(3) of this section appear to comply with the requirements of this section, NMFS may consult with the Council and approve or disapprove Sector operations consistent with the Administrative Procedure Act and other applicable law.

(2) If a Sector is approved, the Regional Administrator shall issue a letter of authorization to each vessel operator and/or vessel owner participating in the Sector. The letter of authorization shall authorize participation in the Sector operations and may exempt participating vessels from any Federal fishing regulation, except those specified in paragraphs (c)(2)(i) and (ii) of this section, in order to allow vessels to fish in accordance with an approved operations plan, provided such exemptions are consistent with the goals and objectives of the FMP. The letter of authorization may also include requirements and conditions deemed necessary to ensure effective administration of, and compliance with, the operations plan and the Sector allocation. Solicitation of public comment on, and NMFS final determination on such exemptions shall be consistent with paragraphs (c)(1) and (2) of this section.

(i) *Regulations that may not be exempted for Sector participants.* The Regional Administrator may not exempt participants in a Sector from the following Federal fishing regulations: NE multispecies year-round closure areas, permitting restrictions (*e.g.,* vessel upgrades, etc.), gear restrictions designed to minimize habitat impacts (*e.g.,* roller gear restrictions, etc.), and reporting requirements (not including DAS reporting requirements or SAP-specific reporting requirements specified in this part). This list may be modified through a framework adjustment, as specified in § 648.90.

(ii) *Universal Sector exemptions.* All Sector vessels are exempt from the following Federal fishing regulations under this part:

(A) Trip limits on NE multispecies stocks for which a Sector receives an allocation of ACE pursuant to paragraph (b)(1)(i) of this section (*i.e.,* all stocks except Atlantic halibut, ocean pout, windowpane flounder, SNE/MA winter flounder, and Atlantic wolffish);

(B) The GOM Rolling Closure Areas and the GB Seasonal Closed Area specified in § 648.82(f)(1) and (g), respectively, provided Sector vessels comply with the Sector-specific GOM Rolling Closure Areas specified in § 648.81(f)(2)(vi);

(C) NE multispecies DAS restrictions other than those required to comply with effort controls in other fisheries, as specified in §§ 648.92 and 648.322; and

(D) The minimum codend mesh size restrictions for trawl gear specified in § 648.80(a)(4)(i) when using a haddock separator trawl defined in § 648.85(a)(3)(iii) or the Ruhle trawl defined in § 648.85(b)(6)(iv)(J)(*3*) within the GB RMA, as defined in § 648.80(a)(2), provided Sector vessels use a codend with 6-inch (15.2-cm) minimum mesh.

(3) The Regional Administrator may withdraw approval of a Sector, after consultation with the Council, at any time, if it is determined that Sector participants are not complying with the requirements of an approved operations

plan or that the continuation of the operations plan will undermine achievement of fishing mortality objectives of the FMP. Withdrawal of approval of a Sector may only be done in a manner consistent with the Administrative Procedure Act and other applicable law.

(d) *Approved Sector allocation proposals.* Eligible NE multispecies vessels, as specified in paragraph (a)(3) of this section, may participate in the Sectors identified in paragraphs (d)(1) through (19) of this section, provided the operations plan is approved by the Regional Administrator in accordance with paragraph (c) of this section and each participating vessel and vessel operator and/or vessel owner complies with the requirements of the operations plan, the requirements and conditions specified in the letter of authorization issued pursuant to paragraph (c) of this section, and all other requirements specified in this section. All operational aspects of these Sectors shall be specified pursuant to the operations plan and Sector contract, as required by this section.

(1) *GB Cod Hook Sector.*
(2) *GB Cod Fixed Gear Sector.*
(3) *Sustainable Harvest Sector.*
(4) *Port Clyde Community Groundfish Sector.*
(5) *Northeast Fishery Sector I.*
(6) *Northeast Fishery Sector II.*
(7) *Northeast Fishery Sector III.*
(8) *Northeast Fishery Sector IV.*
(9) *Northeast Fishery Sector V.*
(10) *Northeast Fishery Sector VI.*
(11) *Northeast Fishery Sector VII.*
(12) *Northeast Fishery Sector VIII.*
(13) *Northeast Fishery Sector IX.*
(14) *Northeast Fishery Sector X.*
(15) *Northeast Fishery Sector XI.*
(16) *Northeast Fishery Sector XII.*
(17) *Northeast Fishery Sector XIII.*
(18) *Tristate Sector.*
(19) *Northeast Coastal Communities Sector.*

16. In § 648.88, revise paragraph (a)(1) to read as follows:

§ 648.88 Multispecies open access permit restrictions.

(a) * * *

(1) The vessel may possess and land up to 200 lb (90.7 kg) of cod and up to the landing and possession limit restrictions for other NE multispecies specified in § 648.86, provided the vessel complies with the restrictions specified in paragraph (a)(2) of this section. Should the GOM cod trip limit specified in § 648.86(b)(1) be adjusted in the future, the cod trip limit specified in this paragraph (a)(1) shall be adjusted proportionally (rounded up to the nearest 25 lb (11.3 kg)).

* * * * *

17. In § 648.89, revise the introductory text to paragraph (c); revise paragraphs (a), (b)(1), (b)(4), (c)(1)(v), and (c)(2)(v); and add paragraphs (c)(5) and (f) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

(a) *Recreational gear restrictions.* Persons aboard charter/party vessels permitted under this part and not fishing under the DAS program or under the restrictions and conditions of an approved Sector operations plan, as specified in § 648.87(c), and recreational fishing vessels in the EEZ, are prohibited from fishing with more than one line per angler, and must stow all other fishing gear on board the vessel as specified in § 648.23(b).

(b) * * *

(1) *Minimum fish sizes.* Unless further restricted under paragraph (b)(3) of this section, persons aboard charter/party vessels permitted under this part and not fishing under the NE multispecies DAS program or under the restrictions and conditions of an approved Sector operations plan, and recreational fishing vessels in or possessing fish from the EEZ, may not possess fish smaller than the minimum fish sizes, measured in total length (TL), as follows:

Species	Size (inches)
Cod	22 (55.9 cm).
Haddock	18 (45.7 cm).
Pollock	19 (48.3 cm).
Witch flounder (gray sole).	14 (35.6 cm).
Yellowtail flounder	13 (33.0 cm).
American plaice (dab)	14 (35.6 cm).
Atlantic halibut	41 (104.1 cm).
Winter flounder (blackback).	12 (30.5 cm).
Redfish	9 (22.9 cm).

* * * * *

(4) Fish fillets, or parts of fish, must have at least 2 square inches (5.1 square cm) of skin on while possessed on board a vessel and at the time of landing in order to meet minimum size requirements. The skin must be contiguous and must allow ready identification of the fish species.

* * * * *

(c) *Possession restrictions.*

(1) * * *

(v) *Seasonal GOM cod possession prohibition.* Persons aboard private recreational fishing vessels fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1) may not fish for or possess any cod from November 1 through April 15. Private recreational vessels in possession of cod caught outside the GOM Regulated Mesh Area may transit this area, provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

* * * * *

(2) * * *

(v) *Seasonal GOM cod possession prohibition.* Persons aboard charter/party fishing vessels permitted under this part and not fishing under the NE multispecies DAS program or on a Sector trip that are fishing in the GOM Regulated Mesh Area specified in § 648.80(a)(1) may not fish for, possess, or land any cod from November 1 through April 15. Charter/party vessels in possession of cod caught outside the GOM Regulated Mesh Area may transit this area, provided all bait and hooks are removed from fishing rods and any cod on board has been gutted and stored.

* * * * *

(5) *Atlantic wolffish.* Possession of Atlantic wolffish by charter/party vessels permitted under this part and not fishing under the NE multispecies DAS program and recreational fishing vessels fishing in the EEZ is prohibited.

* * * * *

(f) *Recreational fishery AM*—(1) *Catch evaluation.* As soon as recreational catch data are available for the entire previous fishing year, the Regional Administrator will evaluate whether recreational catches exceed any of the sub-ACLs specified for the recreational fishery pursuant to § 648.90(a)(4). When evaluating recreational catch, the components of recreational catch that are used shall be the same as those used in the most recent assessment for that particular stock. To determine if the regulated species or ocean pout sub-ACL specified for the recreational fishery was exceeded, the Regional Administrator shall compare the 3-year average of recreational catch to the 3-year average of the recreational sub-ACL for each stock, as follows:

(i) For fishing year 2010, recreational catch shall be compared to the recreational sub-ACL for that stock for fishing year 2010.

(ii) For fishing year 2011, the average recreational catch for fishing years 2010 and 2011 shall be compared to the average recreational sub-ACLs for that stock during fishing years 2010 and 2012.

(iii) Starting in fishing year 2012, the 3-year average recreational catch shall be compared to the 3-year average of the recreational sub-ACLs for that stock.

(2) *Measure adjustment.* If it is determined that any recreational sub-ACL was exceeded, as specified in paragraph (f)(1) of this section, the

Regional Administrator, after consultation with the New England Fishery Management Council, shall develop measures necessary to prevent the recreational fishery from exceeding the appropriate sub-ACL in future years. Appropriate AMs for the recreational fishery, including adjustments to fishing season, minimum fish size, or possession limits, may be implemented in a manner consistent with the Administrative Procedure Act, with final measures published in the **Federal Register** no later than January when possible. Separate AMs shall be developed for the private and charter/party components of the recreational fishery.

18. In § 648.90, revise the introductory text for this section and paragraph (a); revise paragraphs (a)(2)(i) through (iv), (a)(2)(vi), and (c)(1)(i); and add paragraphs (a)(4) through (6) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures, setting of ACLs and other allocations, AMs, specifications, and flexible area action system.

For the NE multispecies framework specification process described in this section, the regulated species and ocean pout biennial review is considered a separate process from the small-mesh species annual review, as described under paragraphs (a)(2) and (b), respectively, of this section. In addition, the process for specifying ABCs and associated ACLs for regulated species and ocean pout, as described in paragraph (a)(4) of this section, is considered a separate process from the small-mesh species ABC and ACL process.

(a) *NE multispecies.* For the purpose of this paragraph (a), the term ''NE multispecies fishery'' is defined as common pool vessels, Sector vessels, and private recreational and charter/party vessels, as defined in this part; the term ''NE multispecies commercial fishery'' is defined as vessels issued a limited access NE multispecies permit, or an open access NE multispecies Handgear B permit; and the term ''NE multispecies recreational fishery'' is defined as private recreational vessels and charter or party boats, as further defined in this part.

* * * * *

(2) * * *

(i) The NE multispecies PDT shall meet on or before September 30 every other year, unless otherwise specified in paragraph (a)(3) of this section, under the conditions specified in that paragraph, to perform a review of the fishery, using the most current scientific information available provided primarily from the NEFSC. Data provided by states, ASMFC, the USCG, and other sources may also be considered by the PDT. Based on this review, the PDT will develop ACLs for the upcoming fishing year(s) as described in paragraph (a)(4) of this section and develop options for consideration by the Council if necessary, on any changes, adjustments, or additions to DAS allocations, closed areas, or other measures necessary to rebuild overfished stocks and achieve the FMP goals and objectives, including changes to the Northeast Region SBRM.

(ii) The PDT shall review available data pertaining to: Catch and landings, discards, DAS allocations, DAS use, Sector operations, and other measures of fishing effort; survey results; stock status; current estimates of fishing mortality and overfishing levels; social and economic impacts; enforcement issues; and any other relevant information.

(iii) Based on this review, the PDT shall recommend ACLs and develop options necessary to achieve the FMP goals and objectives, which may include a preferred option. The PDT must demonstrate through analyses and documentation that the options they develop are expected to meet the FMP goals and objectives. The PDT may review the performance of different user groups or fleet Sectors in developing options. The range of options developed by the PDT may include any of the management measures in the FMP, including, but not limited to: ACLs, which must be based on the projected fishing mortality levels required to meet the goals and objectives outlined in the FMP for the 12 regulated species and ocean pout if able to be determined; identification and distribution of ACLs and other sub-components of the ACLs among various segments of the fishery; AMs; DAS changes; possession limits; gear restrictions; closed areas; permitting restrictions; minimum fish sizes; recreational fishing measures; description and identification of EFH; fishing gear management measures to protect EFH; designation of habitat areas of particular concern within EFH; and changes to the Northeast Region SBRM, including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, reports, and/or industry-funded observers or observer set-aside programs. In addition, the following conditions and measures may be adjusted through future framework adjustments: Revisions to DAS measures, including DAS allocations (such as the distribution of DAS among the four categories of DAS), future uses for Category C DAS, and DAS baselines, adjustments for steaming time, etc.; modifications to capacity measures, such as changes to the DAS transfer or DAS leasing measures; calculation of area-specific ACLs, area management boundaries, and adoption of area-specific management measures; Sector allocation requirements and specifications, including the establishment of a new Sector, the disapproval of an existing Sector, and the allowable percent of ACL available to a Sector through a Sector allocation; Sector administration provisions, including at-sea and dockside monitoring measures; Sector reporting requirements; measures to implement the U.S./Canada Resource Sharing Understanding, including any specified TACs (hard or target); changes to administrative measures; additional uses for Regular B DAS; reporting requirements; the GOM Inshore Conservation and Management Stewardship Plan; adjustments to the Handgear A or B permits; gear requirements to improve selectivity, reduce bycatch, and/or reduce impacts of the fishery on EFH; SAP modifications; revisions to the ABC control rule and status determination criteria, including, but not limited to, changes in the target fishing mortality rates, minimum biomass thresholds, numerical estimates of parameter values, and the use of a proxy for biomass may be made either through a biennial adjustment or framework adjustment; and any other measures currently included in the FMP.

(iv) The Council shall review the ACLs recommended by the PDT and all of the options developed by the PDT and other relevant information; consider public comment; and develop a recommendation to meet the FMP objectives pertaining to regulated species or ocean pout that is consistent with applicable law. If the Council does not submit a recommendation that meets the FMP objectives and is consistent with applicable law, the Regional Administrator may adopt any option developed by the PDT, unless rejected by the Council, as specified in paragraph (a)(2)(vii) of this section, provided the option meets the FMP objectives and is consistent with applicable law.

* * * * *

(vi) If the Council submits, on or before December 1, a recommendation to the Regional Administrator after one Council meeting, and the Regional Administrator concurs with the recommendation, the Regional Administrator shall publish the

Council's recommendation in the **Federal Register** as a proposed rule with a 30-day public comment period. The Council may instead submit its recommendation on or before February 1, if it chooses to follow the framework process outlined in paragraph (c) of this section, and requests that the Regional Administrator publish the recommendation as a final rule, in a manner consistent with the Administrative Procedure Act. If the Regional Administrator concurs that the Council's recommendation meets the FMP objectives and is consistent with other applicable law, and determines that the recommended management measures should be published as a final rule, the action will be published as a final rule in the **Federal Register,** in a manner consistent with the Administrative Procedure Act. If the Regional Administrator concurs that the recommendation meets the FMP objectives and is consistent with other applicable law and determines that a proposed rule is warranted, and, as a result, the effective date of a final rule falls after the start of the fishing year on May 1, fishing may continue. However, DAS used or regulated species or ocean pout landed by a vessel on or after May 1 will be counted against any DAS or Sector ACE allocation the vessel or Sector ultimately receives for that year, as appropriate.

* * * * *

(4) *Process for setting ABCs and ACLs*—(i) *ABC/ACL recommendations.* As described in this paragraph (a)(4), with the exception of stocks managed by the Understanding, the PDT shall develop recommendations for setting an ABC, ACL, and OFL for each NE multispecies stock for each of the next 3 years as part of the biennial review process specified in paragraph (a)(2) of this section. ACLs can also be specified based upon updated information in the annual SAFE report, as described in paragraph (a)(1) of this section, and other available information as part of a specification package, as described in paragraph (a)(5) of this section. For NE multispecies stocks or stock components managed under both the NE Multispecies FMP and the Understanding, the PDT shall develop recommendations for ABCs, ACLs, and OFLs for the pertinent stock or stock components annually, as described in this paragraph (a)(4) and § 648.85(a)(2).

(A) *ABC recommendations.* The PDT shall develop ABC recommendations based on the ABC control rule, the fishing mortality rate necessary to rebuild the stock, guidance from the SSC, and any other available information. The PDT recommendations shall be reviewed by the SSC. Guided by terms of reference developed by the Council, the SSC shall either concur with the ABC recommendations provided by the PDT, or provide alternative recommendations for each stock of regulated species or ocean pout and describe the elements of scientific uncertainty used to develop its recommendations. Should the SSC recommend an ABC that differs from that originally recommend by the PDT, the PDT shall revise its ACL recommendations if necessary to be consistent with the ABC recommendations made by the SSC. In addition to consideration of ABCs, the SSC may consider other related issues specified in the terms of reference developed by the Council, including, but not limited to, OFLs, ACLs, and management uncertainty.

(B) *ACL recommendations.* The PDT shall develop ACL recommendations based upon ABCs recommended by the SSC and the pertinent recommendations of the Transboundary Management Guidance Committee (TMGC). The ACL recommendations of the PDT shall be specified based upon total catch for each stock (including both landings and discards), if that information is available. The PDT shall describe the steps involved with the calculation of the recommended ACLs and uncertainties and risks considered when developing these recommendations, including whether different levels of uncertainties were used for different sub-components of the fishery and whether ACLs have been exceeded in recent years. Based upon the ABC recommendations of the SSC and the ACL recommendations of the PDT, the Council shall adopt ACLs that are equal to or lower than the ABC recommended by the SSC to account for management uncertainty in the fishery.

(ii) *Timing.* The PDT recommendations for setting ABCs and ACLs shall be provided to the SSC prior to the September Council meeting, to the extent possible. The Council shall consider the ABC recommendations of the SSC and the ACL recommendations of the PDT (and TMGC) and shall make a decision on those recommendations prior to December 1, to the extent possible. Once the Council has approved its recommended ACLs, they shall be submitted to NMFS prior to December 1, to the extent possible for approval and implementation. If the Council is submitting a management action as part of the biennial adjustment process, the ACLs can be included in that document along with any necessary analysis required by applicable law. After receipt of the Council recommendation for ACLs, either as part of a new management action or as part of a specification package, as described in paragraph (a)(5) of this section, NMFS shall review the Council's decision and, if consistent with applicable law, implement the ACL in a manner consistent with the Administrative Procedure Act.

(iii) *ABC/ACL distribution.* The ABCs/ACLs adopted by the Council for each regulated species or ocean pout stock pursuant to this paragraph (a)(4) shall be subdivided among the various sub-components of the fishery, as specified in paragraphs (a)(4)(iii)(A) through (E) of this section. For transboundary stocks managed by the Understanding, pursuant to § 648.85(a), the distribution of ABC/ACLs described in paragraphs (a)(4)(iii)(A) through (E) of this section shall be based upon the catch available to U.S. fishermen. The Council may revise its recommendations for the distribution of ABCs and ACLs among these and other sub-components through the process to specify ABCs and ACLs, as described in this paragraph (a)(4).

(A) *Regulated species or ocean pout catch by vessels outside of the FMP.* The catch of regulated species or ocean pout that is expected to be harvested by vessels operating in state waters that have not been issued a Federal NE multispecies permit and are not subject to the regulations specified in this part shall be deducted from the ABC/ACL of each regulated species or ocean pout stock pursuant to the process for specifying ABCs and ACLs, as described in this paragraph (a)(4).

(B) *Regulated species or ocean pout catch by exempted fisheries.* Regulated species or ocean pout catch by other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in § 648.80(b)(3) shall be deducted from the ABC/ACL of each regulated species or ocean pout stock, pursuant to the process to specify ABCs and ACLs described in this paragraph (a)(4). The catch of these non-specified sub-components of the ACL shall be monitored using data collected pursuant to this part. If catch from such fisheries exceeds the amount specified in this paragraph (a)(4)(iii)(B), AMs shall be developed to prevent the overall ACL for each stock from being exceeded, pursuant to the framework adjustment process specified in this section.

(C) *Yellowtail flounder catch by the Atlantic sea scallop fishery.* Yellowtail flounder catch in the Atlantic sea

scallop fishery, as defined in subpart D, shall be deducted from the ABC/ACL for each yellowtail flounder stock pursuant to the restrictions specified in subpart D of this part and the process to specify ABCs and ACLs, as described in paragraph (a)(4) of this section. Unless otherwise specified in subpart D of this part, the specific value of the sub-components of the ABC/ACL for each stock of yellowtail flounder distributed to the Atlantic sea scallop fishery shall be specified pursuant to the biennial adjustment process specified in paragraph (a)(2) of this section. At a minimum, these values must be consistent with the incidental catch amounts for yellowtail flounder specified for the closed area access programs described in §§ 648.60(a)(5) and 648.85(c).

(D) *Haddock catch by the Atlantic herring fishery.* The GOM and GB haddock ABC/ACL shall each be reduced by 0.2 percent to account for haddock bycatch in the Atlantic herring fishery, pursuant to the restrictions at §§ 648.85(d) and 648.86(a)(3) and pursuant to the process for specifying ABCs and ACLs described in this paragraph (a)(4).

(E) *Regulated species or ocean pout catch by the NE multispecies commercial and recreational fisheries.* Unless otherwise specified in the ACL recommendations developed pursuant to paragraph (a)(4)(i)(B), after all of the deductions and considerations specified in paragraphs (a)(4)(iii)(A) through (D) of this section, the remaining ABC/ACL for each regulated species or ocean pout stock shall be allocated to the NE multispecies commercial fishery, pursuant to this paragraph (a)(4)(iii)(E).

(*1*) *Recreational allocation.* Unless otherwise specified in paragraph (a)(5) of this section, recreational catches shall be compared to the ACLs allocated pursuant to this paragraph (a)(4)(iii)(E)(*1*) for the purposes of determining whether adjustments to recreational measures are necessary, pursuant to the recreational fishery AMs specified in § 648.89(f).

(*i*) *Stocks allocated.* Unless otherwise specified in this paragraph (a)(4)(iii)(E)(*1*), the ABCs/ACLs for GOM cod and GOM haddock available to the NE multispecies fishery pursuant to paragraph (a)(4)(iii)(E) of this section shall be divided between commercial and recreational components of the fishery, based upon the average proportional catch of each component for each stock during fishing years 2001 through 2006.

(*ii*) *Process for determining if a recreational allocation is necessary.* A recreational allocation may not be made if it is determined that, based upon available information, the ACLs for these stocks are not being fully harvested by the NE multispecies fishery, or if the recreational harvest, after accounting for state waters catch pursuant to paragraph (a)(4)(iii)(A) of this section, is less than 5 percent of the overall catch for a particular stock of regulated species or ocean pout.

(*2*) *Commercial allocation.* The ABC/ACL for regulated species or ocean pout stocks available to the commercial NE multispecies fishery, after consideration of the recreational allocation pursuant to paragraph (a)(4)(iii)(E)(*1*) of this section, shall be divided between vessels operating under approved Sector operations plans, as described at § 648.87(c), and vessels operating under the provisions of the common pool, as defined in this part, based upon the cumulative PSCs of vessels participating in Sectors calculated pursuant to § 648.87(b)(1)(i)(E). Unless otherwise specified in paragraph (a)(5) of this section, regulated species or ocean pout catch by common pool and Sector vessels shall be deducted from the sub-ACL/ACE allocated pursuant to this paragraph (a)(4)(iii)(E)(*2*) for the purposes of determining whether adjustments to common pool measures are necessary, pursuant to the common pool AMs specified in § 648.82(n), or whether Sector ACE overages must be deducted, pursuant to § 648.87(b)(1)(iii).

(*3*) *Revisions to commercial and recreational allocations.* Distribution of the ACL for each stock available to the NE multispecies fishery between and among commercial and recreational components of the fishery may be implemented through a framework adjustment pursuant to this section. Any changes to the distribution of ACLs to the NE multispecies fishery shall not affect the implementation of AMs based upon the distribution in effect at the time of the overage that triggered the AM.

(iv) *ACL monitoring*—(A) *Landings.* For the purposes of monitoring the catch of regulated species or ocean pout towards the harvest of ACLs and other, non-specified sub-components of the ACLs specified in paragraph (a)(4) of this section, the reporting requirements specified in this part, including dealer reports, VTRs, VMS catch reports, Sector catch reports, and other available information shall be used to identify and apportion regulated species or ocean pout landings by stock area.

(B) *Discards.* Unless otherwise specified in this paragraph (a)(4)(iv)(B), regulated species or ocean pout discards shall be monitored through the use of VTRs, observer data, VMS catch reports, and other available information, as specified in this part. Regulated species or ocean pout discards by vessels on a Sector trip shall be monitored pursuant to paragraph (b)(1)(v)(A) of this section.

(v) *Adjustments to ACLs.* The Council may elect to revise the ACL for any regulated species or ocean pout stock in the second fishing year following a biennial review to account for any overages of an ACL in year one that may result in overfishing for a particular stock. Any adjustments to the ACLs in year two will be implemented pursuant to the process to specify ABCs and ACLs, as described in paragraph (a)(4) of this section.

(5) *AMs.* Except as specified in paragraphs (a)(4)(iii)(A) and (D) of this section, if any of the ACLs specified in paragraph (a)(4) of this section are exceeded based upon available catch information, the AMs specified in paragraphs (a)(5)(i) and (ii) of this section shall take effect in the following fishing year, or as soon as practicable, thereafter, once catch data for all affected fisheries are available, as applicable.

(i) *AMs for the NE multispecies commercial and recreational fisheries.* If the catch of regulated species or ocean pout by a sub-component of the NE multispecies fishery (*i.e.,* common pool vessels, Sector vessels, or private recreational and charter/party vessels) exceeds the amount allocated to each sub-component, as specified in paragraph (a)(4)(iii)(E) of this section, then the applicable AM for that sub-component of the fishery shall take effect, pursuant to paragraphs (a)(5)(i)(A) through (C) of this section. In determining the applicability of AMs specified for a sub-component of the NE multispecies fishery in paragraphs (a)(5)(i)(A) through (C) of this section, the Regional Administrator shall consider available information regarding the catch of regulated species and ocean pout by each sub-component of the NE multispecies fishery, plus each sub-component's share of any overage of the overall ACL for a particular stock caused by excessive catch by vessels outside of the FMP, exempted fisheries, or the Atlantic sea scallop fishery, as specified in this paragraph (a)(5), as appropriate.

(A) *Excessive catch by common pool vessels.* If the catch of regulated species and ocean pout by common pool vessels exceeds the amount of the ACL specified for common pool vessels pursuant to paragraph (a)(4)(iii)(E)(*2*) of this section, then the AMs described in § 648.82(n) shall take effect. If such catch does not exceed the portion of the ACL specified for common pool vessels

pursuant to paragraph (a)(4)(iii)(E)(*2*) of this section, then no AMs shall take effect for common pool vessels.

(B) *Excessive catch by Sector vessels.* If the catch of regulated species and ocean pout by Sector vessels exceeds the amount of the ACL specified for Sector vessels pursuant to paragraph (a)(4)(iii)(E)(*2*) of this section, then the AMs described in § 648.87(b)(1)(iii) shall take effect. For the purposes of this paragraph (a)(5)(i)(B), the catch of regulated species and ocean pout for each Sector approved pursuant to § 648.87 shall be based upon the catch of vessels participating in each approved Sector. If such catch does not exceed the portion of the ACL specified for an individual Sector pursuant to paragraph (a)(4)(iii)(E)(*2*) of this section, then no AMs shall take effect for that Sector.

(C) *Excessive catch by the NE multispecies recreational fishery.* If the catch of regulated species and ocean pout by private recreational and charter/party vessels exceeds the amount of the ACL specified for the recreational fishery pursuant to paragraph (a)(4)(iii)(E)(*1*) of this section, then the AMs described in § 648.89(f) shall take effect. If such catch does not exceed the portion of the ACL specified for the recreational fishery pursuant to paragraph (a)(4)(iii)(E)(*1*) of this section, then no AMs shall take effect for the recreational fishery.

(ii) *AMs if the overall ACL for a regulated species or ocean pout stock is exceeded.* If the catch of any stock of regulated species or ocean pout by vessels fishing outside of the NE multispecies fishery, including the catch of regulated species or ocean pout by vessels fishing in state waters outside of the FMP, or in exempted fisheries, as defined in this part, or the catch of yellowtail flounder by the Atlantic sea scallop fishery, exceeds the sub-component of the ACL for that stock specified for such fisheries pursuant to paragraphs (a)(4)(iii)(A) through (C) of this section, and the overall ACL for that stock is exceeded, then the amount of the overage of the overall ACL for that stock shall be distributed among components of the NE multispecies fishery based upon each component's share of that stock's ACL available to the NE multispecies fishery pursuant to paragraph (a)(4)(iii)(E) of this section. Each component's share of the ACL overage for a particular stock would be then added to the catch of that stock by each component of the NE multispecies fishery to determine if the resulting sum of catch of that stock for each component of the fishery exceeds that individual component's share of that stock's ACL available to the NE multispecies fishery. If the total catch of that stock by any component of the NE multispecies fishery exceeds the amount of the ACL specified for that component of the NE multispecies fishery pursuant to paragraph (a)(4)(iii)(E) of this section, then the AMs specified in paragraphs (a)(5)(i)(A) through (C) of this section shall take effect, as applicable. If the catch of any stock of regulated species or ocean pout by vessels outside of the FMP exceeds the sub-component of the ACL for that stock specified pursuant to paragraphs (a)(4)(iii)(A) through (C) of this section, but the overall ACL for that stock is not exceeded, even after consideration of the catch of that stock by other sub-components of the fishery, then the AMs specified in this paragraph (a)(5)(ii) shall not take effect.

(6) *Specifications process*—(i) *PDT recommendations.* Unless otherwise developed pursuant to the biennial review process specified in paragraph (a)(2) of this section, the PDT shall develop recommendations for setting ACLs for each regulated species or ocean pout, including ACLs for stocks managed by the Understanding; revising rebuilding programs and associated management measures; or modifying AMs for consideration by the Council's Groundfish Oversight Committee based upon the SAFE report prepared pursuant to paragraph (a)(1) of this section. If the Council determines, based on information provided by the PDT or other stock-related information, that the ACLs should be adjusted between biennial reviews, it can do so through the same process outlined in this section during the interim year.

(ii) *Guidelines.* As the basis for its recommendations under paragraph (a)(5)(i) of this section, the PDT shall review available data pertaining to: Commercial and recreational catch data; current estimates of fishing mortality; discards; stock status; recent estimates of recruitment; virtual population analysis results and other estimates of stock size; sea sampling and trawl survey data or, if sea sampling data are unavailable, length frequency information from trawl surveys; impact of other fisheries on herring mortality; and any other relevant information.

(iii) *Groundfish Oversight Committee recommendations.* Based on the PDT's recommendations and any public comment received, the Groundfish Oversight Committee shall recommend to the Council appropriate specifications for a period of at least 1 year. The Council shall review these recommendations and, after considering public comment, shall recommend appropriate specifications to NMFS. NMFS shall review the recommendations and publish proposed specifications in a manner consistent with the Administrative Procedure Act. If the proposed specifications differ from those recommended by the Council, the reasons for any differences shall be clearly stated.

(iv) *Analysis.* Any specifications package developed pursuant to this paragraph (a)(5) shall be supported by the appropriate NEPA analysis, which shall be made available for public comment.

(c) * * *

(1) * * *

(i) After a management action has been initiated, the Council shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses and opportunity to comment on them prior to and at the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes, effort monitoring, data reporting, possession limits, gear restrictions, closed areas, permitting restrictions, crew limits, minimum fish sizes, onboard observers, minimum hook size and hook style, the use of crucifer in the hook-gear fishery, Sector requirements, recreational fishing measures, area closures and other appropriate measures to mitigate marine mammal entanglements and interactions, description and identification of EFH, fishing gear management measures to protect EFH, designation of habitat areas of particular concern within EFH, changes to the Northeast Region SBRM, and any other management measures currently included in the FMP. In addition, the Council's recommendation on adjustments or additions to management measures pertaining to small-mesh NE multispecies, other than to address gear conflicts, must come from one or more of the following categories: Quotas and appropriate seasonal adjustments for vessels fishing in experimental or exempted fisheries that use small mesh in combination with a separator trawl/grate (if applicable), modifications to separator grate (if applicable) and mesh configurations for fishing for small-mesh NE multispecies, adjustments to whiting stock boundaries for management purposes, adjustments for fisheries exempted from minimum mesh requirements to fish for small-mesh NE multispecies (if applicable), season

adjustments, declarations, participation requirements for the Cultivator Shoal Whiting Fishery Exemption Area, and changes to the Northeast Region SBRM (including the CV-based performance standard, the means by which discard data are collected/obtained, fishery stratification, reports, and/or industry-funded observers or observer set-aside programs).

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[FR Doc. E9–29854 Filed 12–22–09; 11:15 am]

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Federal Register

Thursday,
December 31, 2009

Part III

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2009; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5324–N–03]

Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2009

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on July 1, 2009 and ending on September 30, 2009.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–1793 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the third quarter of calendar year 2009.

SUPPLEMENTARY INFORMATION:

Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337), as revised and updated by the notice issued on December 17, 2008 (73 FR 76674). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from July 1, 2009 through September 30, 2009. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, *etc.*). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the third quarter of calendar year 2009) before the next report is published (the fourth quarter of calendar year 2009), HUD will include any additional waivers granted for the second quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: December 23, 2009.

Helen R. Kanovsky,

General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development July 1, 2009 Through September 30, 2009

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development
II. Regulatory waivers granted by the Office of Housing
III. Regulatory waivers granted by the Office of Public and Indian Housing

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 92.500 (d)(1)(C).

Project/Activity: The City of Port Arthur, Texas requested a waiver of its June 30, 2009, deadline for expending more than $31,000 of HOME Investment Partnerships program funds. Disruptions caused by hurricanes Rita and Ike caused delays in committing and expending HOME funds.

Nature of Requirement: The HOME regulations at 24 CFR 92.500(d)(1)(C) require that a participating jurisdiction (PJ) expend its annual allocation of HOME funds within five years after HUD notifies the PJ that HUD has

executed the jurisdiction's HOME Investment Partnerships Agreement.

Granted By: Mercedes M. Márquez, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2009.

Reason Waived: The waiver of the City's FY 2004 HOME expenditure deadline ensures that funds necessary for recovery from two major disasters are not deobligated.

Contact: Ms. Virginia Sardone, Deputy Director, Office of Affordable Housing Programs, Office of Community and Urban Development, Office of Housing and Urban Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7164, Washington, DC 20410–7000, telephone number (202) 708–2470.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Jamestown, New York, requested a waiver of the application deadline.

Nature of Requirement: Section IV.E.3 of the HPRP Notice provides that each eligible HPRP grantee must ensure that its complete application is postmarked no later than May 18, 2009, in order to receive funding.

Granted By: Nelson R. Bregon, General Deputy Assistant Secretary for Community and Planning Development.

Date Granted: June 25, 2009.

Reason Waived: HUD approved the waiver because an extension of the application deadline would enable the City of Jamestown to fully develop an HPRP program by involving the local Continuum of Care partners through the Chautauqua County Homeless Coalition and providing adequate notice and opportunity for citizen participation in finalizing the Substantial Amendment.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Columbia, South Carolina, requested a waiver of the application deadline.

Nature of Requirement: Section IV.E.3 of the HPRP Notice provides that each eligible HPRP grantee must ensure that its complete application is postmarked no later than May 18, 2009, in order to receive funding.

Granted By: Nelson R. Bregon, General Deputy Assistant Secretary for Community Planning Development.

Date Granted: June 25, 2009.

Reason Waived: Due to a recent reorganization of the City's Community Development Department, the City was unable to submit a Substantial Amendment to its 2008 Consolidated Action Plan by May 18, 2009, deadline. HUD approved this waiver because the need for the waiver was due to an unavoidable administrative barrier. The City hand-delivered its Amendment to the local Field Office on May 19, 2009.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the State of South Dakota, requested a waiver of the application deadline.

Nature of Requirement: Section IV.E.3 of the HPRP Notice provides that each eligible HPRP grantee must ensure that its complete application is postmarked no later than May 18, 2009, in order to receive funding.

Granted By: Mercedes Marquez, Assistant Secretary of Community Planning and Development.

Date Granted: July 27, 2009.

Reason Waived: HUD presented additional clarifications on the HPRP program during the time the State held its public comment period for its Substantial Amendment. In response to HUD clarifications, the State initiated modifications to its Substantial Amendment and invited public comments on its modified Amendment. The State requested an extension of the submission deadline in order to fully develop the HPRP program in light of HUD's clarifications and to provide adequate notice and opportunity for citizen participation in finalizing the Substantial Amendment. HUD granted the requested waiver upon this showing of good cause.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Portland, Oregon requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to a local public housing authority (PHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: July 27, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure PHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing the PHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the PHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing

Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Mobile, Alabama requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to a local public housing authority (PHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: July 28, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure Housing Authority residents are not unfairly selected over other eligible individuals and families; (2) utilizing the Housing Authority as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the Housing Authority has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Saginaw, Michigan, requested a waiver of the resubmission deadline.

Nature of Requirement: Section IV.F.2 of the HPRP Notice provides that each eligible HPRP grantee may revise and resubmit an application that HUD has disapproved within 15 days of the date that it was notified of the disapproval.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: July 28, 2009.

Reason Waived: On June 18, 2009, HUD disapproved the City's submission of the Substantial Amendment to the Consolidated Plan 2008 Action Plan for HPRP because it was not responsive to one question. The revision was due on July 3, 2009, but the City indicated that the mayor is the authorized representative for the application and was unavailable to sign the grantee's revised Substantial Amendment for HPRP by the due date of July 3, 2009. The city submitted its revision on July 8, 2009. HUD approved this waiver because the need for the waiver was due to an unavoidable administrative barrier.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, County of Riverside, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to a local public housing authority (PHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: July 28, 2009.

Reason Waived: The County provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure PHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing the PHA as a subgrantee will result in an efficient and effective program that benefit HPRP participants; and (3) the PHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, County of Los Angeles, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Los Angeles Homeless Services Authority (LAHSA).

Nature of Requirement: Subsections III.B. and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 6, 2009.

Reason Waived: The County provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will continue to be selected in a fair process; (2) utilizing LAHSA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) LAHSA has the capacity to implement an HMIS to serve homeless families.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Oceanside, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Housing Authority of the City of Oceanside.

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 6, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure Housing Authority residents are not unfairly selected over other eligible individuals and families; (2) utilizing the Housing Authority as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the Housing Authority has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Los Angeles, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Los Angeles Homeless Services Authority (LAHSA) and the Housing Authority of the City of Los Angeles (HACLA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Nelson R. Bregon, General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: August 6, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure HACLA residents are not unfairly selected over other eligible individuals and families; (2) utilizing LAHSA and HACLA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) LAHSA and HACLA have proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Riverside, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Housing Authority of the County of Riverside (HACR).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 6, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure HACR residents are not unfairly selected over other eligible individuals and families; (2) utilizing the HACR as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) HACR has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, County of San Diego, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Housing Authority of the County of San Diego.

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 6, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure Housing Authority residents are not unfairly selected over other eligible individuals and families; (2) utilizing the Housing Authority as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the Housing Authority has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, County of Sonoma, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to Sonoma County Housing Authority (SCHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that Metropolitan Cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 11, 2009.

Reason Waived: The County provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure SCHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing SCHA as a subgrantee will result in an efficient and effective

program that benefits HPRP participants; and (3) SCHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Boise, Idaho requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Boise City/Ada County Housing Authority (BC/ACHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provide that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 11, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure BC/ACHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing BC/ACHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) BC/ACHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Compton, California requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Compton Housing Authority.

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community and Planning Development.

Date Granted: August 11, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure Housing Authority residents are not unfairly selected over other eligible individuals and families; (2) utilizing the Housing Authority as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the Housing Authority has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Jackson, Mississippi requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Jackson Housing Authority.

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community and Planning Development.

Date Granted: August 11, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure Housing Authority residents are not unfairly selected over other eligible individuals and families; (2) utilizing the Housing Authority as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the Housing Authority has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the Town of Union, New York, requested a waiver of the resubmission deadline.

Nature of Requirement: Section IV.F.2 of the HPRP Notice provides that each eligible HPRP grantee may revise and resubmit an application that HUD has disapproved within 15 days of the date that it was notified of the disapproval.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 12, 2009.

Reason Waived: The Town of Union requested an additional 15 days to submit a new application meeting HUD's program requirements. HUD determined that there was good cause for waiving the 15-day resubmission deadline based on the following: The Town of Union submitted a Substantial Amendment by the May 18, 2009, application submission deadline, which proposed using all HPRP funds to purchase furnaces for low-income elderly homeowners. On May 14, 2009, the Town of Union also requested a waiver of any prohibition on funding this kind of activity. On July 2, 2009, HUD wrote to the Town of Union indicating that its request for a waiver of the eligible activities under the Notice was still under review. On July 9, 2009, the Town of Union requested an additional 15 days to resubmit an approvable application containing eligible activities should HUD both disapprove its application and deny its waiver request. On July 14, 2009, HUD: (1) Disapproved the HPRP application based upon the ineligibility of the proposed funding of furnaces for elderly

people; and (b) denied the request for a waiver of the Notice's eligible activity standards to permit the funding of furnaces for elderly persons. The timing of HUD's application disapproval and the denial of the waiver request came too late for the Town of Union to effectively revise and resubmit a new HPRP application within the remaining time available under the original 15-day resubmission period.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, City of Lima, Ohio requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Allen Metropolitan Housing Authority (AMHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 20, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure AMHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing AMHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) AMHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, County of McHenry, Illinois requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the McHenry County Housing Authority (MCHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 20, 2009.

Reason Waived: The County provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure MCHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing MCHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) MCHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, Cumberland County, requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Housing Authority of Cumberland County, Pennsylvania.

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: August 24, 2009.

Reason Waived: The County provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure Housing Authority residents are not unfairly selected over other eligible individuals and families; (2) utilizing the Housing Authority as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) the Housing Authority has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the State of Arizona, Arizona Department of Housing (ADOH), requested a waiver in order to retain and use HPRP funds for administering the Homeless Management Information System (HMIS) as required by the Recovery Act.

Nature of Requirement: Subsection III.A of the HPRP Notice provides that a State grantee must make available all of its formula allocation, except for an appropriate share of funds for administrative costs, to units of general local government and private nonprofit organizations in the State to carry out all eligible activities.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: September 8, 2009.

Reason Waived: The State provided sufficient information for HUD to grant the waiver on the basis of the following: (1) the HMIS is already in place; (2) the HMIS is administered by ADOH; and (3) the alternative proposal of utilizing a fee structure to administer HMIS and meet the requirements in the Recovery Act would impose additional administrative burdens for the State.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community

Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Kentucky Housing Corporation (KHC), acting on behalf of the Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the State of Kentucky, requested a waiver in order to retain and use HPRP funds for administering the Homeless Management Information System (HMIS) as required by the Recovery Act.

Nature of Requirement: Subsection III.A of the HPRP Notice provides that a State grantee must make available all of its formula allocation, except for an appropriate share of funds for administrative costs, to units of general local government and private nonprofit organizations in the State to carry out all eligible activities.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: September 8, 2009.

Reason Waived: KHC provided sufficient information for HUD to grant the waiver on the basis of the following: (1) The HMIS is already in place; (2) the HMIS is administered by KHC; and (3) the alternative proposal of utilizing a fee structure to administer HMIS and meet the requirements in the Recovery Act would impose additional administrative burdens for KHC.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number 202–708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, Horry County, South Carolina, requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Conway Housing Authority (CHA) and the Myrtle Beach Housing Authority (MBHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning Development.

Date Granted: September 8, 2009.

Reason Waived: The County provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure CHA and MBHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing the CHA and MBHA as subgrantees will result in an efficient and effective program that benefits HPRP participants; and (3) CHA and MBHA have proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

• *Regulation:* Notice of Allocations, Application Procedures, and Requirements for Homelessness Prevention and Rapid Re-Housing Program Grantees under the American Recovery and Reinvestment Act of 2009 (Recovery Act), issued March 19, 2009 (HPRP Notice).

Project/Activity: Homelessness Prevention and Rapid Re-Housing Program (HPRP) grantee, the City of Tacoma, Washington requested a waiver of the limitation on eligible subgrantees in order to subgrant HPRP funds to the Pierce County Housing Authority (PCHA).

Nature of Requirement: Subsections III.B and III.C of the HPRP Notice provides that metropolitan cities, urban counties, and territories may distribute all or part of their grant amounts to private non-profit organizations or another local government.

Granted By: Mercedes Marquez, Assistant Secretary for Community Planning and Development.

Date Granted: September 30, 2009.

Reason Waived: The City provided sufficient information for HUD to grant the waiver on the basis of the following: (1) HPRP participants will be selected in a manner that will ensure PCHA residents are not unfairly selected over other eligible individuals and families; (2) utilizing the PCHA as a subgrantee will result in an efficient and effective program that benefits HPRP participants; and (3) PCHA has proven capacity to serve homeless persons.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410–7000, telephone number (202) 708–4300.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 203.37a.

Project/Activity: Property Flipping, Atlanta, GA.

Nature of the Requirement: FHA's property flipping regulation restricts the eligibility for FHA mortgage insurance, for those properties purchased and re-sold within 90 days. The regulation exempts government entities and nonprofits approved to purchase HUD real estate owned (REO) properties; however, the restriction still exists for private entities and especially those working on behalf of local governments under the Neighborhood Stabilization Program. The waiver request is to exempt a private entity working on behalf of a local government for the Neighborhood Stabilization Program.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 14, 2009.

Reason Waived: The regulation was waived to allow for purchase and resale of REO properties within 90 days under the Neighborhood Stabilization Program, which furthers the purposes of this program which is designed to stabilize neighborhoods through the purchase of abandoned and foreclosed homes.

Contact Person(s): Ralph Jackson, Real Estate Owned Division, Atlanta Homeownership Center, Office of Housing, Department of Housing and Urban Development, 40 Marietta Street, Atlanta, GA 30303, telephone (678) 732–2153. Kevin Shearer, Field Review Branch 1, Atlanta Homeownership Center, Office of Housing, Department of Housing and Urban Development, 40 Marietta Street, Atlanta, GA 30303, telephone (678) 732–2161.

• *Regulation:* 24 CFR 203.43f.

Project/Activity: Federal Emergency Management Agency (FEMA)

designated Flood Hazard Areas in the State of Louisiana.

Nature of the Requirement: The National Flood Insurance Program (NFIP) installation requirements for manufactured homes and the flood hazard regulations for one and two single family dwellings are less onerous than the flood hazard regulations for manufactured homes found at 24 CFR 203.43f, which specify that the finished grade beneath the manufactured home must be at or above the 100 year return frequency flood elevation. Extending the waiver to 24 CFR 203.43f permits manufactured homes that are located in FEMA designated flood hazard areas to be in compliance with the less onerous NFIP requirements and serves to assist in the reconstruction of homes impacted by Hurricane Katrina in the State of Louisiana.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 11, 2009.

Reason Waived: Extending the waiver to 24 CFR 203.43f permits manufactured homes that are located in FEMA designated flood hazard areas to be in compliance with the less onerous NFIP requirements and serves to assist in the reconstruction/replacement of homes impacted by Hurricane Katrina in the State of Louisiana with an affordable housing type.

Contact: Joanne Kuczma, Director, Office of Single Family Program Development, Home Mortgage Insurance Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW. Washington, DC 20410–8000, telephone 202–402–2137.

• *Regulation:* 24 CFR 206.32(a).

Project/Activity: The waiver is applicable to certain borrowers in the State of Maine under FHA's Home Equity Conversion Mortgage (HECM) Program.

Nature of Requirement: FHA's regulation 24 CFR 206.23(a) require that there be no outstanding or unpaid obligations, incurred by the HECM mortgagor, in connection with the HECM transaction. The borrowers obtained a negotiated short payoff on their forward mortgage from their existing lender, CitiFinancial. They are seeking HECM financing which will be used to satisfy their existing mortgage and outstanding judgments. The HECM lender, American Home Bank, worked with Maine Stream Finance, a Community Development Financial Institution, in order for the homeowners to obtain subordinate financing, enabling them to satisfy certain financial obligations, and, in turn, close the HECM transaction and save their home from foreclosure.

Granted By: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 10, 2009.

Reason Waived: The regulation was waived to prevent the borrowers from losing their home through foreclosure.

Contact: Kathy Hardy, Home Valuation Policy Division, Office of Single Family Program Development, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9241, Washington, DC 20410–8000, telephone (202) 708–2121.

• *Regulation:* 24 CFR 219.220(b)(1995), 24 CFR Part 219.320(1995) and 24 CFR 219.335(a) (1995).

Project/Activity: Lakeview Towers, Chicago, Illinois—FHA Project Number 071–10021/071–35743. The property has 500 units comprised of two 25-story high rise towers. The property is in need of rehabilitation to continue as a well-maintained source of affordable housing.

Nature of Requirement: Section 219.220(b) (1995) of FHA's regulations, which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996, states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy loan would be repaid, in whole, at that time.''

Section 219.320 (1995) of FHA's regulation entitled ''Loan terms and conditions'' will continue to govern the rights and obligations of housing owners, tenants and [HUD] with respect to units and projects assisted under the Flexible Subsidy Program * * *'' The regulation applies to capital improvement loans made pursuant to Section 201(k) of the Housing and Community Development Amendments of 1978.

Section 219.335(a) (1995) of FHA's regulation entitled ''Operations'' provides that interest on the capital improvement loan starts to accrue and the loan amortization period begins when the loan proceeds have been spent.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 24, 2009.

Reason Waived: This regulatory waiver was granted to preserve this much needed affordable housing. The owners of Lakeview Towers proposed to extend the term for repayment of the Flexible Subsidy loans for 3 years to match the term of the new section 241(a) loan and make capital improvements to the property. These waivers were allowed because, without them, the owner would not have had the necessary funds to perform needed façade repairs and rehabilitation of a portion of the kitchen and bathrooms in the property. Providing these waivers allowed the owner to obtain financing to perform substantial rehabilitation of the property and allow the amortization of the flexible subsidy loan with the new section 241(a) loan.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 FR 290.30(a).

Project/Activity: Park Lee Apartments, Phoenix, Arizona—FHA Project Number 123–35418. This insured loan went into default and was assigned to HUD. Waiver of this regulation allowed the City of Phoenix to purchase this defaulted, unsubsidized mortgage loan on a noncompetitive basis.

Nature of Requirement: FHA's regulations governing the sale of HUD–Held mortgages are set forth in 24 CFR part 290, subpart B. Section 290.30(a) of those regulations state that ''[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD–Held multifamily mortgages on a competitive basis.'' Section 290.31(a)(2) permits ''negotiated'' sales to State or local governments for mortgage loans that are current and secured by subsidized projects, provided such loans are sold with FHA insurance.

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 7, 2009.

Reason Waived: This regulation was waived in order to allow the sale of Park Lee Apartments to the City of Phoenix, thereby preventing foreclosure of the property. The city plans to become the managing member of the current owner entity and work with it to infuse funds to complete rehabilitation, thus making the property an asset to the community and preserving its affordability.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 290.30(a).

Project/Activity: Washington Manor Apartments, Memphis, Tennessee—FHA Project Number 081–35245. This was an unsubsidized project which went into default and was assigned to HUD. The City of Memphis had expressed interest in purchasing the mortgage and alleviating impending foreclosure proceedings.

Nature of Requirement: FHA's regulations governing the sale of HUD–Held mortgages are set forth in 24 CFR part 290, subpart B. Section 290.30(a) of those regulations state that ''[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD–Held multifamily mortgages on a competitive basis.'' Section 290.31(a)(2) permits ''negotiated'' sales to State or local governments for mortgage loans that are current and secured by subsidized projects, provided such loans are sold with FHA insurance.

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 7, 2009.

Reason Waived: This regulation was waived in order to allow the noncompetitive sale of Washington Manor Apartments to the City of Memphis, thereby preventing foreclosure of the property. Waiver of this requirement would preserve this much needed low income housing resource and reduce the number of loans in the HUD–Held mortgage inventory.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 290.30(a).

Project/Activity: Phyllis Wheatley Apartments, Washington, DC—FHA Project Number 000–35418. This property went into default and was part of the HUD–Held inventory. The District of Columbia DHCD had expressed an interest in purchasing the property. Waiver of this regulation allowed the sale of this delinquent, unsubsidized mortgage to the District of Columbia.

Nature of Requirement: FHA's regulations governing the sale of HUD–Held mortgages are set forth in 24 CFR part 290, subpart B. Section 290.30(a) of those regulations state that ''[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD–Held multifamily mortgages on a competitive basis.'' Section 290.31(a)(2) permits ''negotiated'' sales to State or local governments for mortgage loans that are current and secured by subsidized projects, provided such loans are sold with FHA insurance.

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 7, 2009.

Reason Waived: This regulation was waived in order to allow the noncompetitive sale of Phyllis Wheatley Apartments to the District of Columbia and prevent foreclosure of the property. Waiver of this requirement would produce budget savings by generating proceeds to the U.S. Treasury and assure that the Phyllis Wheatley facility is transformed into a viable and productive housing facility for eligible occupants in the District of Columbia.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 290.30(a) and 24 CFR 290.35(b)(2).

Project/Activity: John C. Cannon House Apartments, Seattle, Washington. This property went into default and was part of the HUD–Held inventory. The City of Seattle had expressed an interest in purchasing the property. Waiver of this regulation allowed the sale of this delinquent, unsubsidized mortgage to the City of Seattle.

Nature of Requirement: FHA's regulations governing the sale of HUD–Held mortgages are set forth in 24 CFR part 290, subpart B. Section 290.30(a) of those regulations state that ''[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD–Held multifamily mortgages on a competitive basis.'' Section 290.31(a)(2) permits ''negotiated'' sales to State or local governments for mortgage loans that are current and secured by subsidized projects, provided such loans are sold with FHA insurance.

Section 290.35(b)(2) governs the sale of delinquent mortgages securing subsidized projects, ''(1) However, delinquent mortgages will not be sold if: (1) HUD believes that foreclosure is unavoidable; and (2) the project securing the mortgage is occupied by very low-income tenants who are not receiving housing assistance and would be likely to pay rent in excess of 30 percent of their adjusted monthly income if HUD sold the mortgage.''

Granted by: David H. Stevens, Assistant Secretary for Housing–Federal Housing Commissioner.

Date Granted: September 24, 2009.

Reason Waived: This regulation was waived in order to allow the noncompetitive sale of John C. Cannon House Apartments to the City of Seattle. Waiver of this requirement would produce budget savings by generating proceeds to the U.S. Treasury, reduce the number of notes in the HUD–Held mortgage inventory and prevent the loss of assisted living units for families that might take place if a profit-motivated investor were to buy the note and foreclose.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 290.30(a) and 24 CFR 290.33.

Project/Activity: Grove Parc Apartments, Chicago, Illinois—FHA Project Number 071–11091. This property went into default and was part of the HUD–Held inventory. The City of Chicago had expressed an interest in purchasing the property. Waiver of this regulation allowed the sale of this delinquent, unsubsidized mortgage to the City of Chicago.

Nature of Requirement: FHA's regulations governing the sale of HUD–Held mortgages are set forth in 24 CFR part 290, subpart B. Section 290.30(a) of those regulations state that ''[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD–Held multifamily mortgages on a competitive basis.'' Section 290.31(a)(2) permits ''negotiated'' sales to State or local governments for mortgage loans that are current and secured by subsidized projects, provided such loans are sold with FHA insurance.

Section 290.33 governs the sale of delinquent mortgages securing subsidized projects, only if (a) the mortgages are restructured, and (b) either FHA mortgage insurance or equivalent protections are provided.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 18, 2009.

Reason Waived: This regulation was waived for Grove Parc Apartments, in order to allow its noncompetitive sale with a restructured, FHA-insured mortgage or with an instrument with equivalent protections provided to the City of Chicago. Waiver of this requirement would produce budget savings by generating proceeds to the U.S. Treasury, reduce the number of notes in the HUD–Held mortgage inventory and prevent the loss of assisted living units for families that might take place if a profit-motivated

investor were to buy the note and foreclose.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 290.30(a) and 24 CFR 290.35(b)(2).

Project/Activity: John C. Cannon House Apartments, Seattle, Washington. This property went into default and was part of the HUD–Held inventory. The City of Seattle had expressed an interest in purchasing the property. Waiver of this regulation allowed the sale of this delinquent, unsubsidized mortgage to the City of Seattle.

Nature of Requirement: FHA's regulations governing the sale of HUD–Held mortgages are set forth in 24 CFR part 290, subpart B. Section 290.30(a) of those regulations state that ''[e]xcept as otherwise provided in Section 290.31(a)(2), HUD will sell HUD–Held multifamily mortgages on a competitive basis.'' Section 290.31(a)(2) permits ''negotiated'' sales to State or local governments for mortgage loans that are current and secured by subsidized projects, provided such loans are sold with FHA insurance.

Section 290.35(b)(2) governs the sale of delinquent mortgages securing subsidized projects, ''(1) However, delinquent mortgages will not be sold if: (1) HUD believes that foreclosure is unavoidable; and (2) the project securing the mortgage is occupied by very low-income tenants who are not receiving housing assistance and would be likely to pay rent in excess of 30 percent of their adjusted monthly income if HUD sold the mortgage.''

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 24, 2009.

Reason Waived: This regulation was waived in order to allow the noncompetitive sale of John C. Cannon House Apartments to the City of Seattle. Waiver of this requirement would produce budget savings by generating proceeds to the U.S. Treasury, reduce the number of notes in the HUD–Held mortgage inventory and prevent the loss of assisted living units for families that might take place if a profit-motivated investor were to buy the note and foreclose.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 883.205(c)(1)(1979).

Project/Activity: Woodside Village, Danville, Virginia—Section 8 Number: VA36–H027–081. This non-insured subsidized property had not undergone significant rehabilitation since it was constructed. Waiver of this regulation allowed for much needed repairs of the property.

Nature of Requirement: HUD's regulation at 883.205(c) concerns adjustments to reflect the actual cost of permanent financing. After the project is permanently financed, the HFA shall submit a certification as to the actual financing terms. Subsection (1) relates to the actual debt service under the permanent financing. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents or the Contract Rents currently in effect shall be reduced commensurately, and the amount of savings shall be credited to the project account.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 4, 2009.

Reason Waived: This regulation was waived in order to permit the Section 8 contract rents to remain at the current levels in order to allow the owner to obtain financing at a lower interest rate to rehabilitate the property. The proposed rehabilitation is to be funded through Low Income Housing Tax Credits (LIHTC). An affordability use restriction is to accompany an award of the LIHTC, preserving the property as a long-term, well-maintained source of affordable housing.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 883.205(c)(1)(1979).

Project/Activity: Woodside Village, Danville, Virginia—Section 8 Number: VA36–H027–081. This non-insured subsidized property had not undergone significant rehabilitation since it was constructed. Waiver of this regulation allowed for much needed repairs of the property.

Nature of Requirement: HUD's regulation at 883.205(c) concerns adjustments to reflect the actual cost of permanent financing. After the project is permanently financed, the HFA shall submit a certification as to the actual financing terms. Subsection (1) relates to the actual debt service under the permanent financing. If the actual debt service under the permanent financing is lower than the anticipated debt service on which the Contract Rents were based, the initial Contract Rents or the Contract Rents currently in effect shall be reduced commensurately, and the amount of savings shall be credited to the project account.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 4, 2009.

Reason Waived: This regulation was waived in order to permit the Section 8 contract rents to remain at the current levels in order to allow the owner to obtain financing at a lower interest rate to rehabilitate the property. The proposed rehabilitation is to be funded through Low Income Housing Tax Credits (LIHTC). An affordability use restriction is to accompany an award of the LIHTC, preserving the property as a long-term, well-maintained source of affordable housing.

Contact: Howard D. Mayfield, Deputy Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6160, Washington, DC 20410–8000, telephone (202) 708–3730.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: TELACU Housing La Amistad Senior Apartments, San Bernardino, CA, Project Number: 143–EE063/CA43–S061–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 17, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Casitas on East Broadway, Tucson, AZ, Project Number: 123–EE104/AZ20–S061–010.

Nature of Requirement: Section 891.100(d) prohibits amendment of the

amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 17, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Harshfield Terrace, Quartz Hill, CA, Project Number: 122–EE195/CA16–S041–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 17, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: TBD, Tucson, AZ, Project Number: 062–HD066/AL09–Q071–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 21, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Woodridge Apartments Annex, Greeneville, TN, Project Number: 087–EE065/TN37–S081–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 21, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Homes of Care III, Groveland, MA, Project Number: 023–HD227/MA06–Q071–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 22, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Gloucester Housing, Gloucester, MA, Project Number: 023–HD228/MA06–Q071–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 22, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Folsom Oaks, Folsom, CA, Project Number: 136–HD017/CA30–Q041–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 6, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: TELACU Hacienda Senior Apartments, San Bernardino, CA, Project Number: 143–EE068/CA43–S071–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 6, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Vantage Court Senior Housing, Homestead, PA, Project Number: 033–EE132/PA28–S071–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 7, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: AHEPA 310 XII, Daphne, AL, Project Number: 062–EE089/AL09–S081–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 7, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Ferriday Haven, Ferriday, LA, Project Number: 064–HD108/LA48–Q061–007.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 21, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Tartan Village II, Kilmarnock, VA, Project Number: 051–EE111/VA36–S051–004.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 21, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: St. Joseph Place, Kansas City, MO, Project Number: 084–EE073/MO16–Q071–002.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 28, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Townsend Woods, Townsend, MA, Project Number: 023–EE218/MA06–S071–008.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 31, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Parham House, Vista, CA, Project Number: 129–HD031/CA33–Q061–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 21, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Trenton VOA Housing, Trenton, GA, Project Number: 061–HD109/GA06–Q071–005.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 19, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Wiggins VOA Senior Housing, Incorporated, Wiggins MS, Project Number: 065–EE050/MS26–S081–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 19, 2009.

Reason Waived: The project is economically designed and comparable

in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Sierra Meadows, Visalia, CA, Project Number: 121–EE199/CA39–S071–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 21, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Wood Lane Residential, Bowling Green, OH, Project Number: 042–HD151/OH12–Q071–006.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 4, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Discovery Place, Brigham, UT, Project Number: 105–HD012/UT99–Q061–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 24, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: AHEPA—New Orleans, New Orleans, LA, Project Number: 064–EE221/LA48–S071–009.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 28, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Options Supported Housing XIV, Lake Ronkonkoma, NY, Project Number: 012–HD139/NY36–Q081–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 28, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Wood Lane Residential, Bowling Green, OH, Project Number: 042–HD151/OH12–Q071–006.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 30, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Dona Petra Santiago Apartments, New York, NY, Project Number: 012–EE267/NY36–S091–007.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 19, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Additional time was needed to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Odd Fellows Senior Housing, Bronx York, NY, Project Number: 012–EE351/NY36–S061–007.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to closing. Section 891.165 provides that the duration of the fund

reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 21, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Additional time was needed to achieve an initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Denver VOA Living Center, Denver, CO, Project Number: 101–HD040/CO99–Q051–001.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 17, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Additional time was needed for the firm commitment to be issued and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Council Towers V, Bronx, NY, Project Number: 012–EE337/NY36–S061–003.

Nature of Requirement: Section 891.100(d) prohibits amendment of the amount of the approved capital advance funds prior to initial closing. Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 25, 2009.

Reason Waived: The project is economically designed and comparable in cost to similar projects in the area, and the sponsor/owner exhausted all efforts to obtain additional funding from other sources. Additional time was needed to achieve an initial closing of the project.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Yabucoa Volunteers of America Elderly Housing, Yabucoa, PR, Project Number: 056–EE064/RQ46–S041–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 17, 2009.

Reason Waived: Additional time was needed for the firm commitment to be issued and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Accessible Space, Inc., Mesa, AZ, Project Number: 123–HD041/AZ20–Q061–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 17, 2009.

Reason Waived: The sponsor/owner needed additional time to obtain a new contractor, resubmit the firm commitment application, and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Mulberry Manor, Wayne, WV, Project Number: 045–HD041/WV15–Q051–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 17, 2009.

Reason Waived: The sponsor/owner needed additional time to secure secondary financing, for the firm commitment to be issued and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Sierra Manor II, Reno, NV, Project Number: 125–EE129/NV25–S061–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 21, 2009.

Reason Waived: Additional time was needed for the sponsor/owner's architect sufficient time to complete the redesign of the project and to obtain necessary approvals on the redesign from the City of Reno and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Shillman House, Framingham, MA, Project Number: 023–EE187/MA06–S051–004.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 8, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to allow HUD's processing of the revised firm commitment application, and for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Transitional Services for New York, New York, NY, Project Number: 012–HD128/NY36–Q051–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 1, 2009.

Reason Waived: Additional time was needed for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Arbor Court, Fresno, CA, Project Number: 121–HD083/CA39–Q041–003.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: July 1, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to obtain an increase in local funding and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Jackson Road Group Home (fka Jackson Street Group Home), Somerville, MA, Project Number: 023–HD193/MA06–Q031–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: August 6, 2009.

Reason Waived: Additional time was needed for the State agency to finalize the commitment of funds, resubmit the firm commitment application and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Desert Sol, Phoenix, AZ, Project Number: 123–HD040/AZ20–Q061–002.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 4, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to finalize the initial/final closing documents and for the project to be initially closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Casa Del Pueblo II (aka Pueblo Senior Housing), Tucson, AZ, Project Number: 123–EE103/AZ20–S061–009.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 28, 2009.

Reason Waived: Additional time was needed for the sponsor/owner to finalize the initial closing documents and for the project to reach initial closing.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–3000.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Lil Jackson Senior Housing, Oceanside, CA, Project Number: 129–EE032/CA33–S051–001.

Nature of Requirement: Section 891.165 provides that the duration of the fund reservation of the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted by: David H. Stevens, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: September 29, 2009.

Reason Waived: Additional time was needed for the City of Oceanside to complete the recordation of the parcel map for the site and for the project to be closed.

Contact: Willie Spearmon, Director, Office of Housing Assistance and Grant Administration, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6130, Washington, DC 20410–8000, telephone (202) 708–3000.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.801 (d) (1).

Project/Activity: Housing Authority of the City of Long Branch, (NJ008), Long Branch, NJ.

Nature of Requirement: The regulation establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the

Single Audit Act and OMB Circular A–133.

Granted by: Sandra B. Henriquez, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: July 16, 2009.

Reason Waived: The HA waiver request stated that the auditor would not be able to complete the audit by the due date as a result of a delay in conversion to asset management. The HA indicated that the auditors were in the process of finalizing the audit. The waiver was granted and the HA was to submit its audited financial data for FYE June 30, 2008, no later than July 17, 2009.

Contact: Myra E. Newbill, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street, SW., Suite 100, Washington, DC 20410–5000, telephone (202) 475–8988.

• *Regulation:* 24 CFR 941.102(a)(2)–(3) and 941.403(b).

Project/Activity: Newark Housing Authority (NHA), Newark, NJ, Scattered Sites, Project Number NJ39–P002–053.

Nature of Requirement: This waiver involves the substantial completion requirement for release of the original purchase money and the proposition to finish the project pursuant to a development plan which does not comply completely with either the regulatory turnkey or acquisition method of public housing development.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 28, 2009.

Reason Waived: Good cause was determined to conditionally approve the waivers in order for the settlement process to proceed for the action filed on June 26, 2008 in the United States District Court of New Jersey by Tony Gomes Construction Company naming NHA, the former Secretary Steven Preston, and the Department as defendants.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20140–5000, Room 4130, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Barclay Redevelopment Phase I (formerly West Park), Housing Authority of the City of Bremerton Public Housing Construction, Bremerton, WA.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 3, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20140–5000, Room 4130, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: West End Phase II, Chicago Housing Authority Public Housing Construction, Chicago, IL.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Arlington Grove, St. Louis Housing Authority Public Housing Construction, St. Louis, MO.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20140–5000, Room 4130, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Baxtor Terrace, Housing Authority of the City of Newark, Public Housing Construction, Newark, NJ.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Legends Park West (formerly Dixie Homes), Memphis Housing Authority Public Housing Construction, Memphis, TN.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Lake City Village Apartments, Seattle Housing Authority Public Housing Construction, Seattle, WA.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Reid Street Homes, Housing Authority of Charleston Public Housing Construction, Charleston, SC.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: First Street Senior Housing, Elizabeth Housing Authority Public Housing Construction, Elizabeth, NJ.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Fairmount Avenue Scattered Sites, Chattanooga Housing Authority Public Housing Construction, Chattanooga, TN.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Senior Housing at Heritage Park, Minneapolis Public Housing Authority Public Housing Construction, Minneapolis, MN.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Old Colony, Boston Housing Authority Public Housing Construction, Boston, MA.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Echo Ridge, Topeka Housing Authority Public Housing Construction, Topeka, KS.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Garden Valley Phase III, Cuyahoga Metropolitan Housing Authority Public Housing Construction, Cleveland, OH.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.306(b) and (c).

Project/Activity: Phase IIC of Scott/Carver Homes, Miami-Dade Public Housing Authority Public Housing Construction, Miami, FL.

Nature of Requirement: Waiver of Total Development Cost (TDC) and Housing Construction Cost (HCC) Limits.

Granted by: Sandra B. Henriquez, Assistant Secretary of Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: A waiver of TDC/HCC limits is allowed under the American Recovery and Reinvestment Act (ARRA) and in the Notice of Funding Availability (NOFA) for the Capital Fund Recovery Competition Grants (CFRC) for the use of ARRA funds in the redevelopment of public housing units.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.606(n)(1)(ii).

Project/Activity: High Point Housing Authority, Clara Cox Homes Apartments, High Point, NC.

Nature of Requirement: This regulatory provision requires that if the partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as a general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest submitted in response to a public request for bids.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: The High Point Housing Authority (HPHA) submitted an independent cost estimate prepared by Willis Construction Consulting, Inc. for Clara Cox which totaled $7,994,982. HPHA also submitted the construction contract between Crosland Inc. and Crosland Contractors which totaled $7,677,982. As cost was below that of the independent cost estimates, HUD's condition was satisfied.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20140–5000, Room 4130, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.610(a)(1)–(a)(7).

Project/Activity: Housing Authority of the City of Camden's (HACC), Camden, NJ. The closing of Roosevelt Manor, a HOPE VI Phase 9–10 mixed-finance project, consisting of the development of 89 family rental units on off-site parcels adjacent to and nearby the former Roosevelt Manor public housing site.

Nature of Requirement: Section 941.610(a)(1)–(a)(7) of HUD's regulation requires HUD review and approval of certain legal documents relating to mixed-finance development before a closing can occur and funds can be released. In lieu of HUD's review, and before funds can be released, HACC must submit documentation, which certifies to the accuracy and authenticity of the legal documents detailed in 941.610(a)(1)–(a)(7), the form of the certification to be specified by HUD. In addition, HACC must execute the Declaration of Restrictive Covenants, in standard form, and provide evidence that it is the first recorded document.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 23, 2009.

Reason Waived: Granting a waiver of HUD's review and allowing HACC to certify to the validity of certain legal documents was determined to streamline the review process and therefore expedite closing and public housing production.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 941.610(a)(1)–(a)(7).

Project/Activity: Closing of the Olga Village Mixed-Finance Project of the Housing Authority of the City of Milwaukee (HACM) in Wisconsin.

Nature of Requirement: Section 941.610(a)(1)–(a)(7) of HUD's regulations requires HUD review and approval of certain legal documents relating to mixed-finance development before a closing can occur and public housing funds can be released. In lieu of HUD's review of these documents, SAHA must submit certifications to the accuracy and authenticity of the legal documents detailed in 24 CFR 941.610(a)(1)–(a)(7).

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 27, 2009.

Reason Waived: Granting a waiver of HUD's review and allowing HACM to certify to the validity of certain legal documents was determined to streamline the review process and therefore expedite closing and public housing production.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4130, Washington, DC 20140–5000, telephone (202) 402–4181.

• *Regulation:* 24 CFR 982.503(d) and 982.505(c)(3).

Project/Activity: Omaha Housing Authority (OHA), Omaha, NE.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(d) provides that HUD may consider and approve a PHA's establishment of a payment standard lower than the basic range, but that HUD will not approve a lower payment standard if the family share for more than 40 percent of participants in the PHA's Housing Choice Voucher program exceeds 30 percent of adjusted monthly income. The regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 5, 2009.

Reason Waived: These waivers were granted because these cost-saving measures would enable OHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.503(d) and 982.505(c)(3).

Project/Activity: Housing Authority of the City of Columbus (HACC), Columbus, IN.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(d) provides that HUD may consider and approve a PHA's establishment of a payment standard lower than the basic range, but that HUD will not approve a lower payment standard if the family share for more than 40 percent of participants in the PHA's Housing Choice Voucher program exceeds 30 percent of adjusted monthly income. The regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 7, 2009.

Reason Waived: These waivers were granted because these cost-saving measures would enable HACC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.503(d) and 982.505(c)(3).

Project/Activity: Housing Authority of the County of Riverside (HACR), Riverside, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(d) provides that HUD may consider and approve a PHA's establishment of a payment standard lower than the basic range, but that HUD will not approve a lower payment standard if the family share for more than 40 percent of participants in the PHA's Housing Choice Voucher program exceeds 30 percent of adjusted monthly income. The regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 7, 2009.

Reason Waived: These waivers were granted because these cost-saving measures would enable HACR to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: New Hampshire Housing Finance Authority (NHHFA), Manchester, NH.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 2, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable NHHFA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Northwest Oregon Housing Authority (NOHA), Warrenton, OR.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 2, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable NOHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of

Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of Winston-Salem (HAWS), Winston-Salem, NC.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 2, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HAWS to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Queen Anne's County Housing Authority (QACHA), Queen Anne's County, MD.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 2, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable QACHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Walla Walla Housing Authority (WWHA), Walla Walla, WA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 2, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable WWHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Ada County Housing Authority (ACHA), Boise, ID.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable ACHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Boerne Housing Authority (BHA), Boerne, TX.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable BHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Dolgeville Housing Authority (DHA), Dolgeville, NY.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable DHA to both manage its Housing Choice Voucher

program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Hartford Community Development Authority (HCDA), Hartford, WI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HCDA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the County of Kern (HACK), Bakersfield, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACK to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Marion County Housing Authority (MCHA), Salem, OR.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the County of Monterey (HACM), Salinas, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACM to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of St. Mary's County (HASMC), Lexington Park, MD.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HASMC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: West Allis Community Development Authority (WACDA), West Allis, WI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the

monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable WACDA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the Birmingham District (HABC), Birmingham, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 16, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HABD to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Charleston (HACC), Charleston, SC.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 16, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Richland (HACR), Richland, WA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 22, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACR to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Decatur (HACD), Decatur, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 23, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACD to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Foley Housing Authority (FHA), Foley, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 23, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable FHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Redding (HACR), Redding, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 23, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACR to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: County of Becker Housing and Economic Development Authority (CBHEDA), Detroit Lakes, MI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable CBHEDA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Fairfield Alabama Housing Authority (FAHA), Selma, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable FAHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the County of Hidalgo (HACH), Weslaco, TX.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACH to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Memphis Housing Authority (MHA), Memphis, TN.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Miami Metropolitan Housing Authority (MMHA), Troy, OH.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MMHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management

and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Selma Housing Authority (SHA), Selma, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable SHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Cabool (HACC), Cabool, MO.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Clearwater Housing Authority (CHA), Clearwater, FL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable CHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Cordova Housing Authority (CHA), Cordova, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 5, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable CHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Hampton Redevelopment and Housing Authority (HRHA), Hampton, VA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HRHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Hopewell Housing and Redevelopment Authority (HHRA), Hopewell, VA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: This waiver was granted because this cost-saving

measure would enable HHRA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Montgomery Housing Authority (MHA), Montgomery, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Old Town (HACOT), Old Town, ME.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACOT to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Roosevelt City Housing Authority (RCHA), Roosevelt, UT.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 31, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable RCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Wyoming Housing Commission (WHC), Wyoming, MI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 5, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable WHC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Assumption Parish Police Jury (APPJ), Napoleonville, LA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable APPJ to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Bridgeport (HACB), Bridgeport, CT.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning

at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACB to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Chattanooga Housing Authority (CHA), Chattanooga, TN.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable CHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Davis Community Housing Authority (DCHA), Farmington, UT.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable DCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Fort Dodge Housing Authority (FDHA), Fort Dodge, IA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable FDHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Garfield County Housing Authority (GCHA), Rifle, CO.

Nature of Requirement: The regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable GCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Mobile Housing Board (MHB), Mobile, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MHB to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Opelika (HACO), Opelika, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACO to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Yolo County Housing Authority (YCHA), Woodland, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable YCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Goshen Housing Authority (GHA), Goshen, IN.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 12, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable GHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Odessa (HACO), Odessa, TX.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 12, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACO to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Winnebago County Housing Authority (WCHA), Oshkosh, WI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 12, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable WCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Mansfield Metropolitan Housing Authority (MMHA), Mansfield, OH.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 13, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MMHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing,

Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Brunswick Housing Authority (BHA), Brunswick, GA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 18, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable BHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Northport (HACN), Northport, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: August 27, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACN to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the County of Berks (HACB), Reading, PA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 1, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACB to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of DeKalb County (HADC), Decatur, GA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 1, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HADC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Mid Iowa Regional Housing Authority (MIRHA), Ft. Dodge, IA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 1, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MIRHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Central Texas Council of Governments (CTCOG), Belton, TX.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 3, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable CTCOG to both manage its Housing Choice Voucher

program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Columbia (HACC), Columbia, MO.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 3, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the County of Contra Costa (HACCC), Martinez, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 3, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACCC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Alice (HACA), Alice, TX.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Grayling Housing Commission (GHC), Grayling, MI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable GHC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Michigan City Housing Authority (MCHA), Michigan City, IN.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 11, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MCHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Jacksonville Housing Authority (JHA), Jacksonville, FL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable JHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: San Diego Housing Commission (SDHC), San Diego, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable SDHC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Western Carolina Community Action (WCCA), Hendersonville, NC.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable WCCA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Mankato Economic Development Authority (MEDA), Mankato, MN.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 17, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MEDA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Portsmouth Redevelopment and Housing Authority (PRHA), Portsmouth, VA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 17, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable PRHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Central Iowa Regional Housing Authority (CIRHA), Grimes, IA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 23, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable CIRHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Housing Authority of the City of Jasper (HACJ), Jasper, AL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3)

provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 23, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable HACJ to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Delray Beach Housing Authority (DBHA), Delray Beach, FL.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable DBHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: East Tennessee Human Resource Agency (ETHRA), Knoxville, TN.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable ETHRA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Village of Rockville Centre (VRC), Rockville Centre, NY.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 24, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable the VRC to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Missoula Housing Authority (MHA), Missoula, MT.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 25, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable MHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(c)(3).

Project/Activity: Annapolis Housing Authority (AHA), Annapolis, MD.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(c)(3) provides that if the amount on the payment standard schedule is decreased during the term of the HAP contract, the lower payment standard amount generally must be used to calculate the monthly HAP for the family beginning at the effective date of the family's second regular reexamination following the effective date of the decrease.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 28, 2009.

Reason Waived: This waiver was granted because this cost-saving measure would enable AHA to both manage its Housing Choice Voucher program within allocated budget authority and avoid or lessen the termination of HAP contracts due to insufficient funding.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing,

Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of the City of Los Angeles (HACLA), Los Angeles, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 2, 2009.

Reason Waived: The participant, who is disabled, needs to remain in his current unit because it accommodates his disability. To provide this reasonable accommodation so the client could be assisted in his current unit and pay no more than 40 percent of his adjusted income toward the family share, the HACLA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: San Francisco Housing Authority (SFHA), San Francisco, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 13, 2009.

Reason Waived: The client, who is disabled, needs to remain in her current unit because it has been modified to provide reasonable accommodation. To provide a reasonable accommodation so the client could be assisted in her current unit and pay no more than 40 percent of his adjusted income toward the family share, the SFHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of the City of Middletown (HACM), Middletown, CT.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 16, 2009.

Reason Waived: The applicant, who is disabled, needs to remain in his current unit because it has been modified to provide reasonable accommodation. To provide this reasonable accommodation so the client could be assisted in his current unit and pay no more than 40 percent of his adjusted income toward the family share, the HACM was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Salem Housing Authority (SHA), Salem, MA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: July 16, 2009.

Reason Waived: The client, who is disabled, needs to remain in her current unit because it has been modified to provide reasonable accommodation. To provide this reasonable accommodation so the client could be assisted in her current unit and pay no more than 40 percent of her adjusted income toward the family share, the SHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Chippewa Housing Authority (CHA), Chippewa, WI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 11, 2009.

Reason Waived: The client, who is disabled, needs to remain in her current unit because it has features that provide reasonable accommodation. To provide this reasonable accommodation so the client could be assisted in her current unit and pay no more than 40 percent of her adjusted income toward the family share, the CHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Housing Authority of the City of Los Angeles (HACLA), Los Angeles, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted by: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: September 16, 2009.

Reason Waived: The clients, who are disabled, need to remain in their current unit, as moving would be detrimental to their overall health. To provide a reasonable accommodation so that this husband and wife could be assisted in their current unit and pay no more than 40 percent of their adjusted income toward the family share, the HACLA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Acting Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4210, Washington, DC 20410–5000, telephone (202) 708–0477.

• *Regulation:* 24 CFR 1000.156 and 1000.158

Project/Activity: The following Tribes and Tribally designated housing entities (TDHE) requested a waiver to exceed the Total Development Cost (TDC) limits by 20% without HUD review and approval. The Tribes and TDHEs are required to maintain documentation showing that housing will be for low-income families and the design, size, and amenities are moderate and comparable to housing in the area. The wavier was granted in order to expedite the use of the economic stimulus funds made available under the American Recovery and Reinvestment Act of 2009 (Recovery Act) for Native Americans. Baranof Island Housing Authority, Sitka, AK; Bear River Band of Rohnerville Rancheria, Loleta, CA; Confederated Tribes of Siletz Indians, Siletz, OR; Puyalup Nation Housing Authority, Tacoma, WA; Coeur D'Alene Tribal Housing Authority, Plummer, ID; and Port Gamble S'Klallam Housing Authority, Kingston, WA.

Nature of Requirement: The regulation states that affordable housing developed, acquired, or assisted under the Indian Housing Block Grant (IHBG) program must be of moderate design. Each year TDC limits are published to provide recipients with affordable housing standards. These standards can be exceeded by 10% with Area Office of Native American Program (ONAP) approval and can be exceeded further with Headquarters approval. A recipient is required to submit justification to exceed the established TDC limits.

Granted by: Paula O. Blunt, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 4, 2009.

Reason Waived: This specific waiver was included in the ''Waiver of Certain Requirements in the Competitive and Noncompetitive Native American Housing Block Grant and the Indian Community Development Block Grant Programs under the American Recovery and Reinvestment Act of 2009'' published in the **Federal Register** on May 29, 2009. The Recovery Act allowed for waivers to be granted if the waiver was necessary to expedite or facilitate the timely use of funds and would not be inconsistent with the overall purpose of the Recovery Act.

Contact: Deborah Lalancette, Director, Office of Grants Management, ONAP, Office of Public and Indian Housing, Department of Housing and Urban Development, 1670 Broadway 23rd Floor, Denver, CO 80202, telephone number (303) 675–1600 ext. 1625.

• *Regulation:* 24 CFR 1003.302(a).

Project/Activity: The Los Coyotes Band of Cahuilla Indians of Warner Springs, CA, an Indian Community Development Block Grant applicant, requested a waiver of the requirement to adopt housing rehabilitation standards prior to submitting an application. This waiver permits the applicant to submit the ICDBG application and adopt housing rehabilitation standards after award. This waiver was granted in order to expedite submission of an application for economic stimulus funds made available under the American Recovery and Reinvestment Act of 2009 (Recovery Act) for Native Americans.

Nature of Requirement: The regulation requires that ICDBG applicants for housing rehabilitation projects adopt rehabilitation standards and policies prior to submitting the application.

Granted by: Paula O. Blunt, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 4, 2009.

Reason Waived: This specific waiver was included in the ''Waiver of Certain Requirements in the Competitive and Noncompetitive Native American Housing Block Grant and the Indian Community Development Block Grant Programs under the American Recovery and Reinvestment Act of 2009 '' published in the **Federal Register** on May 29, 2009. The Recovery Act allowed for waivers to be granted if the waiver was necessary to expedite or facilitate the timely use of funds and would not be inconsistent with the overall purpose of the Recovery Act.

Contact: Deborah Lalancette, Director, Office of Grants Management, ONAP, Office of Public and Indian Housing, Department of Housing and Urban Development, 1670 Broadway 23rd Floor, Denver, CO 80202, telephone number (303) 675–1600 ext. 1625.

• *Regulation:* 24 CFR 1003.604.

Project/Activity: The following Indian Community Development Block Grant applicants requested a waiver of the requirement to consult with residents prior to submitting an application. This waiver permits these applicants to certify that the plans for the funds have been posted or published and comments solicited. The waiver is granted in order to expedite submission of an application for economic stimulus funds made available under the American Recovery and Reinvestment Act of 2009 (Recovery Act) for Native Americans. Akiachak Native Community, Akiachak, AK; Hannahville Potawatomie Housing Authority, Wilson, MI; Northern Cheyenne Tribal Housing Authority, Lame Deer, MT; Utah Paiute Housing Authority, Cedar City, UT; Grand Ronde Confederated Tribes, Grand Ronde, OR; and Laguna Housing Development and Management Enterprise, Laguna, NM.

Nature of Requirement: The regulations require Indian Community Development Block Grant applicants to consult with residents prior to submitting their application.

Granted by: Paula O. Blunt, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: May 4, 2009.

Reason Waived: This specific waiver was included in the ''Waiver of Certain Requirements in the Competitive and Noncompetitive Native American Housing Block Grant (NAHBG) and the Indian Community Development Block Grant (ICDBG) Programs under the American Recovery and Reinvestment Act of 2009 (Recovery Act)'' published in the **Federal Register** on May 29, 2009. The Recovery Act allowed for waivers to be granted if the waiver was necessary to expedite or facilitate the timely use of funds and would not be inconsistent with the overall purpose of the Recovery Act.

Contact: Deborah Lalancette, Director, Office of Grants Management, ONAP, Office of Public and Indian Housing, Department of Housing and Urban Development, 1670 Broadway 23rd Floor, Denver, CO 80202, telephone number (303) 675–1600 ext. 1625.

[FR Doc. E9–30881 Filed 12–30–09; 8:45 am]

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Federal Register

Thursday,
December 31, 2009

Part IV

Department of Health and Human Services

Centers for Medicare & Medicaid Services

42 CFR Parts 410, 416, and 419

Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 410, 416, and 419

[CMS–1414–CN]

RIN 0938–AP41

Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates

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

ACTION: Correction of final rule with comment period.

SUMMARY: This document corrects technical errors that appeared in the final rule with comment period found in the **Federal Register** (FR) on November 20, 2009, entitled ''Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates.''

DATES: *Effective Date:* This correction document is effective January 1, 2010.

FOR FURTHER INFORMATION CONTACT: Alberta Dwivedi, (410) 786–0378.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. E9–26499 of November 20, 2009 (74 FR 60316), the final rule with comment period entitled, ''Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates'' (hereinafter referred to as the CY 2010 OPPS/ASC final rule), there were a few technical errors that are identified in the ''Summary of Errors'' section and corrected in the ''Correction of Errors'' section below.

The provisions in this correction notice are effective as if they had been included in the CY 2010 OPPS/ASC final rule appearing in the November 20, 2009 **Federal Register** (74 FR 60316). Accordingly, the corrections are effective January 1, 2010.

II. Summary of Errors

A. Errors in the Preamble

On page 60559, in our response to a comment regarding developing and implementing standards of participation, we erred when we referenced ''conditions for coverage'' instead of ''conditions of participation.'' Therefore, we are deleting two references to ''conditions for coverage'' and replacing them with the phrase ''conditions of participation.''

On page 60562, in our response to a comment requesting CMS to remove procedures from the CY 2010 inpatient list, we inadvertently stated that we would remove ''5'' procedure codes instead of ''4'' procedure codes. Therefore, we are replacing the reference to ''5'' with a reference to ''4.'' In the same paragraph in which the previously described error exists (paragraph one of the first response), we list the procedure codes to be removed from the CY 2010 inpatient list. However, we inadvertently included in the list the procedure described by Healthcare Common Procedure Coding System (HCPCS) code 37215 (Transcatheter placement of intravascular stent(s), cervical carotid artery, percutaneous; with distal embolic protection), which should not have been listed. Therefore, we are deleting from the paragraph the language that states we are removing the procedure described by HCPCS code 37215 from the CY 2010 inpatient list. In addition, in the second paragraph in the same response, we provided the incorrect number of procedures for which the clinical and utilization data did not support the appropriateness of providing the procedures to Medicare beneficiaries in the *hospital outpatient department* (HOPD). Specifically, we incorrectly cited ''11'' procedures instead of ''12'' procedures. Therefore, in the paragraph, we are replacing both references to the number ''11'' with references to the number ''12.''

On page 60563, in the summary paragraph following the comment summaries and responses to comments, we inadvertently stated that we were removing ''five'' procedures instead of ''four'' procedures from the CY 2010 inpatient list. Therefore, we are correcting the word ''five'' to read ''four.'' In addition, in the same paragraph we listed the procedures to be removed from the CY 2010 inpatient list. However, we inadvertently included the procedure described by HCPCS code 37215, which should not have been listed. Therefore, we are deleting from the paragraph the language that states we are removing that procedure from the CY 2010 inpatient list.

On page 60564, in the summary paragraph at the top of the page which follows the comment summaries and responses to comments on the previous page, we made the statement that we were displaying in Table 56 the final ''eight'' procedures we are removing from the inpatient list. We should have indicated that we were displaying the final ''seven'' procedures we are removing from the CY 2010 inpatient list in Table 56. Therefore, we are deleting from the paragraph the reference to ''eight'' and replacing it with a reference to ''seven.'' In addition, we inadvertently included a procedure in Table 56 that should not have been included. Specifically, we incorrectly included the procedure described by HCPCS code 37215 in the table. Therefore, we are deleting from Table 56 the procedure described by HCPCS code 37215 as well as all of the information associated with it in the CY 2010 long descriptor column, the Final CY 2010 APC assignment column, and the Final CY 2010 status indicator column.

On page 60566, in our discussion to the legislative changes related to pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services, we inadvertently made reference to ''section II.G.8.'' of the preamble of the CY 2010 Medicare Physician Fee Schedule (MPFS) proposed rule (74 FR 33606) instead of ''sections II.G.8. and II.G.9.''. We also inadvertently referenced the citation ''(74 FR 33606)'' instead of the citation ''(74 FR 33606 through 33614).'' We are correcting these errors so that the reader can easily find the appropriate sections of that proposed rule. Therefore, we are replacing the phrase ''section II.G.8.'' with the phrase ''sections II.G.8. and II.G.9.'' and we are replacing the citation ''(74 FR 33606)'' with the citation ''(74 FR 33606 through 33614).''

On page 60598, in our response to a comment, we inadvertently reference ''section XII.E.'' of the preamble instead of ''section XII.D.'' We are correcting this error so that the reader can easily find the appropriate section of the rule to review regarding the final CY 2010 physician supervision requirements for hospital outpatient diagnostic and therapeutic services.

On page 60612, in our discussion of the Ambulatory Surgical Center (ASC) treatment of surgical procedures removed from the OPPS inpatient list for CY 2010, we inadvertently made the statement that we were removing ''5'' procedures instead of ''4'' procedures from the OPPS inpatient list for CY 2010. Therefore, in section XV.C.1.d., we are replacing both references to the number ''5'' with references to the number ''4.'' In addition, we inadvertently included the procedure described by HCPCS Code 37215 in Table 69. We are correcting this error by removing this procedure code from the

table, as well as all of the information associated with it in the CY 2010 long descriptor column.

B. Errors in the Addendum

On page 60789, in Addendum B, we made a typographical error when we listed the letter ''T'' instead of the letter ''C'' in the payment status indicator (SI) column for HCPCS code 37215. Therefore, we are replacing the letter ''T'' with the letter ''C'' in the SI column for HCPCS code 37215.

On page 60957, in Addendum E, we inadvertently omitted HCPCS code 37215 along with the short descriptor, comment indicator, and status indicator. Therefore, we are correcting this error by including HCPCS code 37215 as well as all of the information associated with it in the addendum.

We are republishing Addenda AA and BB, which were published on pages 60692 through 60752 and pages 60919 through 60943, respectively, to take into account updated CY 2010 MPFS information. As required under § 416.171(d), the revised ASC payment system limits payment for office-based procedures and covered ancillary radiology services to the lesser of the ASC rate or the amount calculated by multiplying the nonfacility practice expense (PE) relative value units (RVUs) for the service by the conversion factor under the MPFS. However, the MPFS conversion factor and PE RVUs listed for some CPT codes in Addendum B to the CY 2010 MPFS final rule with comment period (74 FR 61738) were incorrect due to methodological errors and, consequently, have been corrected in a correction notice to that final rule (74 FR 65449). Since the ASC payment amounts for office-based procedures and covered ancillary services are determined using the amounts in the MPFS final rule, we must correct the CY 2010 payment amounts for ASC procedures and services using the corrected MPFS amounts. The revised rates continue to reflect the negative update to the MPFS for CY 2010 authorized under current law. The corrected payment amounts are reflected in Addenda AA and BB to this correction notice and also are posted on the CMS Web site at: *http://www.cms.hhs.gov/ASCPayment.*

III. Correction of Errors

1. On page 60559, in column 1, in the first response to comment, in lines 5 and 10 of the response, the statement ''conditions for coverage'' is corrected to read, ''conditions of participation''.

2. On page 60562—

A. In column 1, in the first response to comment, in line 10, the number ''5'' is corrected to read number ''4''.

B. In column 1, in the first response to comment, in lines 15 through 18, the statement ''37215 (Transcatheter placement of intravascular stent(s), cervical carotid artery, percutaneous; with distal embolic protection);'' is deleted.

C. In column 1, in the last paragraph of the response to comment, in lines 2 and 7, the number ''11'' is corrected to read, ''12''.

3. On page 60563—

A. In column 3, in the last paragraph, in line 6, the word ''five'' is corrected to read ''four''.

B. In column 3, in the last paragraph, in lines 12 through 15, the statement ''37215 (Transcatheter placement of intravascular stent(s), cervical carotid artery, percutaneous; with distal embolic protection);'' is deleted.

4. On page 60564—

A. In column 3, in line 1 at the top of the page before the chart, the word ''eight'' is corrected to read ''seven''.

B. In Table 56, in row 4, the HCPCS Code ''37215'' and all associated information is deleted.

5. On page 60566—

A. In column 2, in line 30 from the top of the page, the reference to ''section II.G.8.'' is corrected to read ''sections II.G.8. and II.G.9.''

B. In column 2, in line 31 from the top of the page, the reference to ''(74 FR 33606)'' is corrected to read ''(74 FR 33606 through 33614)''.

6. On page 60598, in column 3, in line 4 from the top of the page, the reference to ''section XII.E.'' is corrected to read ''section XII.D.''

7. On page 60612—

A. In column 1, in line 5 from the top of the page before the table, the number ''5'' is corrected to read number ''4''.

B. In column 2, in line 4 from the top of the page before the table, the number ''5'' is corrected to read number ''4''.

C. In Table 69, in row 4, the HCPCS Code ''37215'' and all associated information is deleted.

Corrections to Addenda

Addendum B.—OPPS Payment by HCPCS Code for CY 2010

On page 60789, for HCPCS code 37215, in line 36 of the second chart, in column 4, the status indicator ''T'' is corrected to read ''C''.

Addendum E.—HCPCS Codes That Are Paid Only as Inpatient Procedures for CY 2010

On page 60957, in the second chart, insert between HCPCS Codes 37182 and 37616 the final OPPS CY 2010 entry for HCPCS Code 37215 to read as follows:

HCPCS Code	Short descriptor	SI	CI
37215	Transcath stent, cca w/eps.	C	

Addendum AA.—Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment Is Packaged)

We are republishing Addendum AA in its entirety. See attached chart.

Addendum BB.—Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2010 (Including Ancillary Services for Which Payment Is Packaged)

We are republishing Addendum BB in its entirety. See attached chart.

IV. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice such as this take effect, in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a notice in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice and comment procedure and the 30-day delay in effective date if the Secretary finds, for good cause, that it is impracticable, unnecessary or contrary to the public interest to follow the notice and comment procedure or to comply with the 30-day delay in the effective date, and incorporates a statement of the finding and the reasons therefore in the notice. The policies and payment methodologies finalized in the CY 2010 OPPS/ASC final rule with comment period have previously been subjected to notice and comment procedures. This correction notice merely provides technical corrections to the CY 2010 OPPS/ASC final rule with comment period that was promulgated through notice and comment rulemaking, and does not make substantive changes to the policies or payment methodologies that were finalized in the final rule with comment period. For example, in order to conform the document to the final policies of the CY 2010 OPPS/ASC final rule with comment period, this notice makes changes to revise inaccurate tabular information. Therefore, we find it unnecessary to undertake further notice and comment procedures with

respect to this correction notice. In addition, we believe it is important for the public to have the correct information as soon as possible and find no reason to delay the dissemination of it. For the reasons stated above, we find that both notice and comment and the 30-day delay in effective date for this correction notice are unnecessary. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this correction notice.

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

Dated: December 24, 2009.

Dawn L. Smalls,

Executive Secretary to the Department.

BILLING CODE 4120–01–P

Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
0016T	Thermotx choroid vasc lesion	Y		R2	5.5965	$234.34
0017T	Photocoagulat macular drusen	Y		R2	5.5965	$234.34
0084T	Temp prostate urethral stent	N	CH	D5		
0086T	L ventricle fill pressure	N	CH	D5		
0099T*	Implant corneal ring	Y		R2	15.5449	$650.91
0100T	Prosth retina receive&gen	Y		G2	38.2338	$1,600.96
0101T	Extracorp shockwv tx,hi enrg	Y		G2	30.396	$1,272.77
0102T	Extracorp shockwv tx,anesth	Y		G2	30.396	$1,272.77
0123T	Scleral fistulization	Y		G2	23.3455	$977.55
0124T*	Conjunctival drug placement	Y		R2	4.3122	$180.56
0170T	Anorectal fistula plug rpr	N	CH	D5		
0176T	Aqu canal dilat w/o retent	Y		A2	37.7011	$1,578.66
0177T	Aqu canal dilat w retent	Y		A2	37.7011	$1,578.66
0186T	Suprachoroidal drug delivery	Y		G2	19.8176	$829.82
0190T	Place intraoc radiation src	Y		G2	19.8176	$829.82
0191T	Insert ant segment drain int	Y		G2	23.3455	$977.55
0192T	Insert ant segment drain ext	Y		G2	40.0704	$1,677.87
0193T	Rf bladder neck microremodel	Y	CH	G2	19.1572	$802.17
0200T	Perq sacral augmt unilat inj	Y		G2	21.0617	$881.92
0201T	Perq sacral augmt bilat inj	Y		G2	30.396	$1,272.77
0213T	Us facet jt inj cerv/t 1 lev	Y	NI	G2	6.8884	$288.44
0214T	Us facet jt inj cerv/t 2 lev	Y	NI	G2	2.4451	$102.38
0215T	Us facet jt inj cerv/t 3 lev	Y	NI	G2	2.4451	$102.38
0216T	Us facet jt inj ls 1 level	Y	NI	G2	6.8884	$288.44
0217T	Us facet jt inj ls 2 level	Y	NI	G2	2.4451	$102.38
0218T	Us facet jt inj ls 3 level	Y	NI	G2	2.4451	$102.38
10021	Fna w/o image	Y		P2	1.4457	$60.54
10022	Fna w/image	Y		G2	4.4	$184.24
10040	Acne surgery	Y		P2	0.8408	$35.21

Note 1: The Medicare program payment is 80 percent of the total payment amount and beneficiary coinsurance is 20 percent of the total payment amount, except for screening flexible sigmoidoscopies and screening colonoscopies for which the program payment is 75 percent and the beneficiary coinsurance is 25 percent.

Note 2: Payment indicators for "office-based" procedures (P2, P3) are based on a comparison of the final rates according to the ASC standard ratesetting methodology and the MPFS. Under current law, MPFS payment rates will have a negative update for CY 2010. For a discussion of those rates, we refer readers to the CY 2010 MPFS final rule.

*: Asterisked codes (*) indicate that the procedure's "office-based," designation is temporary because we have insufficient claims data. We will reconsider this designation when new claims data become available.

Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
10060	Drainage of skin abscess	Y		P3		$42.58
10061	Drainage of skin abscess	Y		P2	1.3927	$58.32
10080	Drainage of pilonidal cyst	Y		P2	1.3927	$58.32
10081	Drainage of pilonidal cyst	Y		P3		$108.45
10120	Remove foreign body	Y		P3		$59.05
10121	Remove foreign body	Y		A2	15.1023	$632.38
10140	Drainage of hematoma/fluid	Y		P3		$63.31
10160	Puncture drainage of lesion	Y	CH	P3		$52.52
10180	Complex drainage, wound	Y		A2	16.472	$689.73
11000	Debride infected skin	Y		P3		$20.16
11001	Debride infected skin add-on	Y		P3		$6.81
11010	Debride skin, fx	Y		A2	4.5669	$191.23
11011	Debride skin/muscle, fx	Y		A2	4.5669	$191.23
11012	Debride skin/muscle/bone, fx	Y		A2	4.5669	$191.23
11040	Debride skin, partial	Y		P3		$18.74
11041	Debride skin, full	Y		P3		$20.44
11042	Debride skin/tissue	Y		A2	2.947	$123.40
11043	Debride tissue/muscle	Y		A2	2.947	$123.40
11044	Debride tissue/muscle/bone	Y		A2	8.3025	$347.65
11055	Trim skin lesion	Y		P3		$21.86
11056	Trim skin lesions, 2 to 4	Y		P3		$23.85
11057	Trim skin lesions, over 4	Y	CH	P3		$26.97
11100	Biopsy, skin lesion	Y	CH	P3		$49.68
11101	Biopsy, skin add-on	Y		P3		$11.64
11200	Removal of skin tags	Y	CH	P3		$35.20
11201	Remove skin tags add-on	Y		P3		$4.83
11300	Shave skin lesion	Y	CH	P3		$33.22
11301	Shave skin lesion	Y		P2	0.8408	$35.21
11302	Shave skin lesion	Y		P2	0.8408	$35.21

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
11303	Shave skin lesion	Y	CH	P3		$55.93
11305	Shave skin lesion	Y	CH	P3		$29.53
11306	Shave skin lesion	Y		P2	0.8408	$35.21
11307	Shave skin lesion	Y		P2	0.8408	$35.21
11308	Shave skin lesion	Y		P2	0.8408	$35.21
11310	Shave skin lesion	Y		P2	0.8408	$35.21
11311	Shave skin lesion	Y		P2	0.8408	$35.21
11312	Shave skin lesion	Y		P2	0.8408	$35.21
11313	Shave skin lesion	Y		P2	0.8408	$35.21
11400	Exc tr-ext b9+marg 0.5 < cm	Y		P3		$56.50
11401	Exc tr-ext b9+marg 0.6-1 cm	Y		P3		$63.59
11402	Exc tr-ext b9+marg 1.1-2 cm	Y		P3		$69.84
11403	Exc tr-ext b9+marg 2.1-3 cm	Y		P3		$74.95
11404	Exc tr-ext b9+marg 3.1-4 cm	Y		A2	14.457	$605.36
11406	Exc tr-ext b9+marg > 4.0 cm	Y		A2	15.1023	$632.38
11420	Exc h-f-nk-sp b9+marg 0.5 <	Y		P3		$53.09
11421	Exc h-f-nk-sp b9+marg 0.6-1	Y		P3		$64.16
11422	Exc h-f-nk-sp b9+marg 1.1-2	Y		P3		$70.12
11423	Exc h-f-nk-sp b9+marg 2.1-3	Y		P3		$78.36
11424	Exc h-f-nk-sp b9+marg 3.1-4	Y		A2	15.1023	$632.38
11426	Exc h-f-nk-sp b9+marg > 4 cm	Y		A2	19.3292	$809.37
11440	Exc face-mm b9+marg 0.5 < cm	Y		P3		$60.47
11441	Exc face-mm b9+marg 0.6-1 cm	Y		P3		$70.12
11442	Exc face-mm b9+marg 1.1-2 cm	Y		P3		$77.22
11443	Exc face-mm b9+marg 2.1-3 cm	Y		P3		$85.45
11444	Exc face-mm b9+marg 3.1-4 cm	Y		A2	7.7878	$326.10
11446	Exc face-mm b9+marg > 4 cm	Y		A2	19.3292	$809.37
11450	Removal, sweat gland lesion	Y		A2	19.3292	$809.37
11451	Removal, sweat gland lesion	Y		A2	19.3292	$809.37

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
11462	Removal, sweat gland lesion	Y		A2	19.3292	$809.37
11463	Removal, sweat gland lesion	Y		A2	19.3292	$809.37
11470	Removal, sweat gland lesion	Y		A2	19.3292	$809.37
11471	Removal, sweat gland lesion	Y		A2	19.3292	$809.37
11600	Exc tr-ext mlg+marg 0.5 < cm	Y		P3		$80.34
11601	Exc tr-ext mlg+marg 0.6-1 cm	Y		P3		$96.24
11602	Exc tr-ext mlg+marg 1.1-2 cm	Y		P3		$105.33
11603	Exc tr-ext mlg+marg 2.1-3 cm	Y		P3		$112.71
11604	Exc tr-ext mlg+marg 3.1-4 cm	Y		A2	8.2762	$346.55
11606	Exc tr-ext mlg+marg > 4 cm	Y		A2	15.1023	$632.38
11620	Exc h-f-nk-sp mlg+marg 0.5 <	Y		P3		$82.61
11621	Exc h-f-nk-sp mlg+marg 0.6-1	Y		P3		$97.38
11622	Exc h-f-nk-sp mlg+marg 1.1-2	Y		P3		$107.88
11623	Exc h-f-nk-sp mlg+marg 2.1-3	Y		P3		$116.96
11624	Exc h-f-nk-sp mlg+marg 3.1-4	Y		A2	15.1023	$632.38
11626	Exc h-f-nk-sp mlg+mar > 4 cm	Y		A2	19.3292	$809.37
11640	Exc face-mm malig+marg 0.5 <	Y		P3		$86.87
11641	Exc face-mm malig+marg 0.6-1	Y		P3		$101.92
11642	Exc face-mm malig+marg 1.1-2	Y		P3		$113.56
11643	Exc face-mm malig+marg 2.1-3	Y		P3		$123.21
11644	Exc face-mm malig+marg 3.1-4	Y		A2	15.1023	$632.38
11646	Exc face-mm mlg+marg > 4 cm	Y		A2	19.3292	$809.37
11719	Trim nail(s)	Y		P3		$10.22
11720	Debride nail, 1-5	Y		P3		$12.49
11721	Debride nail, 6 or more	Y		P3		$15.05
11730	Removal of nail plate	Y		P2	0.8408	$35.21
11732	Remove nail plate, add-on	Y		P3		$15.05
11740	Drain blood from under nail	Y		P2	0.4244	$17.77
11750	Removal of nail bed	Y		P3		$81.19

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11752	Remove nail bed/finger tip	Y		P3		$113.27
11755	Biopsy, nail unit	Y		P3		$55.64
11760	Repair of nail bed	Y		G2	1.2956	$54.25
11762	Reconstruction of nail bed	Y		P3		$104.19
11765	Excision of nail fold, toe	Y		P2	0.8408	$35.21
11770	Removal of pilonidal lesion	Y		A2	19.6948	$824.68
11771	Removal of pilonidal lesion	Y		A2	19.6948	$824.68
11772	Removal of pilonidal lesion	Y		A2	19.6948	$824.68
11900	Injection into skin lesions	Y		P3		$24.70
11901	Added skin lesions injection	Y	CH	P3		$27.25
11920	Correct skin color defects	Y		P3		$77.22
11921	Correct skin color defects	Y		P3		$85.74
11922	Correct skin color defects	Y		P3		$28.11
11950	Therapy for contour defects	Y		P3		$28.67
11951	Therapy for contour defects	Y		P3		$36.91
11952	Therapy for contour defects	Y	CH	P3		$47.13
11954	Therapy for contour defects	Y		P2	1.2956	$54.25
11960	Insert tissue expander(s)	Y		A2	19.7192	$825.70
11970	Replace tissue expander	Y		A2	36.3344	$1,521.43
11971	Remove tissue expander(s)	Y		A2	18.6836	$782.34
11976	Removal of contraceptive cap	Y		P3		$51.67
11980	Implant hormone pellet(s)	N		P2	0.6403	$26.81
11981	Insert drug implant device	N		P2	0.6403	$26.81
11982	Remove drug implant device	N		P2	0.6403	$26.81
11983	Remove/insert drug implant	N		P2	0.6403	$26.81
12001	Repair superficial wound(s)	Y	CH	P3		$53.94
12002	Repair superficial wound(s)	Y		P2	1.2956	$54.25
12004	Repair superficial wound(s)	Y		P2	1.2956	$54.25
12005	Repair superficial wound(s)	Y		A2	1.4926	$62.50

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12006	Repair superficial wound(s)	Y		A2	1.4926	$62.50
12007	Repair superficial wound(s)	Y		A2	1.4926	$62.50
12011	Repair superficial wound(s)	Y		P2	1.2956	$54.25
12013	Repair superficial wound(s)	Y		P2	1.2956	$54.25
12014	Repair superficial wound(s)	Y		P2	1.2956	$54.25
12015	Repair superficial wound(s)	Y		G2	1.2956	$54.25
12016	Repair superficial wound(s)	Y		A2	1.4926	$62.50
12017	Repair superficial wound(s)	Y		A2	1.4926	$62.50
12018	Repair superficial wound(s)	Y		A2	1.4926	$62.50
12020	Closure of split wound	Y		A2	3.706	$155.18
12021	Closure of split wound	Y		A2	2.782	$116.49
12031	Intmd wnd repair s/tr/ext	Y		P2	1.2956	$54.25
12032	Intmd wnd repair s/tr/ext	Y		P2	3.0144	$126.22
12034	Intmd wnd repair s/tr/ext	Y		A2	1.4926	$62.50
12035	Intmd wnd repair s/tr/ext	Y		A2	1.4926	$62.50
12036	Intmd wnd repair s/tr/ext	Y		A2	2.782	$116.49
12037	Intmd wnd repair s/tr/ext	Y		A2	4.1074	$171.99
12041	Intmd wnd repair n-hf/genit	Y		P2	1.2956	$54.25
12042	Intmd wnd repair n-hg/genit	Y		P2	1.2956	$54.25
12044	Intmd wnd repair n-hg/genit	Y		A2	1.4926	$62.50
12045	Intmd wnd repair n-hg/genit	Y		A2	2.782	$116.49
12046	Intmd wnd repair n-hg/genit	Y		A2	2.782	$116.49
12047	Intmd wnd repair n-hg/genit	Y		A2	4.1074	$171.99
12051	Intmd wnd repair face/mm	Y		P2	1.2956	$54.25
12052	Intmd wnd repair face/mm	Y		P2	1.2956	$54.25
12053	Intmd wnd repair face/mm	Y		P2	1.2956	$54.25
12054	Intmd wnd repair, face/mm	Y		A2	1.4926	$62.50
12055	Intmd wnd repair face/mm	Y		A2	2.782	$116.49
12056	Intmd wnd repair face/mm	Y		A2	2.782	$116.49

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12057	Intmd wnd repair face/mm	Y		A2	4.1074	$171.99
13100	Repair of wound or lesion	Y		A2	5.0314	$210.68
13101	Repair of wound or lesion	Y		A2	5.0314	$210.68
13102	Repair wound/lesion add-on	Y		A2	3.706	$155.18
13120	Repair of wound or lesion	Y		A2	2.782	$116.49
13121	Repair of wound or lesion	Y		A2	2.782	$116.49
13122	Repair wound/lesion add-on	Y		A2	1.4926	$62.50
13131	Repair of wound or lesion	Y		A2	2.782	$116.49
13132	Repair of wound or lesion	Y		A2	3.706	$155.18
13133	Repair wound/lesion add-on	Y		A2	2.782	$116.49
13150	Repair of wound or lesion	Y		A2	5.0314	$210.68
13151	Repair of wound or lesion	Y		A2	5.0314	$210.68
13152	Repair of wound or lesion	Y		A2	5.0314	$210.68
13153	Repair wound/lesion add-on	Y		A2	2.782	$116.49
13160	Late closure of wound	Y		A2	19.7192	$825.70
14000	Skin tissue rearrangement	Y		A2	14.0668	$589.02
14001	Skin tissue rearrangement	Y		A2	14.4325	$604.33
14020	Skin tissue rearrangement	Y		A2	14.4325	$604.33
14021	Skin tissue rearrangement	Y		A2	14.4325	$604.33
14040	Skin tissue rearrangement	Y		A2	14.0668	$589.02
14041	Skin tissue rearrangement	Y		A2	14.4325	$604.33
14060	Skin tissue rearrangement	Y		A2	14.4325	$604.33
14061	Skin tissue rearrangement	Y		A2	14.4325	$604.33
14300	Skin tissue rearrangement	N	CH	D5		
14301	Skin tissue rearrangement	Y	NI	G2	22.8955	$958.70
14302	Skin tissue rearrange add-on	Y	NI	G2	22.8955	$958.70
14350	Skin tissue rearrangement	Y		A2	20.0845	$841.00
15002	Wound prep, trk/arm/leg	Y		A2	5.0314	$210.68
15003	Wound prep, addl 100 cm	Y		A2	5.0314	$210.68

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15004	Wound prep, f/n/hf/g	Y		A2	5.0314	$210.68
15005	Wnd prep, f/n/hf/g, addl cm	Y		A2	5.0314	$210.68
15040	Harvest cultured skin graft	Y		A2	2.782	$116.49
15050	Skin pinch graft	Y		A2	5.0314	$210.68
15100	Skin splt grft, trnk/arm/leg	Y		A2	19.7192	$825.70
15101	Skin splt grft t/a/l, add-on	Y		A2	20.0845	$841.00
15110	Epidrm autogrft trnk/arm/leg	Y		A2	5.7323	$240.03
15111	Epidrm autogrft t/a/l add-on	Y		A2	5.0868	$213.00
15115	Epidrm a-grft face/nck/hf/g	Y		A2	5.7323	$240.03
15116	Epidrm a-grft f/n/hf/g addl	Y		A2	5.0868	$213.00
15120	Skn splt a-grft fac/nck/hf/g	Y		A2	19.7192	$825.70
15121	Skn splt a-grft f/n/hf/g add	Y		A2	20.0845	$841.00
15130	Derm autograft, trnk/arm/leg	Y		A2	14.0668	$589.02
15131	Derm autograft t/a/l add-on	Y		A2	13.4213	$561.99
15135	Derm autograft face/nck/hf/g	Y		A2	14.0668	$589.02
15136	Derm autograft, f/n/hf/g add	Y		A2	13.4213	$561.99
15150	Cult epiderm grft t/arm/leg	Y		A2	5.7323	$240.03
15151	Cult epiderm grft t/a/l addl	Y		A2	5.0868	$213.00
15152	Cult epiderm graft t/a/l +%	Y		A2	5.0868	$213.00
15155	Cult epiderm graft, f/n/hf/g	Y		A2	5.7323	$240.03
15156	Cult epidrm grft f/n/hfg add	Y		A2	5.0868	$213.00
15157	Cult epiderm grft f/n/hfg +%	Y		A2	5.0868	$213.00
15170	Acell graft trunk/arms/legs	Y		G2	4.2464	$177.81
15171	Acell graft t/arm/leg add-on	Y		G2	3.0144	$126.22
15175	Acellular graft, f/n/hf/g	Y		G2	4.2464	$177.81
15176	Acell graft, f/n/hf/g add-on	Y		G2	4.2464	$177.81
15200	Skin full graft, trunk	Y		A2	14.4325	$604.33
15201	Skin full graft trunk add-on	Y		A2	13.3659	$559.67
15220	Skin full graft sclp/arm/leg	Y		A2	14.0668	$589.02

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15221	Skin full graft add-on	Y		A2	5.0314	$210.68
15240	Skin full grft face/genit/hf	Y		A2	14.4325	$604.33
15241	Skin full graft add-on	Y		A2	5.0314	$210.68
15260	Skin full graft een & lips	Y		A2	14.0668	$589.02
15261	Skin full graft add-on	Y		A2	13.3659	$559.67
15300	Apply skinallogrft, t/arm/lg	Y		A2	5.0314	$210.68
15301	Apply sknallogrft t/a/l addl	Y		A2	5.0314	$210.68
15320	Apply skin allogrft f/n/hf/g	Y		A2	5.0314	$210.68
15321	Aply sknallogrft f/n/hfg add	Y		A2	5.0314	$210.68
15330	Aply acell alogrft t/arm/leg	Y		A2	5.0314	$210.68
15331	Aply acell grft t/a/l add-on	Y		A2	5.0314	$210.68
15335	Apply acell graft, f/n/hf/g	Y		A2	5.0314	$210.68
15336	Aply acell grft f/n/hf/g add	Y		A2	5.0314	$210.68
15340	Apply cult skin substitute	Y		G2	3.0144	$126.22
15341	Apply cult skin sub add-on	Y		G2	3.0144	$126.22
15360	Apply cult derm sub, t/a/l	Y		G2	3.0144	$126.22
15361	Aply cult derm sub t/a/l add	Y		G2	3.0144	$126.22
15365	Apply cult derm sub f/n/hf/g	Y		G2	3.0144	$126.22
15366	Apply cult derm f/hf/g add	Y		G2	3.0144	$126.22
15400	Apply skin xenograft, t/a/l	Y		A2	5.0314	$210.68
15401	Apply skn xenogrft t/a/l add	Y		A2	5.0314	$210.68
15420	Apply skin xgraft, f/n/hf/g	Y		A2	5.0314	$210.68
15421	Apply skn xgrft f/n/hf/g add	Y		A2	5.0314	$210.68
15430	Apply acellular xenograft	Y		A2	5.0314	$210.68
15431	Apply acellular xgraft add	Y		A2	5.0314	$210.68
15570	Form skin pedicle flap	Y		A2	20.0845	$841.00
15572	Form skin pedicle flap	Y		A2	20.0845	$841.00
15574	Form skin pedicle flap	Y		A2	20.0845	$841.00
15576	Form skin pedicle flap	Y		A2	20.0845	$841.00

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
15600	Skin graft	Y		A2	20.0845	$841.00
15610	Skin graft	Y		A2	20.0845	$841.00
15620	Skin graft	Y		A2	20.7702	$869.71
15630	Skin graft	Y		A2	20.0845	$841.00
15650	Transfer skin pedicle flap	Y		A2	21.2669	$890.51
15731	Forehead flap w/vasc pedicle	Y		A2	20.0845	$841.00
15732	Muscle-skin graft, head/neck	Y		A2	20.0845	$841.00
15734	Muscle-skin graft, trunk	Y		A2	20.0845	$841.00
15736	Muscle-skin graft, arm	Y		A2	20.0845	$841.00
15738	Muscle-skin graft, leg	Y		A2	20.0845	$841.00
15740	Island pedicle flap graft	Y		A2	14.0668	$589.02
15750	Neurovascular pedicle graft	Y		A2	19.7192	$825.70
15760	Composite skin graft	Y		A2	19.7192	$825.70
15770	Derma-fat-fascia graft	Y		A2	20.0845	$841.00
15775	Hair transplant punch grafts	Y		A2	2.818	$118.00
15776	Hair transplant punch grafts	Y		A2	2.818	$118.00
15780	Abrasion treatment of skin	Y		P3		$331.31
15781	Abrasion treatment of skin	Y		P2	4.1736	$174.76
15782	Abrasion treatment of skin	Y		P2	4.1736	$174.76
15783	Abrasion treatment of skin	Y		P2	2.677	$112.09
15786	Abrasion, lesion, single	Y		P2	0.8408	$35.21
15787	Abrasion, lesions, add-on	Y		P3		$24.98
15788	Chemical peel, face, epiderm	Y		P2	0.8408	$35.21
15789	Chemical peel, face, dermal	Y		P2	1.4745	$61.74
15792	Chemical peel, nonfacial	Y		P2	1.4745	$61.74
15793	Chemical peel, nonfacial	Y		P2	0.8408	$35.21
15819	Plastic surgery, neck	Y		G2	3.0144	$126.22
15820	Revision of lower eyelid	Y		A2	20.0845	$841.00
15821	Revision of lower eyelid	Y		A2	20.0845	$841.00

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15822	Revision of upper eyelid	Y		A2	20.0845	$841.00
15823	Revision of upper eyelid	Y		A2	21.2669	$890.51
15824	Removal of forehead wrinkles	Y		A2	20.0845	$841.00
15825	Removal of neck wrinkles	Y		A2	20.0845	$841.00
15826	Removal of brow wrinkles	Y		A2	20.0845	$841.00
15828	Removal of face wrinkles	Y		A2	20.0845	$841.00
15829	Removal of skin wrinkles	Y		A2	21.2669	$890.51
15830	Exc skin abd	Y		A2	19.6948	$824.68
15832	Excise excessive skin tissue	Y		A2	19.6948	$824.68
15833	Excise excessive skin tissue	Y		A2	19.6948	$824.68
15834	Excise excessive skin tissue	Y		A2	19.6948	$824.68
15835	Excise excessive skin tissue	Y		A2	18.6282	$780.02
15836	Excise excessive skin tissue	Y		A2	15.468	$647.69
15837	Excise excessive skin tissue	Y		G2	16.7399	$700.95
15838	Excise excessive skin tissue	Y		G2	16.7399	$700.95
15839	Excise excessive skin tissue	Y		A2	15.468	$647.69
15840	Graft for face nerve palsy	Y		A2	20.7702	$869.71
15841	Graft for face nerve palsy	Y		A2	20.7702	$869.71
15842	Flap for face nerve palsy	Y		G2	22.8955	$958.70
15845	Skin and muscle repair, face	Y		A2	20.7702	$869.71
15847	Exc skin abd add-on	Y		A2	19.6948	$824.68
15850	Removal of sutures	Y		G2	2.677	$112.09
15851	Removal of sutures	Y		P3		$41.16
15852	Dressing change not for burn	N	CH	R2	0.6403	$26.81
15860	Test for blood flow in graft	N		G2	0.6403	$26.81
15876	Suction assisted lipectomy	Y		A2	20.0845	$841.00
15877	Suction assisted lipectomy	Y		A2	20.0845	$841.00
15878	Suction assisted lipectomy	Y		A2	20.0845	$841.00
15879	Suction assisted lipectomy	Y		A2	20.0845	$841.00

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15920	Removal of tail bone ulcer	Y		A2	4.5669	$191.23
15922	Removal of tail bone ulcer	Y		A2	20.7702	$869.71
15931	Remove sacrum pressure sore	Y		A2	19.6948	$824.68
15933	Remove sacrum pressure sore	Y		A2	19.6948	$824.68
15934	Remove sacrum pressure sore	Y		A2	20.0845	$841.00
15935	Remove sacrum pressure sore	Y		A2	20.7702	$869.71
15936	Remove sacrum pressure sore	Y		A2	15.1179	$633.03
15937	Remove sacrum pressure sore	Y		A2	20.7702	$869.71
15940	Remove hip pressure sore	Y		A2	19.6948	$824.68
15941	Remove hip pressure sore	Y		A2	19.6948	$824.68
15944	Remove hip pressure sore	Y		A2	20.0845	$841.00
15945	Remove hip pressure sore	Y		A2	20.7702	$869.71
15946	Remove hip pressure sore	Y		A2	20.7702	$869.71
15950	Remove thigh pressure sore	Y		A2	19.6948	$824.68
15951	Remove thigh pressure sore	Y		A2	20.3802	$853.38
15952	Remove thigh pressure sore	Y		A2	14.4325	$604.33
15953	Remove thigh pressure sore	Y		A2	15.1179	$633.03
15956	Remove thigh pressure sore	Y		A2	14.4325	$604.33
15958	Remove thigh pressure sore	Y		A2	15.1179	$633.03
16000	Initial treatment of burn(s)	Y		P3		$22.71
16020	Dress/debrid p-thick burn, s	Y		P3		$34.35
16025	Dress/debrid p-thick burn, m	Y		A2	1.4893	$62.36
16030	Dress/debrid p-thick burn, l	Y		A2	1.676	$70.18
16035	Incision of burn scab, initi	Y		G2	1.4745	$61.74
17000	Destruct premalg lesion	Y		P2	0.8408	$35.21
17003	Destruct premalg les, 2-14	Y		P3		$3.12
17004	Destroy premlg lesions 15+	Y		P3		$69.84
17106	Destruction of skin lesions	Y		P2	2.677	$112.09
17107	Destruction of skin lesions	Y		P2	2.677	$112.09

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17108	Destruction of skin lesions	Y		P2	2.677	$112.09
17110	Destruct b9 lesion, 1-14	Y		P2	0.8408	$35.21
17111	Destruct lesion, 15 or more	Y		P2	1.4745	$61.74
17250	Chemical cautery, tissue	Y		P3		$38.04
17260	Destruction of skin lesions	Y		P3		$39.75
17261	Destruction of skin lesions	Y		P2	1.4745	$61.74
17262	Destruction of skin lesions	Y		P2	1.4745	$61.74
17263	Destruction of skin lesions	Y		P2	1.4745	$61.74
17264	Destruction of skin lesions	Y		P2	1.4745	$61.74
17266	Destruction of skin lesions	Y	CH	P3		$94.82
17270	Destruction of skin lesions	Y		P2	1.4745	$61.74
17271	Destruction of skin lesions	Y		P2	1.4745	$61.74
17272	Destruction of skin lesions	Y		P2	1.4745	$61.74
17273	Destruction of skin lesions	Y	CH	P3		$86.30
17274	Destruction of skin lesions	Y	CH	P3		$97.66
17276	Destruction of skin lesions	Y	CH	P3		$107.03
17280	Destruction of skin lesions	Y		P2	1.4745	$61.74
17281	Destruction of skin lesions	Y		P3		$73.81
17282	Destruction of skin lesions	Y		P3		$84.32
17283	Destruction of skin lesions	Y	CH	P3		$96.81
17284	Destruction of skin lesions	Y	CH	P3		$108.73
17286	Destruction of skin lesions	Y		P2	2.677	$112.09
17311	Mohs, 1 stage, h/n/hf/g	Y		P2	4.7201	$197.64
17312	Mohs addl stage	Y	CH	P3		$192.76
17313	Mohs, 1 stage, t/a/l	Y		P2	4.7201	$197.64
17314	Mohs, addl stage, t/a/l	Y	CH	P3		$178.85
17315	Mohs surg, addl block	Y		P3		$32.65
17340	Cryotherapy of skin	Y		P3		$12.78
17360	Skin peel therapy	Y		P2	0.8408	$35.21

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17380	Hair removal by electrolysis	Y		R2	0.8408	$35.21
19000	Drainage of breast lesion	Y		P3		$54.79
19001	Drain breast lesion add-on	Y		P3		$7.38
19020	Incision of breast lesion	Y		A2	16.472	$689.73
19030	Injection for breast x-ray	N		N1		
19100	Bx breast percut w/o image	Y		A2	4.6708	$195.58
19101	Biopsy of breast, open	Y		A2	20.3074	$850.33
19102	Bx breast percut w/image	Y		A2	6.978	$292.19
19103	Bx breast percut w/device	Y		A2	13.3824	$560.36
19105	Cryosurg ablate fa, each	Y	CH	P2	32.686	$1,368.66
19110	Nipple exploration	Y		A2	20.3074	$850.33
19112	Excise breast duct fistula	Y		A2	20.6727	$865.63
19120	Removal of breast lesion	Y		A2	20.6727	$865.63
19125	Excision, breast lesion	Y		A2	20.6727	$865.63
19126	Excision, addl breast lesion	Y		A2	20.6727	$865.63
19290	Place needle wire, breast	N		N1		
19291	Place needle wire, breast	N		N1		
19295	Place breast clip, percut	N		N1		
19296	Place po breast cath for rad	Y		A2	49.4283	$2,069.71
19297	Place breast cath for rad	Y		A2	49.4283	$2,069.71
19298	Place breast rad tube/caths	Y		A2	49.4283	$2,069.71
19300	Removal of breast tissue	Y		A2	21.3584	$894.34
19301	Partical mastectomy	Y		A2	20.6727	$865.63
19302	P-mastectomy w/ln removal	Y		A2	35.819	$1,499.85
19303	Mast, simple, complete	Y		A2	28.1131	$1,177.18
19304	Mast, subq	Y		A2	28.1131	$1,177.18
19316	Suspension of breast	Y		A2	28.1131	$1,177.18
19318	Reduction of large breast	Y		A2	33.7344	$1,412.56
19324	Enlarge breast	Y		A2	33.7344	$1,412.56

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19325	Enlarge breast with implant	Y		A2	49.4283	$2,069.71
19328	Removal of breast implant	Y		A2	26.4165	$1,106.14
19330	Removal of implant material	Y		A2	26.4165	$1,106.14
19340	Immediate breast prosthesis	Y		A2	32.6834	$1,368.55
19342	Delayed breast prosthesis	Y		A2	44.693	$1,871.43
19350	Breast reconstruction	Y		A2	21.3584	$894.34
19355	Correct inverted nipple(s)	Y		A2	28.1131	$1,177.18
19357	Breast reconstruction	Y		A2	45.8754	$1,920.94
19366	Breast reconstruction	Y		A2	28.6098	$1,197.98
19370	Surgery of breast capsule	Y		A2	28.1131	$1,177.18
19371	Removal of breast capsule	Y		A2	28.1131	$1,177.18
19380	Revise breast reconstruction	Y		A2	34.2311	$1,433.36
19396	Design custom breast implant	Y		G2	32.686	$1,368.66
20000	Incision of abscess	Y		P2	1.3927	$58.32
20005	Incision of deep abscess	Y		A2	18.3436	$768.10
20103	Explore wound, extremity	Y		G2	12.0752	$505.62
20150	Excise epiphyseal bar	Y		G2	44.5617	$1,865.93
20200	Muscle biopsy	Y		A2	15.1023	$632.38
20205	Deep muscle biopsy	Y		A2	15.468	$647.69
20206	Needle biopsy, muscle	Y		A2	6.978	$292.19
20220	Bone biopsy, trocar/needle	Y		A2	7.3224	$306.61
20225	Bone biopsy, trocar/needle	Y		A2	14.9452	$625.80
20240	Bone biopsy, excisional	Y		A2	19.3292	$809.37
20245	Bone biopsy, excisional	Y		A2	19.6948	$824.68
20250	Open bone biopsy	Y		A2	18.7092	$783.41
20251	Open bone biopsy	Y		A2	18.7092	$783.41
20500	Injection of sinus tract	Y		P3		$44.00
20501	Inject sinus tract for x-ray	N		N1		
20520	Removal of foreign body	Y		P3		$79.77

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20525	Removal of foreign body	Y		A2	19.6948	$824.68
20526	Ther injection, carp tunnel	Y		P3		$25.27
20550	Inj tendon sheath/ligament	Y		P3		$19.30
20551	Inj tendon origin/insertion	Y		P3		$19.59
20552	Inj trigger point, 1/2 muscl	Y		P3		$18.45
20553	Inject trigger points, =/> 3	Y		P3		$21.01
20555	Place ndl musc/tis for rt	Y	CH	R2	30.396	$1,272.77
20600	Drain/inject, joint/bursa	Y		P3		$19.59
20605	Drain/inject, joint/bursa	Y		P3		$21.86
20610	Drain/inject, joint/bursa	Y		P3		$31.23
20612	Aspirate/inj ganglion cyst	Y		P3		$21.01
20615	Treatment of bone cyst	Y		P3		$85.45
20650	Insert and remove bone pin	Y		A2	18.7092	$783.41
20662	Application of pelvis brace	Y		R2	21.0617	$881.92
20663	Application of thigh brace	Y		R2	21.0617	$881.92
20665	Removal of fixation device	N		G2	0.6403	$26.81
20670	Removal of support implant	Y		A2	14.457	$605.36
20680	Removal of support implant	Y		A2	19.6948	$824.68
20690	Apply bone fixation device	Y		A2	25.3445	$1,061.25
20692	Apply bone fixation device	Y		A2	25.7101	$1.076.56
20693	Adjust bone fixation device	Y		A2	18.7092	$783.41
20694	Remove bone fixation device	Y		A2	17.6983	$741.08
20696	Comp multiplane ext fixation	Y		G2	30.396	$1,272.77
20697	Comp ext fixate strut change	Y		G2	17.5996	$736.95
20822	Replantation digit, complete	Y		G2	27.0149	$1,131.19
20900	Removal of bone for graft	Y		A2	25.7101	$1,076.56
20902	Removal of bone for graft	Y		A2	26.3955	$1,105.26
20910	Remove cartilage for graft	Y		A2	20.0845	$841.00
20912	Remove cartilage for graft	Y		A2	20.0845	$841.00

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20920	Removal of fascia for graft	Y		A2	15.1179	$633.03
20922	Removal of fascia for graft	Y		A2	14.4325	$604.33
20924	Removal of tendon for graft	Y		A2	26.3955	$1,105.26
20926	Removal of tissue for graft	Y		A2	6.7834	$284.04
20950	Fluid pressure, muscle	Y		G2	1.3927	$58.32
20972	Bone/skin graft, metatarsal	Y		G2	50.2514	$2,104.18
20973	Bone/skin graft, great toe	Y		R2	50.2514	$2,104.18
20975	Electrical bone stimulation	N		N1		
20979	Us bone stimulation	N		P3		$19.02
20982	Ablate, bone tumor(s) perq	Y		G2	44.5617	$1,865.93
20985	Cptr-asst dir ms px	N		N1		
21010	Incision of jaw joint	Y		A2	20.4597	$856.71
21011	Exc face les sc < 2 cm	Y	NI	P3		$147.06
21012	Exc face les sc = 2 cm	Y	NI	R2	7.8476	$328.60
21013	Exc face tum deep < 2 cm	Y	NI	P3		$203.84
21014	Exc face tum deep = 2 cm	Y	NI	R2	7.8476	$328.60
21015*	Resect face tum < 2 cm	Y	NI	R2	16.7399	$700.95
21016	Resect face tum = 2 cm	Y	NI	G2	22.3753	$936.92
21025	Excision of bone, lower jaw	Y		A2	33.3886	$1,398.08
21026	Excision of facial bone(s)	Y		A2	33.3886	$1,398.08
21029	Contour of face bone lesion	Y		A2	33.3886	$1,398.08
21030	Excise max/zygoma b9 tumor	Y		P3		$208.66
21031	Remove exostosis, mandible	Y		P3		$171.76
21032	Remove exostosis, maxilla	Y		P3		$174.88
21034	Excise max/zygoma mlg tumor	Y		A2	33.7542	$1,413.39
21040	Excise mandible lesion	Y		A2	20.4597	$856.71
21044	Removal of jaw bone lesion	Y		A2	33.3886	$1,398.08
21046	Remove mandible cyst complex	Y		A2	33.3886	$1,398.08
21047	Excise lwr jaw cyst w/repair	Y		A2	33.3886	$1,398.08

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
21048	Remove maxilla cyst complex	Y		R2	41.1215	$1,721.88
21050	Removal of jaw joint	Y		A2	33.7542	$1,413.39
21060	Remove jaw joint cartilage	Y		A2	33.3886	$1,398.08
21070	Remove coronoid process	Y		A2	33.7542	$1,413.39
21073	Mnpj of tmj w/anesth	Y		P3		$160.12
21076	Prepare face/oral prosthesis	Y		P3		$287.02
21077	Prepare face/oral prosthesis	Y		P3		$690.72
21079	Prepare face/oral prosthesis	Y		P3		$495.11
21080	Prepare face/oral prosthesis	Y		P3		$566.09
21081	Prepare face/oral prosthesis	Y		P3		$521.80
21082	Prepare face/oral prosthesis	Y		P3		$500.51
21083	Prepare face/oral prosthesis	Y		P3		$491.71
21084	Prepare face/oral prosthesis	Y		P3		$562.68
21085	Prepare face/oral prosthesis	Y		P3		$224.84
21086	Prepare face/oral prosthesis	Y		P3		$490.00
21087	Prepare face/oral prosthesis	Y		P3		$489.15
21088	Prepare face/oral prosthesis	Y		R2	41.1215	$1,721.88
21100	Maxillofacial fixation	Y		A2	33.3886	$1,398.08
21110	Interdental fixation	Y		P2	7.2897	$305.24
21116	Injection, jaw joint x-ray	N		N1		
21120	Reconstruction of chin	Y		A2	23.5956	$988.02
21121	Reconstruction of chin	Y		A2	23.5956	$988.02
21122	Reconstruction of chin	Y		A2	23.5956	$988.02
21123	Reconstruction of chin	Y		A2	23.5956	$988.02
21125	Augmentation, lower jaw bone	Y		A2	23.5956	$988.02
21127	Augmentation, lower jaw bone	Y		A2	38.4895	$1,611.67
21137	Reduction of forehead	Y		G2	23.8828	$1,000.04
21138	Reduction of forehead	Y		G2	41.1215	$1,721.88
21139	Reduction of forehead	Y		G2	41.1215	$1,721.88

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
21150	Reconstruct midface, lefort	Y		G2	41.1215	$1,721.88
21181	Contour cranial bone lesion	Y		A2	23.5956	$988.02
21198	Reconstr lwr jaw segment	Y		G2	41.1215	$1,721.88
21199	Reconstr lwr jaw w/advance	Y		G2	41.1215	$1,721.88
21206	Reconstruct upper jaw bone	Y		A2	34.9366	$1,462.90
21208	Augmentation of facial bones	Y		A2	36.5245	$1,529.39
21209	Reduction of facial bones	Y		A2	34.9366	$1,462.90
21210	Face bone graft	Y		A2	36.5245	$1,529.39
21215	Lower jaw bone graft	Y		A2	36.5245	$1,529.39
21230	Rib cartilage graft	Y		A2	36.5245	$1,529.39
21235	Ear cartilage graft	Y		A2	23.5956	$988.02
21240	Reconstruction of jaw joint	Y		A2	34.4396	$1,442.09
21242	Reconstruction of jaw joint	Y		A2	34.9366	$1,462.90
21243	Reconstruction of jaw joint	Y		A2	34.9366	$1,462.90
21244	Reconstruction of lower jaw	Y		A2	36.5245	$1,529.39
21245	Reconstruction of jaw	Y		A2	36.5245	$1,529.39
21246	Reconstruction of jaw	Y		A2	36.5245	$1,529.39
21248	Reconstruction of jaw	Y		A2	36.5245	$1,529.39
21249	Reconstruction of jaw	Y		A2	36.5245	$1,529.39
21260	Revise eye sockets	Y		G2	41.1215	$1,721.88
21267	Revise eye sockets	Y		A2	36.5245	$1,529.39
21270	Augmentation, cheek bone	Y		A2	34.9366	$1,462.90
21275	Revision, orbitofacial bones	Y		A2	36.5245	$1,529.39
21280	Revision of eyelid	Y		A2	34.9366	$1,462.90
21282	Revision of eyelid	Y		A2	16.4282	$687.90
21295	Revision of jaw muscle/bone	Y		A2	7.3694	$308.58
21296	Revision of jaw muscle/bone	Y		A2	19.8142	$829.68
21310	Treatment of nose fracture	Y		A2	1.6877	$70.67
21315	Treatment of nose fracture	Y		A2	13.1937	$552.46

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
21320	Treatment of nose fracture	Y		A2	14.8802	$623.08
21325	Treatment of nose fracture	Y		A2	21.5108	$900.72
21330	Treatment of nose fracture	Y		A2	22.0077	$921.53
21335	Treatment of nose fracture	Y		A2	23.5956	$988.02
21336	Treat nasal septal fracture	Y		A2	22.1427	$927.18
21337	Treat nasal septal fracture	Y		A2	14.8802	$623.08
21338	Treat nasoethmoid fracture	Y		A2	21.5108	$900.72
21339	Treat nasoethmoid fracture	Y		A2	22.0077	$921.53
21340	Treatment of nose fracture	Y		A2	34.4396	$1,442.09
21345	Treat nose/jaw fracture	Y		A2	23.5956	$988.02
21355	Treat cheek bone fracture	Y		A2	33.7542	$1,413.39
21356	Treat cheek bone fracture	Y		A2	20.8254	$872.02
21360	Treat cheek bone fracture	Y		G2	23.8828	$1,000.04
21390	Treat eye socket fracture	Y		G2	41.1215	$1,721.88
21400	Treat eye socket fracture	Y		A2	8.0147	$335.60
21401	Treat eye socket fracture	Y		A2	15.2459	$638.39
21406	Treat eye socket fracture	Y		G2	41.1215	$1,721.88
21407	Treat eye socket fracture	Y		G2	41.1215	$1,721.88
21421	Treat mouth roof fracture	Y		A2	21.5108	$900.72
21440	Treat dental ridge fracture	Y		P3		$281.06
21445	Treat dental ridge fracture	Y		A2	21.5108	$900.72
21450	Treat lower jaw fracture	Y		A2	3.3186	$138.96
21451	Treat lower jaw fracture	Y		A2	8.1184	$339.94
21452	Treat lower jaw fracture	Y		A2	14.8802	$623.08
21453	Treat lower jaw fracture	Y		A2	33.7542	$1,413.39
21454	Treat lower jaw fracture	Y		A2	22.0077	$921.53
21461	Treat lower jaw fracture	Y		A2	34.4396	$1,442.09
21462	Treat lower jaw fracture	Y		A2	34.9366	$1,462.90
21465	Treat lower jaw fracture	Y		A2	34.4396	$1,442.09

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
21480	Reset dislocated jaw	Y		A2	1.6877	$70.67
21485	Reset dislocated jaw	Y		A2	14.8802	$623.08
21490	Repair dislocated jaw	Y		A2	33.7542	$1,413.39
21495	Treat hyoid bone fracture	Y		G2	16.4437	$688.55
21497	Interdental wiring	Y		A2	14.8802	$623.08
21501	Drain neck/chest lesion	Y		A2	16.472	$689.73
21502	Drain chest lesion	Y		A2	18.3436	$768.10
21550	Biopsy of neck/chest	Y		G2	16.7399	$700.95
21552	Exc neck les sc = 3 cm	Y	NI	G2	22.3753	$936.92
21554	Exc neck tum deep = 5 cm	Y	NI	G2	22.3753	$936.92
21555*	Exc neck les sc < 3 cm	Y	NI	P3		$169.49
21556	Exc neck tum deep < 5 cm	Y	NI	G2	22.3753	$936.92
21557	Resect neck tum < 5 cm	Y	NI	G2	16.7399	$700.95
21558	Resect neck tum = 5 cm	Y	NI	G2	22.3753	$936.92
21600	Partial removal of rib	Y		A2	25.3445	$1,061.25
21610	Partial removal of rib	Y		A2	25.3445	$1,061.25
21685	Hyoid myotomy & suspension	Y		G2	7.2897	$305.24
21700	Revision of neck muscle	Y		A2	18.3436	$768.10
21720	Revision of neck muscle	Y		A2	18.7092	$783.41
21725	Revision of neck muscle	Y		A2	1.5497	$64.89
21800	Treatment of rib fracture	Y		A2	1.7811	$74.58
21805	Treatment of rib fracture	Y		A2	21.0916	$883.17
21820	Treat sternum fracture	Y		A2	1.7811	$74.58
21920	Biopsy soft tissue of back	Y		P3		$119.52
21925	Biopsy soft tissue of back	Y		A2	19.3292	$809.37
21930*	Exc back les sc < 3 cm	Y	NI	P3		$176.87
21931	Exc back les sc = 3 cm	Y	NI	G2	22.3753	$936.92
21932	Exc back tum deep < 5 cm	Y	NI	G2	16.7399	$700.95
21933	Exc back tum deep = 5 cm	Y	NI	G2	22.3753	$936.92

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
21935	Resect back tum < 5 cm	Y	NI	G2	16.7399	$700.95
21936	Resect back tum = 5 cm	Y	NI	G2	22.3753	$936.92
22102	Remove part, lumbar vertebra	Y		G2	47.0941	$1,971.97
22103	Remove extra spine segment	Y		G2	47.0941	$1,971.97
22305	Treat spine process fracture	Y		A2	1.7811	$74.58
22310	Treat spine fracture	Y		A2	4.0322	$168.84
22315	Treat spine fracture	Y		A2	13.7917	$577.50
22505	Manipulation of spine	Y		A2	13.5199	$566.12
22520	Percut vertebroplasty thor	Y		A2	30.4452	$1,274.83
22521	Percut vertebroplasty lumb	Y		A2	30.4452	$1,274.83
22522	Percut vertebroplasty addl	Y		A2	30.4452	$1,274.83
22523	Percut kyphoplasty, thor	Y		G2	84.8135	$3,551.40
22524	Percut kyphoplasty, lumbar	Y		G2	84.8135	$3,551.40
22525	Percut kyphoplasty, add-on	Y		G2	84.8135	$3,551.40
22900	Exc back tum deep < 5 cm	Y	NI	G2	22.3753	$936.92
22901	Exc back tum deep = 5 cm	Y	NI	G2	22.3753	$936.92
22902	Exc abd les sc < 3 cm	Y	NI	G2	16.7399	$700.95
22903	Exc abd les sc > 3 cm	Y	NI	G2	22.3753	$936.92
22904	Resect abd tum < 5 cm	Y	NI	G2	16.7399	$700.95
22905	Resect abd tum > 5 cm	Y	NI	G2	22.3753	$936.92
23000	Removal of calcium deposits	Y		A2	15.1023	$632.38
23020	Release shoulder joint	Y		A2	35.969	$1,506.13
23030	Drain shoulder lesion	Y		A2	15.8264	$662.70
23031	Drain shoulder bursa	Y		A2	16.8376	$705.04
23035	Drain shoulder bone lesion	Y		A2	18.7092	$783.41
23040	Exploratory shoulder surgery	Y		A2	25.7101	$1,076.56
23044	Exploratory shoulder surgery	Y		A2	26.3955	$1,105.26
23065	Biopsy shoulder tissues	Y		P3		$83.47
23066	Biopsy shoulder tissues	Y		A2	19.3292	$809.37

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23071	Exc shoulder les sc > 3 cm	Y	NI	G2	22.3753	$936.92
23073	Exc shoulder tum deep > 5 cm	Y	NI	G2	22.3753	$936.92
23075*	Exc shoulder les sc < 3 cm	Y	NI	P3		$130.31
23076	Exc shoulder tum deep < 5 cm	Y	NI	G2	16.7399	$700.95
23077	Resect shoulder tum < 5 cm	Y	NI	G2	16.7399	$700.95
23078	Resect shoulder tum > 5 cm	Y	NI	G2	22.3753	$936.92
23100	Biopsy of shoulder joint	Y		A2	18.3436	$768.10
23101	Shoulder joint surgery	Y		A2	28.4804	$1,192.56
23105	Remove shoulder joint lining	Y		A2	26.3955	$1,105.26
23106	Incision of collarbone joint	Y		A2	26.3955	$1,105.26
23107	Explore treat shoulder joint	Y		A2	26.3955	$1,105.26
23120	Partial removal, collar bone	Y		A2	26.8925	$1,126.07
23125	Removal of collar bone	Y		A2	26.8925	$1,126.07
23130	Remove shoulder bone, part	Y		A2	37.5168	$1,570.94
23140	Removal of bone lesion	Y		A2	19.3946	$812.11
23145	Removal of bone lesion	Y		A2	26.8925	$1,126.07
23146	Removal of bone lesion	Y		A2	26.8925	$1,126.07
23150	Removal of humerus lesion	Y		A2	26.3955	$1,105.26
23155	Removal of humerus lesion	Y		A2	26.8925	$1,126.07
23156	Removal of humerus lesion	Y		A2	26.8925	$1,126.07
23170	Remove collar bone lesion	Y		A2	25.3445	$1,061.25
23172	Remove shoulder blade lesion	Y		A2	25.3445	$1,061.25
23174	Remove humerus lesion	Y		A2	25.3445	$1,061.25
23180	Remove collar bone lesion	Y		A2	26.3955	$1,105.26
23182	Remove shoulder blade lesion	Y		A2	26.3955	$1,105.26
23184	Remove humerus lesion	Y		A2	26.3955	$1,105.26
23190	Partial removal of scapula	Y		A2	26.3955	$1,105.26
23195	Removal of head of humerus	Y		A2	26.8925	$1,126.07
23330	Remove shoulder foreign body	Y		A2	7.7878	$326.10

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23331	Remove shoulder foreign body	Y		A2	18.6836	$782.34
23350	Injection for shoulder x-ray	N		N1		
23395	Muscle transfer,shoulder/arm	Y		A2	37.5168	$1,570.94
23397	Muscle transfers	Y		A2	69.2933	$2,901.52
23400	Fixation of shoulder blade	Y		A2	28.4804	$1,192.56
23405	Incision of tendon & muscle	Y		A2	25.3445	$1,061.25
23406	Incise tendon(s) & muscle(s)	Y		A2	25.3445	$1,061.25
23410	Repair rotator cuff, acute	Y		A2	37.5168	$1,570.94
23412	Repair rotator cuff, chronic	Y		A2	39.1047	$1,637.43
23415	Release of shoulder ligament	Y		A2	37.5168	$1,570.94
23420	Repair of shoulder	Y		A2	39.1047	$1,637.43
23430	Repair biceps tendon	Y		A2	37.02	$1,550.14
23440	Remove/transplant tendon	Y		A2	37.02	$1,550.14
23450	Repair shoulder capsule	Y		A2	67.7054	$2,835.03
23455	Repair shoulder capsule	Y		A2	69.2933	$2,901.52
23460	Repair shoulder capsule	Y		A2	67.7054	$2,835.03
23462	Repair shoulder capsule	Y		A2	39.1047	$1,637.43
23465	Repair shoulder capsule	Y		A2	67.7054	$2,835.03
23466	Repair shoulder capsule	Y		A2	39.1047	$1,637.43
23480	Revision of collar bone	Y		A2	37.02	$1,550.14
23485	Revision of collar bone	Y		A2	69.2933	$2,901.52
23490	Reinforce clavicle	Y		A2	36.3344	$1,521.43
23491	Reinforce shoulder bones	Y		A2	66.5231	$2,785.52
23500	Treat clavicle fracture	Y		A2	1.7811	$74.58
23505	Treat clavicle fracture	Y		A2	13.7917	$577.50
23515	Treat clavicle fracture	Y		A2	49.8932	$2,089.18
23520	Treat clavicle dislocation	Y		A2	4.0322	$168.84
23525	Treat clavicle dislocation	Y		A2	4.0322	$168.84
23530	Treat clavicle dislocation	Y		A2	35.5372	$1,488.05

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23532	Treat clavicle dislocation	Y		A2	22.1427	$927.18
23540	Treat clavicle dislocation	Y		A2	1.7811	$74.58
23545	Treat clavicle dislocation	Y		A2	4.0322	$168.84
23550	Treat clavicle dislocation	Y		A2	35.5372	$1,488.05
23552	Treat clavicle dislocation	Y		A2	36.2226	$1,516.75
23570	Treat shoulder blade fx	Y		A2	1.7811	$74.58
23575	Treat shoulder blade fx	Y		A2	4.0322	$168.84
23585	Treat scapula fracture	Y		A2	49.8932	$2,089.18
23600	Treat humerus fracture	Y		P2	1.5858	$66.40
23605	Treat humerus fracture	Y		A2	13.7917	$577.50
23615	Treat humerus fracture	Y		A2	50.5787	$2,117.88
23616	Treat humerus fracture	Y		A2	50.5787	$2,117.88
23620	Treat humerus fracture	Y		P2	1.5858	$66.40
23625	Treat humerus fracture	Y		A2	13.7917	$577.50
23630	Treat humerus fracture	Y		A2	51.0756	$2,138.69
23650	Treat shoulder dislocation	Y		A2	1.7811	$74.58
23655	Treat shoulder dislocation	Y		A2	12.8746	$539.10
23660	Treat shoulder dislocation	Y		A2	35.5372	$1,488.05
23665	Treat dislocation/fracture	Y		A2	4.0322	$168.84
23670	Treat dislocation/fracture	Y		A2	49.8932	$2,089.18
23675	Treat dislocation/fracture	Y		A2	1.7811	$74.58
23680	Treat dislocation/fracture	Y		A2	35.5372	$1,488.05
23700	Fixation of shoulder	Y		A2	12.8746	$539.10
23800	Fusion of shoulder joint	Y		A2	67.2085	$2,814.22
23802	Fusion of shoulder joint	Y		A2	39.1047	$1,637.43
23921	Amputation follow-up surgery	Y		A2	13.3659	$559.67
23930	Drainage of arm lesion	Y		A2	15.8264	$662.70
23931	Drainage of arm bursa	Y		A2	16.472	$689.73
23935	Drain arm/elbow bone lesion	Y		A2	18.3436	$768.10

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
24000	Exploratory elbow surgery	Y		A2	26.3955	$1,105.26
24006	Release elbow joint	Y		A2	26.3955	$1,105.26
24065	Biopsy arm/elbow soft tissue	Y		P3		$114.98
24066	Biopsy arm/elbow soft tissue	Y		A2	15.1023	$632.38
24071	Exc arm/elbow les sc = 3 cm	Y	NI	G2	22.3753	$936.92
24073	Ex arm/elbow tum deep > 5 cm	Y	NI	G2	22.3753	$936.92
24075*	Exc arm/elbow les sc < 3 cm	Y	NI	P3		$210.08
24076	Ex arm/elbow tum deep < 5 cm	Y	NI	G2	16.7399	$700.95
24077	Resect arm/elbow tum < 5 cm	Y	NI	G2	16.7399	$700.95
24079	Resect arm/elbow tum > 5 cm	Y	NI	G2	22.3753	$936.92
24100	Biopsy elbow joint lining	Y		A2	17.6983	$741.08
24101	Explore/treat elbow joint	Y		A2	26.3955	$1,105.26
24102	Remove elbow joint lining	Y		A2	26.3955	$1,105.26
24105	Removal of elbow bursa	Y		A2	18.7092	$783.41
24110	Remove humerus lesion	Y		A2	18.3436	$768.10
24115	Remove/graft bone lesion	Y		A2	25.7101	$1,076.56
24116	Remove/graft bone lesion	Y		A2	25.7101	$1,076.56
24120	Remove elbow lesion	Y		A2	18.7092	$783.41
24125	Remove/graft bone lesion	Y		A2	25.7101	$1,076.56
24126	Remove/graft bone lesion	Y		A2	25.7101	$1,076.56
24130	Removal of head of radius	Y		A2	25.7101	$1,076.56
24134	Removal of arm bone lesion	Y		A2	25.3445	$1,061.25
24136	Remove radius bone lesion	Y		A2	25.3445	$1,061.25
24138	Remove elbow bone lesion	Y		A2	25.3445	$1,061.25
24140	Partial removal of arm bone	Y		A2	25.7101	$1,076.56
24145	Partial removal of radius	Y		A2	25.7101	$1,076.56
24147	Partial removal of elbow	Y		A2	25.3445	$1,061.25
24149	Radical resection of elbow	Y		G2	30.396	$1,272.77
24152	Resect radius tumor	Y		G2	44.5617	$1,865.93

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24153	Extensive radius surgery	N	CH	D5		
24155	Removal of elbow joint	Y		A2	36.3344	$1,521.43
24160	Remove elbow joint implant	Y		A2	25.3445	$1,061.25
24164	Remove radius head implant	Y		A2	25.7101	$1,076.56
24200	Removal of arm foreign body	Y		P3		$85.17
24201	Removal of arm foreign body	Y		A2	15.1023	$632.38
24220	Injection for elbow x-ray	N		N1		
24300	Manipulate elbow w/anesth	Y		G2	14.63	$612.60
24301	Muscle/tendon transfer	Y		A2	26.3955	$1,105.26
24305	Arm tendon lengthening	Y		A2	26.3955	$1,105.26
24310	Revision of arm tendon	Y		A2	18.7092	$783.41
24320	Repair of arm tendon	Y		A2	36.3344	$1,521.43
24330	Revision of arm muscles	Y		A2	66.5231	$2,785.52
24331	Revision of arm muscles	Y		A2	36.3344	$1,521.43
24332	Tenolysis, triceps	Y		G2	21.0617	$881.92
24340	Repair of biceps tendon	Y		A2	36.3344	$1,521.43
24341	Repair arm tendon/muscle	Y		A2	36.3344	$1,521.43
24342	Repair of ruptured tendon	Y		A2	36.3344	$1,521.43
24343	Repr elbow lat ligmnt w/tiss	Y		G2	30.396	$1,272.77
24344	Reconstruct elbow lat ligmnt	Y		G2	84.8135	$3,551.40
24345	Repr elbw med ligmnt w/tissu	Y		A2	25.3445	$1,061.25
24346	Reconstruct elbow med ligmnt	Y		G2	44.5617	$1,865.93
24357	Repair elbow, perc	Y		G2	30.396	$1,272.77
24358	Repair elbow w/deb, open	Y		G2	30.396	$1,272.77
24359	Repair elbow deb/attch open	Y		G2	30.396	$1,272.77
24360	Reconstruct elbow joint	Y		A2	32.7158	$1,369.91
24361	Reconstruct elbow joint	Y		H8	150.2992	$6,293.48
24362	Reconstruct elbow joint	Y		A2	45.772	$1,916.61
24363	Replace elbow joint	Y		H8	151.8871	$6.359.97

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24365	Reconstruct head of radius	Y		A2	32.7158	$1,369.91
24366	Reconstruct head of radius	Y		H8	150.2992	$6,293.48
24400	Revision of humerus	Y		A2	37.02	$1,550.14
24410	Revision of humerus	Y		A2	37.02	$1,550.14
24420	Revision of humerus	Y		A2	36.3344	$1,521.43
24430	Repair of humerus	Y		A2	66.5231	$2,785.52
24435	Repair humerus with graft	Y		A2	67.2085	$2,814.22
24470	Revision of elbow joint	Y		A2	36.3344	$1,521.43
24495	Decompression of forearm	Y		A2	25.3445	$1,061.25
24498	Reinforce humerus	Y		A2	66.5231	$2,785.52
24500	Treat humerus fracture	Y		A2	1.7811	$74.58
24505	Treat humerus fracture	Y		A2	1.7811	$74.58
24515	Treat humerus fracture	Y		A2	50.5787	$2,117.88
24516	Treat humerus fracture	Y		A2	50.5787	$2,117.88
24530	Treat humerus fracture	Y		A2	1.7811	$74.58
24535	Treat humerus fracture	Y		A2	4.0322	$168.84
24538	Treat humerus fracture	Y		A2	21.0916	$883.17
24545	Treat humerus fracture	Y		A2	50.5787	$2,117.88
24546	Treat humerus fracture	Y		A2	51.0756	$2,138.69
24560	Treat humerus fracture	Y		A2	1.7811	$74.58
24565	Treat humerus fracture	Y		A2	1.7811	$74.58
24566	Treat humerus fracture	Y		A2	21.0916	$883.17
24575	Treat humerus fracture	Y		A2	49.8932	$2,089.18
24576	Treat humerus fracture	Y		A2	1.7811	$74.58
24577	Treat humerus fracture	Y		A2	4.0322	$168.84
24579	Treat humerus fracture	Y		A2	49.8932	$2,089.18
24582	Treat humerus fracture	Y		A2	21.0916	$883.17
24586	Treat elbow fracture	Y		A2	50.5787	$2,117.88
24587	Treat elbow fracture	Y		A2	51.0756	$2,138.69

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24600	Treat elbow dislocation	Y		A2	1.7811	$74.58
24605	Treat elbow dislocation	Y		A2	13.5199	$566.12
24615	Treat elbow dislocation	Y		A2	49.8932	$2,089.18
24620	Treat elbow fracture	Y		A2	13.7917	$577.50
24635	Treat elbow fracture	Y		A2	49.8932	$2,089.18
24640	Treat elbow dislocation	Y		P3		$47.69
24650	Treat radius fracture	Y		P2	1.5858	$66.40
24655	Treat radius fracture	Y		A2	4.0322	$168.84
24665	Treat radius fracture	Y		A2	36.2226	$1,516.75
24666	Treat radius fracture	Y		A2	50.5787	$2,117.88
24670	Treat ulnar fracture	Y		A2	1.7811	$74.58
24675	Treat ulnar fracture	Y		A2	1.7811	$74.58
24685	Treat ulnar fracture	Y		A2	35.5372	$1,488.05
24800	Fusion of elbow joint	Y		A2	37.02	$1,550.14
24802	Fusion/graft of elbow joint	Y		A2	37.5168	$1,570.94
24925	Amputation follow-up surgery	Y		A2	18.7092	$783.41
25000	Incision of tendon sheath	Y		A2	18.7092	$783.41
25001	Incise flexor carpi radialis	Y		G2	21.0617	$881.92
25020	Decompress forearm 1 space	Y		A2	25.7101	$1,076.56
25023	Decompress forearm 1 space	Y		A2	25.7101	$1,076.56
25024	Decompress forearm 2 spaces	Y		A2	25.7101	$1,076.56
25025	Decompress forearm 2 spaces	Y		A2	25.7101	$1,076.56
25028	Drainage of forearm lesion	Y		A2	17.6983	$741.08
25031	Drainage of forearm bursa	Y		A2	18.3436	$768.10
25035	Treat forearm bone lesion	Y		A2	18.3436	$768.10
25040	Explore/treat wrist joint	Y		A2	26.8925	$1,126.07
25065	Biopsy forearm soft tissues	Y		P3		$116.68
25066	Biopsy forearm soft tissues	Y		A2	19.3292	$809.37
25071	Exc forearm les sc > 3 cm	Y	NI	G2	22.3753	$936.92

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25073	Exc forearm tum deep = 3 cm	Y	NI	G2	22.3753	$936.92
25075*	Exc forearm les sc < 3 cm	Y	NI	P3		$140.81
25076	Exc forearm tum deep < 3 cm	Y	NI	G2	16.7399	$700.95
25077	Resect forearm/wrist tum<3cm	Y	NI	G2	16.7399	$700.95
25078	Resect forearm/wrist tum=3cm	Y	NI	G2	22.3753	$936.92
25085	Incision of wrist capsule	Y		A2	18.7092	$783.41
25100	Biopsy of wrist joint	Y		A2	18.3436	$768.10
25101	Explore/treat wrist joint	Y		A2	25.7101	$1,076.56
25105	Remove wrist joint lining	Y		A2	26.3955	$1,105.26
25107	Remove wrist joint cartilage	Y		A2	25.7101	$1,076.56
25109	Excise tendon forearm/wrist	Y		G2	21.0617	$881.92
25110	Remove wrist tendon lesion	Y		A2	18.7092	$783.41
25111	Remove wrist tendon lesion	Y		A2	18.7092	$783.41
25112	Reremove wrist tendon lesion	Y		A2	19.3946	$812.11
25115	Remove wrist/forearm lesion	Y		A2	19.3946	$812.11
25116	Remove wrist/forearm lesion	Y		A2	19.3946	$812.11
25118	Excise wrist tendon sheath	Y		A2	25.3445	$1,061.25
25119	Partial removal of ulna	Y		A2	25.7101	$1,076.56
25120	Removal of forearm lesion	Y		A2	25.7101	$1,076.56
25125	Remove/graft forearm lesion	Y		A2	25.7101	$1,076.56
25126	Remove/graft forearm lesion	Y		A2	25.7101	$1,076.56
25130	Removal of wrist lesion	Y		A2	25.7101	$1,076.56
25135	Remove & graft wrist lesion	Y		A2	25.7101	$1,076.56
25136	Remove & graft wrist lesion	Y		A2	25.7101	$1,076.56
25145	Remove forearm bone lesion	Y		A2	25.3445	$1,061.25
25150	Partial removal of ulna	Y		A2	25.3445	$1,061.25
25151	Partial removal of radius	Y		A2	25.3445	$1,061.25
25210	Removal of wrist bone	Y		A2	25.7101	$1,076.56
25215	Removal of wrist bones	Y		A2	26.3955	$1,105.26

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25230	Partial removal of radius	Y		A2	26.3955	$1,105.26
25240	Partial removal of ulna	Y		A2	26.3955	$1,105.26
25246	Injection for wrist x-ray	N		N1		
25248	Remove forearm foreign body	Y		A2	18.3436	$768.10
25250	Removal of wrist prosthesis	Y		A2	24.699	$1,034.22
25251	Removal of wrist prosthesis	Y		A2	24.699	$1,034.22
25259	Manipulate wrist w/anesthes	Y		G2	17.5996	$736.95
25260	Repair forearm tendon/muscle	Y		A2	26.3955	$1,105.26
25263	Repair forearm tendon/muscle	Y		A2	25.3445	$1,061.25
25265	Repair forearm tendon/muscle	Y		A2	25.7101	$1,076.56
25270	Repair forearm tendon/muscle	Y		A2	26.3955	$1,105.26
25272	Repair forearm tendon/muscle	Y		A2	25.7101	$1,076.56
25274	Repair forearm tendon/muscle	Y		A2	26.3955	$1,105.26
25275	Repair forearm tendon sheath	Y		A2	26.3955	$1,105.26
25280	Revise wrist/forearm tendon	Y		A2	26.3955	$1,105.26
25290	Incise wrist/forearm tendon	Y		A2	25.7101	$1,076.56
25295	Release wrist/forearm tendon	Y		A2	18.7092	$783.41
25300	Fusion of tendons at wrist	Y		A2	25.7101	$1,076.56
25301	Fusion of tendons at wrist	Y		A2	25.7101	$1,076.56
25310	Transplant forearm tendon	Y		A2	36.3344	$1,521.43
25312	Transplant forearm tendon	Y		A2	37.02	$1,550.14
25315	Revise palsy hand tendon(s)	Y		A2	36.3344	$1,521.43
25316	Revise palsy hand tendon(s)	Y		A2	66.5231	$2,785.52
25320	Repair/revise wrist joint	Y		A2	36.3344	$1,521.43
25332	Revise wrist joint	Y		A2	32.7158	$1,369.91
25335	Realignment of hand	Y		A2	36.3344	$1,521.43
25337	Reconstruct ulna/radioulnar	Y		A2	37.5168	$1,570.94
25350	Revision of radius	Y		A2	36.3344	$1,521.43
25355	Revision of radius	Y		A2	36.3344	$1,521.43

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25360	Revision of ulna	Y		A2	36.3344	$1,521.43
25365	Revise radius & ulna	Y		A2	36.3344	$1,521.43
25370	Revise radius or ulna	Y		A2	36.3344	$1,521.43
25375	Revise radius & ulna	Y		A2	37.02	$1,550.14
25390	Shorten radius or ulna	Y		A2	36.3344	$1,521.43
25391	Lengthen radius or ulna	Y		A2	37.02	$1,550.14
25392	Shorten radius & ulna	Y		A2	25.7101	$1,076.56
25393	Lengthen radius & ulna	Y		A2	37.02	$1,550.14
25394	Repair carpal bone, shorten	Y		G2	44.5617	$1,865.93
25400	Repair radius or ulna	Y		A2	36.3344	$1,521.43
25405	Repair/graft radius or ulna	Y		A2	67.2085	$2,814.22
25415	Repair radius & ulna	Y		A2	66.5231	$2,785.52
25420	Repair/graft radius & ulna	Y		A2	67.2085	$2,814.22
25425	Repair/graft radius or ulna	Y		A2	36.3344	$1,521.43
25426	Repair/graft radius & ulna	Y		A2	37.02	$1,550.14
25430	Vasc graft into carpal bone	Y		G2	44.5617	$1,865.93
25431	Repair nonunion carpal bone	Y		G2	44.5617	$1,865.93
25440	Repair/graft wrist bone	Y		A2	67.2085	$2,814.22
25441	Reconstruct wrist joint	Y		H8	150.2992	$6,293.48
25442	Reconstruct wrist joint	Y		H8	150.2992	$6,293.48
25443	Reconstruct wrist joint	Y		A2	45.772	$1,916.61
25444	Reconstruct wrist joint	Y		A2	45.772	$1,916.61
25445	Reconstruct wrist joint	Y		A2	45.772	$1,916.61
25446	Wrist replacement	Y		H8	151.8871	$6,359.97
25447	Repair wrist joint(s)	Y		A2	32.7158	$1,369.91
25449	Remove wrist joint implant	Y		A2	32.7158	$1,369.91
25450	Revision of wrist joint	Y		A2	36.3344	$1,521.43
25455	Revision of wrist joint	Y		A2	36.3344	$1,521.43
25490	Reinforce radius	Y		A2	36.3344	$1,521.43

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25491	Reinforce ulna	Y		A2	36.3344	$1,521.43
25492	Reinforce radius and ulna	Y		A2	36.3344	$1,521.43
25500	Treat fracture of radius	Y		P2	1.5858	$66.40
25505	Treat fracture of radius	Y		A2	4.0322	$168.84
25515	Treat fracture of radius	Y		A2	35.5372	$1,488.05
25520	Treat fracture of radius	Y		A2	4.0322	$168.84
25525	Treat fracture of radius	Y		A2	36.2226	$1,516.75
25526	Treat fracture of radius	Y		A2	36.7196	$1,537.56
25530	Treat fracture of ulna	Y		P2	1.5858	$66.40
25535	Treat fracture of ulna	Y		A2	1.7811	$74.58
25545	Treat fracture of ulna	Y		A2	35.5372	$1,488.05
25560	Treat fracture radius & ulna	Y		P2	1.5858	$66.40
25565	Treat fracture radius & ulna	Y		A2	4.0322	$168.84
25574	Treat fracture radius & ulna	Y		A2	49.8932	$2,089.18
25575	Treat fracture radius/ulna	Y		A2	49.8932	$2,089.18
25600	Treat fracture radius/ulna	Y		P2	1.5858	$66.40
25605	Treat fracture radius/ulna	Y		A2	4.0322	$168.84
25606	Treat fx distal radial	Y		A2	21.4573	$898.48
25607	Treat fx rad extra-articul	Y		A2	51.0756	$2,138.69
25608	Treat fx rad intra-articul	Y		A2	51.0756	$2,138.69
25609	Treat fx radial 3+ frag	Y		A2	51.0756	$2,138.69
25622	Treat wrist bone fracture	Y		P2	1.5858	$66.40
25624	Treat wrist bone fracture	Y		A2	4.0322	$168.84
25628	Treat wrist bone fracture	Y		A2	35.5372	$1,488.05
25630	Treat wrist bone fracture	Y		P2	1.5858	$66.40
25635	Treat wrist bone fracture	Y		A2	4.0322	$168.84
25645	Treat wrist bone fracture	Y		A2	35.5372	$1,488.05
25650	Treat wrist bone fracture	Y		P2	1.5858	$66.40
25651	Pin ulnar styloid fracture	Y		G2	24.7255	$1,035.33

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
25652	Treat fracture ulnar styloid	Y		G2	43.499	$1,821.43
25660	Treat wrist dislocation	Y		A2	1.7811	$74.58
25670	Treat wrist dislocation	Y		A2	21.4573	$898.48
25671	Pin radioulnar dislocation	Y		A2	20.4461	$856.14
25675	Treat wrist dislocation	Y		A2	1.7811	$74.58
25676	Treat wrist dislocation	Y		A2	21.0916	$883.17
25680	Treat wrist fracture	Y		A2	1.7811	$74.58
25685	Treat wrist fracture	Y		A2	21.4573	$898.48
25690	Treat wrist dislocation	Y		A2	13.7917	$577.50
25695	Treat wrist dislocation	Y		A2	21.0916	$883.17
25800	Fusion of wrist joint	Y		A2	67.2085	$2,814.22
25805	Fusion/graft of wrist joint	Y		A2	37.5168	$1,570.94
25810	Fusion/graft of wrist joint	Y		A2	67.7054	$2,835.03
25820	Fusion of hand bones	Y		A2	37.02	$1,550.14
25825	Fuse hand bones with graft	Y		A2	67.7054	$2,835.03
25830	Fusion, radioulnar jnt/ulna	Y		A2	67.7054	$2,835.03
25907	Amputation follow-up surgery	Y		A2	18.7092	$783.41
25922	Amputate hand at wrist	Y		A2	18.7092	$783.41
25929	Amputation follow-up surgery	Y		A2	14.4325	$604.33
25931	Amputation follow-up surgery	Y		G2	21.0617	$881.92
26010	Drainage of finger abscess	Y		P2	1.3927	$58.32
26011	Drainage of finger abscess	Y		A2	10.9586	$458.87
26020	Drain hand tendon sheath	Y		A2	14.7756	$618.70
26025	Drainage of palm bursa	Y		A2	14.1301	$591.67
26030	Drainage of palm bursa(s)	Y		A2	14.7756	$618.70
26034	Treat hand bone lesion	Y		A2	14.7756	$618.70
26035	Decompress fingers/hand	Y		G2	16.3041	$682.70
26037	Decompress fingers/hand	Y	CH	G2	16.3041	$682.70
26040	Release palm contracture	Y		A2	23.8595	$999.07

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
26045	Release palm contracture	Y		A2	23.1741	$970.37
26055	Incise finger tendon sheath	Y		A2	14.7756	$618.70
26060	Incision of finger tendon	Y		A2	14.7756	$618.70
26070	Explore/treat hand joint	Y		A2	14.7756	$618.70
26075	Explore/treat finger joint	Y		A2	15.8267	$662.71
26080	Explore/treat finger joint	Y		A2	15.8267	$662.71
26100	Biopsy hand joint lining	Y		A2	14.7756	$618.70
26105	Biopsy finger joint lining	Y		A2	14.1301	$591.67
26110	Biopsy finger joint lining	Y		A2	14.1301	$591.67
26111	Exc hand les sc > 1.5 cm	Y	NI	G2	22.3753	$936.92
26113	Exc hand tum deep > 1.5 cm	Y	NI	G2	22.3753	$936.92
26115*	Exc hand les sc < 1.5 cm	Y	NI	P3		$287.02
26116	Exc hand tum deep < 1.5 cm	Y	NI	G2	16.7399	$700.95
26117	Exc hand tum ra < 3 cm	Y	NI	G2	16.7399	$700.95
26118	Exc hand tum ra > 3 cm	Y	NI	G2	22.3753	$936.92
26121	Release palm contracture	Y		A2	23.8595	$999.07
26123	Release palm contracture	Y		A2	23.8595	$999.07
26125	Release palm contracture	Y		A2	15.8267	$662.71
26130	Remove wrist joint lining	Y		A2	15.141	$634.00
26135	Revise finger joint, each	Y		A2	23.8595	$999.07
26140	Revise finger joint, each	Y		A2	14.7756	$618.70
26145	Tendon excision, palm/finger	Y		A2	15.141	$634.00
26160	Remove tendon sheath lesion	Y		A2	15.141	$634.00
26170	Removal of palm tendon, each	Y		A2	15.141	$634.00
26180	Removal of finger tendon	Y		A2	15.141	$634.00
26185	Remove finger bone	Y		A2	15.8267	$662.71
26200	Remove hand bone lesion	Y		A2	14.7756	$618.70
26205	Remove/graft bone lesion	Y		A2	23.1741	$970.37
26210	Removal of finger lesion	Y		A2	14.7756	$618.70

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
26215	Remove/graft finger lesion	Y		A2	15.141	$634.00
26230	Partial removal of hand bone	Y		A2	17.8996	$749.51
26235	Partial removal, finger bone	Y		A2	15.141	$634.00
26236	Partial removal, finger bone	Y		A2	15.141	$634.00
26250	Extensive hand surgery	Y		A2	15.141	$634.00
26255	Extensive hand surgery	N	CH	D5		
26260	Resect prox finger tumor	Y		A2	15.141	$634.00
26261	Extensive finger surgery	N	CH	D5		
26262	Resect distal finger tumor	Y		A2	14.7756	$618.70
26320	Removal of implant from hand	Y		A2	15.1023	$632.38
26340	Manipulate finger w/anesth	Y		G2	4.587	$192.07
26350	Repair finger/hand tendon	Y		A2	22.1632	$928.04
26352	Repair/graft hand tendon	Y		A2	23.8595	$999.07
26356	Repair finger/hand tendon	Y		A2	23.8595	$999.07
26357	Repair finger/hand tendon	Y		A2	23.8595	$999.07
26358	Repair/graft hand tendon	Y		A2	23.8595	$999.07
26370	Repair finger/hand tendon	Y		A2	23.8595	$999.07
26372	Repair/graft hand tendon	Y		A2	23.8595	$999.07
26373	Repair finger/hand tendon	Y		A2	23.1741	$970.37
26390	Revise hand/finger tendon	Y		A2	23.8595	$999.07
26392	Repair/graft hand tendon	Y		A2	23.1741	$970.37
26410	Repair hand tendon	Y		A2	15.141	$634.00
26412	Repair/graft hand tendon	Y		A2	23.1741	$970.37
26415	Excision, hand/finger tendon	Y		A2	23.8595	$999.07
26416	Graft hand or finger tendon	Y		A2	23.1741	$970.37
26418	Repair finger tendon	Y		A2	15.8267	$662.71
26420	Repair/graft finger tendon	Y		A2	23.8595	$999.07
26426	Repair finger/hand tendon	Y		A2	23.1741	$970.37
26428	Repair/graft finger tendon	Y		A2	23.1741	$970.37

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

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26432	Repair finger tendon	Y		A2	15.141	$634.00
26433	Repair finger tendon	Y		A2	15.141	$634.00
26434	Repair/graft finger tendon	Y		A2	23.1741	$970.37
26437	Realignment of tendons	Y		A2	15.141	$634.00
26440	Release palm/finger tendon	Y		A2	15.141	$634.00
26442	Release palm & finger tendon	Y		A2	23.1741	$970.37
26445	Release hand/finger tendon	Y		A2	15.141	$634.00
26449	Release forearm/hand tendon	Y		A2	23.1741	$970.37
26450	Incision of palm tendon	Y		A2	15.141	$634.00
26455	Incision of finger tendon	Y		A2	15.141	$634.00
26460	Incise hand/finger tendon	Y		A2	15.141	$634.00
26471	Fusion of finger tendons	Y		A2	14.7756	$618.70
26474	Fusion of finger tendons	Y		A2	14.7756	$618.70
26476	Tendon lengthening	Y		A2	14.1301	$591.67
26477	Tendon shortening	Y		A2	14.1301	$591.67
26478	Lengthening of hand tendon	Y		A2	14.1301	$591.67
26479	Shortening of hand tendon	Y		A2	14.1301	$591.67
26480	Transplant hand tendon	Y		A2	23.1741	$970.37
26483	Transplant/graft hand tendon	Y		A2	23.1741	$970.37
26485	Transplant palm tendon	Y		A2	22.8085	$955.06
26489	Transplant/graft palm tendon	Y		A2	23.1741	$970.37
26490	Revise thumb tendon	Y		A2	23.1741	$970.37
26492	Tendon transfer with graft	Y		A2	23.1741	$970.37
26494	Hand tendon/muscle transfer	Y		A2	23.1741	$970.37
26496	Revise thumb tendon	Y		A2	23.1741	$970.37
26497	Finger tendon transfer	Y		A2	23.1741	$970.37
26498	Finger tendon transfer	Y		A2	23.8595	$999.07
26499	Revision of finger	Y		A2	23.1741	$970.37
26500	Hand tendon reconstruction	Y		A2	15.8267	$662.71

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26502	Hand tendon reconstruction	Y		A2	23.8595	$999.07
26508	Release thumb contracture	Y		A2	15.141	$634.00
26510	Thumb tendon transfer	Y		A2	23.1741	$970.37
26516	Fusion of knuckle joint	Y		A2	22.1632	$928.04
26517	Fusion of knuckle joints	Y		A2	23.1741	$970.37
26518	Fusion of knuckle joints	Y		A2	23.1741	$970.37
26520	Release knuckle contracture	Y		A2	15.141	$634.00
26525	Release finger contracture	Y		A2	15.141	$634.00
26530	Revise knuckle joint	Y		A2	31.5334	$1,320.40
26531	Revise knuckle with implant	Y		A2	47.3599	$1,983.10
26535	Revise finger joint	Y		A2	32.7158	$1,369.91
26536	Revise/implant finger joint	Y		A2	45.772	$1,916.61
26540	Repair hand joint	Y		A2	15.8267	$662.71
26541	Repair hand joint with graft	Y		A2	25.9444	$1,086.37
26542	Repair hand joint with graft	Y		A2	15.8267	$662.71
26545	Reconstruct finger joint	Y		A2	23.8595	$999.07
26546	Repair nonunion hand	Y		A2	23.8595	$999.07
26548	Reconstruct finger joint	Y		A2	23.8595	$999.07
26550	Construct thumb replacement	Y		A2	22.8085	$955.06
26555	Positional change of finger	Y		A2	23.1741	$970.37
26560	Repair of web finger	Y		A2	14.7756	$618.70
26561	Repair of web finger	Y		A2	23.1741	$970.37
26562	Repair of web finger	Y		A2	23.8595	$999.07
26565	Correct metacarpal flaw	Y		A2	24.3565	$1,019.88
26567	Correct finger deformity	Y		A2	24.3565	$1,019.88
26568	Lengthen metacarpal/finger	Y		A2	23.1741	$970.37
26580	Repair hand deformity	Y		A2	16.3234	$683.51
26587	Reconstruct extra finger	Y		A2	16.3234	$683.51
26590	Repair finger deformity	Y		A2	16.3234	$683.51

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26591	Repair muscles of hand	Y		A2	23.1741	$970.37
26593	Release muscles of hand	Y		A2	15.141	$634.00
26596	Excision constricting tissue	Y		A2	14.7756	$618.70
26600	Treat metacarpal fracture	Y		P2	1.5858	$66.40
26605	Treat metacarpal fracture	Y		A2	1.7811	$74.58
26607	Treat metacarpal fracture	Y		A2	13.7917	$577.50
26608	Treat metacarpal fracture	Y		A2	22.1427	$927.18
26615	Treat metacarpal fracture	Y		A2	36.2226	$1,516.75
26641	Treat thumb dislocation	Y		P2	1.5858	$66.40
26645	Treat thumb fracture	Y		A2	4.0322	$168.84
26650	Treat thumb fracture	Y		A2	21.0916	$883.17
26665	Treat thumb fracture	Y		A2	36.2226	$1,516.75
26670	Treat hand dislocation	Y		P2	1.5858	$66.40
26675	Treat hand dislocation	Y		A2	4.0322	$168.84
26676	Pin hand dislocation	Y		A2	21.0916	$883.17
26685	Treat hand dislocation	Y		A2	21.4573	$898.48
26686	Treat hand dislocation	Y		A2	49.8932	$2,089.18
26700	Treat knuckle dislocation	Y		P2	1.5858	$66.40
26705	Treat knuckle dislocation	Y		A2	1.7811	$74.58
26706	Pin knuckle dislocation	Y		A2	13.7917	$577.50
26715	Treat knuckle dislocation	Y		A2	22.1427	$927.18
26720	Treat finger fracture, each	Y		P2	1.5858	$66.40
26725	Treat finger fracture, each	Y		P2	1.5858	$66.40
26727	Treat finger fracture, each	Y		A2	24.2275	$1,014.48
26735	Treat finger fracture, each	Y		A2	22.1427	$927.18
26740	Treat finger fracture, each	Y		P2	1.5858	$66.40
26742	Treat finger fracture, each	Y		A2	1.7811	$74.58
26746	Treat finger fracture, each	Y		A2	22.6396	$947.99
26750	Treat finger fracture, each	Y		P2	1.5858	$66.40

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26755	Treat finger fracture, each	Y		G2	1.5858	$66.40
26756	Pin finger fracture, each	Y		A2	21.0916	$883.17
26765	Treat finger fracture, each	Y		A2	22.1427	$927.18
26770	Treat finger dislocation	Y		G2	1.5858	$66.40
26775	Treat finger dislocation	Y		P3		$143.08
26776	Pin finger dislocation	Y		A2	21.0916	$883.17
26785	Treat finger dislocation	Y		A2	21.0916	$883.17
26820	Thumb fusion with graft	Y		A2	24.3565	$1,019.88
26841	Fusion of thumb	Y		A2	23.8595	$999.07
26842	Thumb fusion with graft	Y		A2	23.8595	$999.07
26843	Fusion of hand joint	Y		A2	23.1741	$970.37
26844	Fusion/graft of hand joint	Y		A2	23.1741	$970.37
26850	Fusion of knuckle	Y		A2	23.8595	$999.07
26852	Fusion of knuckle with graft	Y		A2	23.8595	$999.07
26860	Fusion of finger joint	Y		A2	23.1741	$970.37
26861	Fusion of finger jnt, add-on	Y		A2	22.8085	$955.06
26862	Fusion/graft of finger joint	Y		A2	23.8595	$999.07
26863	Fuse/graft added joint	Y		A2	23.1741	$970.37
26910	Amputate metacarpal bone	Y		A2	23.1741	$970.37
26951	Amputation of finger/thumb	Y		A2	14.7756	$618.70
26952	Amputation of finger/thumb	Y		A2	15.8267	$662.71
26990	Drainage of pelvis lesion	Y		A2	17.6983	$741.08
26991	Drainage of pelvis bursa	Y		A2	17.6983	$741.08
27000	Incision of hip tendon	Y		A2	18.3436	$768.10
27001	Incision of hip tendon	Y		A2	25.7101	$1,076.56
27003	Incision of hip tendon	Y		A2	25.7101	$1,076.56
27033	Exploration of hip joint	Y		A2	36.3344	$1,521.43
27035	Denervation of hip joint	Y		A2	37.02	$1,550.14
27040	Biopsy of soft tissues	Y		A2	7.7878	$326.10

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27041	Biopsy of soft tissues	Y		A2	8.2762	$346.55
27043	Exc hip pelvis les sc > 3 cm	Y	NI	G2	22.3753	$936.92
27045	Exc hip/pelv tum deep > 5 cm	Y	NI	G2	22.3753	$936.92
27047*	Exc hip/pelvis les sc < 3 cm	Y	NI	P3		$200.15
27048	Exc hip/pelv tum deep < 5 cm	Y	NI	G2	16.7399	$700.95
27049	Resect hip/pelv tum < 5 cm	Y	NI	G2	16.7399	$700.95
27050	Biopsy of sacroiliac joint	Y		A2	18.7092	$783.41
27052	Biopsy of hip joint	Y		A2	18.7092	$783.41
27059	Resect hip/pelv tum > 5 cm	Y	NI	G2	22.3753	$936.92
27060	Removal of ischial bursa	Y		A2	19.8916	$832.92
27062	Remove femur lesion/bursa	Y		A2	19.8916	$832.92
27065	Removal of hip bone lesion	Y		A2	19.8916	$832.92
27066	Removal of hip bone lesion	Y		A2	26.8925	$1,126.07
27067	Remove/graft hip bone lesion	Y		A2	26.8925	$1,126.07
27080	Removal of tail bone	Y		A2	25.3445	$1,061.25
27086	Remove hip foreign body	Y		A2	7.7878	$326.10
27087	Remove hip foreign body	Y		A2	18.7092	$783.41
27093	Injection for hip x-ray	N		N1		
27095	Injection for hip x-ray	N		N1		
27097	Revision of hip tendon	Y		A2	25.7101	$1,076.56
27098	Transfer tendon to pelvis	Y		A2	25.7101	$1,076.56
27100	Transfer of abdominal muscle	Y		A2	37.02	$1,550.14
27105	Transfer of spinal muscle	Y		A2	37.02	$1,550.14
27110	Transfer of iliopsoas muscle	Y		A2	37.02	$1,550.14
27111	Transfer of iliopsoas muscle	Y		A2	37.02	$1,550.14
27193	Treat pelvic ring fracture	Y		A2	1.7811	$74.58
27194	Treat pelvic ring fracture	Y		A2	13.5199	$566.12
27200	Treat tail bone fracture	Y	CH	P3		$63.59
27202	Treat tail bone fracture	Y		A2	35.1716	$1,472.74

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27220	Treat hip socket fracture	Y		G2	1.5858	$66.40
27230	Treat thigh fracture	Y		A2	1.7811	$74.58
27238	Treat thigh fracture	Y		A2	4.0322	$168.84
27246	Treat thigh fracture	Y		A2	4.0322	$168.84
27250	Treat hip dislocation	Y		A2	1.7811	$74.58
27252	Treat hip dislocation	Y		A2	13.5199	$566.12
27256	Treat hip dislocation	Y		G2	1.5858	$66.40
27257	Treat hip dislocation	Y		A2	13.8856	$581.43
27265	Treat hip dislocation	Y		A2	1.7811	$74.58
27266	Treat hip dislocation	Y		A2	13.5199	$566.12
27267	Cltx thigh fx	Y		G2	1.5858	$66.40
27275	Manipulation of hip joint	Y		A2	13.5199	$566.12
27301	Drain thigh/knee lesion	Y		A2	16.8376	$705.04
27305	Incise thigh tendon & fascia	Y		A2	18.3436	$768.10
27306	Incision of thigh tendon	Y		A2	18.7092	$783.41
27307	Incision of thigh tendons	Y		A2	18.7092	$783.41
27310	Exploration of knee joint	Y		A2	26.3955	$1,105.26
27323	Biopsy, thigh soft tissues	Y		A2	7.7878	$326.10
27324	Biopsy, thigh soft tissues	Y		A2	18.6836	$782.34
27325	Neurectomy, hamstring	Y		A2	15.9795	$669.11
27326	Neurectomy, popliteal	Y		A2	15.9795	$669.11
27327*	Exc thigh/knee les sc < 3 cm	Y	NI	P3		$182.26
27328	Exc thigh/knee tum deep <5cm	Y	NI	G2	16.7399	$700.95
27329	Resect thigh/knee tum < 5 cm	Y	NI	G2	16.7399	$700.95
27330	Biopsy, knee joint lining	Y		A2	26.3955	$1,105.26
27331	Explore/treat knee joint	Y		A2	26.3955	$1,105.26
27332	Removal of knee cartilage	Y		A2	26.3955	$1,105.26
27333	Removal of knee cartilage	Y		A2	26.3955	$1,105.26
27334	Remove knee joint lining	Y		A2	26.3955	$1,105.26

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27335	Remove knee joint lining	Y		A2	26.3955	$1,105.26
27337	Exc thigh/knee les sc > 3 cm	Y	NI	G2	22.3753	$936.92
27339	Exc thigh/knee tum deep >5cm	Y	NI	G2	22.3753	$936.92
27340	Removal of kneecap bursa	Y		A2	18.7092	$783.41
27345	Removal of knee cyst	Y		A2	19.3946	$812.11
27347	Remove knee cyst	Y		A2	19.3946	$812.11
27350	Removal of kneecap	Y		A2	26.3955	$1,105.26
27355	Remove femur lesion	Y		A2	25.7101	$1,076.56
27356	Remove femur lesion/graft	Y		A2	26.3955	$1,105.26
27357	Remove femur lesion/graft	Y		A2	26.8925	$1,126.07
27358	Remove femur lesion/fixation	Y		A2	26.8925	$1,126.07
27360	Partial removal, leg bone(s)	Y		A2	26.8925	$1,126.07
27364	Resect thigh/knee tum >5 cm	Y	NI	G2	22.3753	$936.92
27370	Injection for knee x-ray	N		N1		
27372	Removal of foreign body	Y		A2	22.4651	$940.68
27380	Repair of kneecap tendon	Y		A2	17.6983	$741.08
27381	Repair/graft kneecap tendon	Y		A2	18.7092	$783.41
27385	Repair of thigh muscle	Y		A2	18.7092	$783.41
27386	Repair/graft of thigh muscle	Y		A2	18.7092	$783.41
27390	Incision of thigh tendon	Y		A2	17.6983	$741.08
27391	Incision of thigh tendons	Y		A2	18.3436	$768.10
27392	Incision of thigh tendons	Y		A2	18.7092	$783.41
27393	Lengthening of thigh tendon	Y		A2	25.3445	$1,061.25
27394	Lengthening of thigh tendons	Y		A2	25.7101	$1,076.56
27395	Lengthening of thigh tendons	Y		A2	36.3344	$1,521.43
27396	Transplant of thigh tendon	Y		A2	25.7101	$1,076.56
27397	Transplants of thigh tendons	Y		A2	36.3344	$1,521.43
27400	Revise thigh muscles/tendons	Y		A2	36.3344	$1,521.43
27403	Repair of knee cartilage	Y		A2	26.3955	$1,105.26

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27405	Repair of knee ligament	Y		A2	37.02	$1,550.14
27407	Repair of knee ligament	Y		A2	67.2085	$2,814.22
27409	Repair of knee ligaments	Y		A2	37.02	$1,550.14
27416	Osteochondral knee autograft	Y		G2	44.5617	$1,865.93
27418	Repair degenerated kneecap	Y		A2	36.3344	$1,521.43
27420	Revision of unstable kneecap	Y		A2	36.3344	$1,521.43
27422	Revision of unstable kneecap	Y		A2	39.1047	$1,637.43
27424	Revision/removal of kneecap	Y		A2	36.3344	$1,521.43
27425	Lat retinacular release open	Y		A2	28.4804	$1,192.56
27427	Reconstruction, knee	Y		A2	36.3344	$1,521.43
27428	Reconstruction, knee	Y		A2	67.2085	$2,814.22
27429	Reconstruction, knee	Y		A2	67.2085	$2,814.22
27430	Revision of thigh muscles	Y		A2	37.02	$1,550.14
27435	Incision of knee joint	Y		A2	37.02	$1,550.14
27437	Revise kneecap	Y		A2	32.2191	$1,349.11
27438	Revise kneecap with implant	Y		A2	45.772	$1,916.61
27440	Revision of knee joint	Y		G2	38.1606	$1,597.90
27441	Revision of knee joint	Y		A2	32.7158	$1,369.91
27442	Revision of knee joint	Y		A2	32.7158	$1,369.91
27443	Revision of knee joint	Y		A2	32.7158	$1,369.91
27446	Revision of knee joint	Y		J8	158.2621	$6.626.91
27475	Surgery to stop leg growth	Y	CH	G2	30.396	$1,272.77
27479	Surgery to stop leg growth	Y	CH	G2	30.396	$1,272.77
27496	Decompression of thigh/knee	Y		A2	26.8925	$1,126.07
27497	Decompression of thigh/knee	Y		A2	18.7092	$783.41
27498	Decompression of thigh/knee	Y		A2	25.7101	$1,076.56
27499	Decompression of thigh/knee	Y		A2	25.7101	$1,076.56
27500	Treatment of thigh fracture	Y		A2	4.0322	$168.84
27501	Treatment of thigh fracture	Y		A2	1.7811	$74.58

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27502	Treatment of thigh fracture	Y		A2	13.7917	$577.50
27503	Treatment of thigh fracture	Y		A2	1.7811	$74.58
27508	Treatment of thigh fracture	Y		A2	1.7811	$74.58
27509	Treatment of thigh fracture	Y		A2	21.4573	$898.48
27510	Treatment of thigh fracture	Y		A2	4.0322	$168.84
27516	Treat thigh fx growth plate	Y		A2	1.7811	$74.58
27517	Treat thigh fx growth plate	Y		A2	1.7811	$74.58
27520	Treat kneecap fracture	Y		A2	1.7811	$74.58
27530	Treat knee fracture	Y		A2	1.7811	$74.58
27532	Treat knee fracture	Y		A2	13.7917	$577.50
27538	Treat knee fracture(s)	Y		A2	1.7811	$74.58
27550	Treat knee dislocation	Y		A2	1.7811	$74.58
27552	Treat knee dislocation	Y		A2	12.8746	$539.10
27560	Treat kneecap dislocation	Y		A2	1.7811	$74.58
27562	Treat kneecap dislocation	Y		A2	12.8746	$539.10
27566	Treat kneecap dislocation	Y		A2	35.1716	$1,472.74
27570	Fixation of knee joint	Y		A2	12.8746	$539.10
27594	Amputation follow-up surgery	Y		A2	18.7092	$783.41
27600	Decompression of lower leg	Y		A2	18.7092	$783.41
27601	Decompression of lower leg	Y		A2	18.7092	$783.41
27602	Decompression of lower leg	Y		A2	18.7092	$783.41
27603	Drain lower leg lesion	Y		A2	16.472	$689.73
27604	Drain lower leg bursa	Y		A2	18.3436	$768.10
27605	Incision of achilles tendon	Y		A2	17.5755	$735.94
27606	Incision of achilles tendon	Y		A2	17.6983	$741.08
27607	Treat lower leg bone lesion	Y		A2	18.3436	$768.10
27610	Explore/treat ankle joint	Y		A2	25.3445	$1,061.25
27612	Exploration of ankle joint	Y		A2	25.7101	$1,076.56
27613	Biopsy lower leg soft tissue	Y		P3		$110.72

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27614	Biopsy lower leg soft tissue	Y		A2	19.3292	$809.37
27615	Resect leg/ankle tum < 5 cm	Y	NI	G2	16.7399	$700.95
27616	Resect leg/ankle tum > 5 cm	Y	NI	G2	22.3753	$936.92
27618*	Exc leg/ankle tum < 3 cm	Y	NI	P3		$187.94
27619	Exc leg/ankle tum deep <5 cm	Y	NI	G2	16.7399	$700.95
27620	Explore/treat ankle joint	Y		A2	26.3955	$1,105.26
27625	Remove ankle joint lining	Y		A2	26.3955	$1,105.26
27626	Remove ankle joint lining	Y		A2	26.3955	$1,105.26
27630	Removal of tendon lesion	Y		A2	18.7092	$783.41
27632	Exc leg/ankle les sc > 3 cm	Y	NI	G2	22.3753	$936.92
27634	Exc leg/ankle tum deep >5 cm	Y	NI	G2	22.3753	$936.92
27635	Remove lower leg bone lesion	Y		A2	25.7101	$1,076.56
27637	Remove/graft leg bone lesion	Y		A2	25.7101	$1,076.56
27638	Remove/graft leg bone lesion	Y		A2	25.7101	$1,076.56
27640	Partial removal of tibia	Y		A2	35.969	$1,506.13
27641	Partial removal of fibula	Y		A2	25.3445	$1,061.25
27647	Resect talus/calcaneus tum	Y		A2	36.3344	$1,521.43
27648	Injection for ankle x-ray	N		N1		
27650	Repair achilles tendon	Y		A2	36.3344	$1,521.43
27652	Repair/graft achilles tendon	Y		A2	66.5231	$2,785.52
27654	Repair of achilles tendon	Y		A2	36.3344	$1,521.43
27656	Repair leg fascia defect	Y		A2	18.3436	$768.10
27658	Repair of leg tendon, each	Y		A2	17.6983	$741.08
27659	Repair of leg tendon, each	Y		A2	18.3436	$768.10
27664	Repair of leg tendon, each	Y		A2	25.3445	$1,061.25
27665	Repair of leg tendon, each	Y		A2	25.3445	$1,061.25
27675	Repair lower leg tendons	Y		A2	18.3436	$768.10
27676	Repair lower leg tendons	Y		A2	25.7101	$1,076.56
27680	Release of lower leg tendon	Y		A2	25.7101	$1,076.56

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27681	Release of lower leg tendons	Y		A2	25.3445	$1,061.25
27685	Revision of lower leg tendon	Y		A2	25.7101	$1,076.56
27686	Revise lower leg tendons	Y		A2	25.7101	$1,076.56
27687	Revision of calf tendon	Y		A2	25.7101	$1,076.56
27690	Revise lower leg tendon	Y		A2	37.02	$1,550.14
27691	Revise lower leg tendon	Y		A2	37.02	$1,550.14
27692	Revise additional leg tendon	Y		A2	36.3344	$1,521.43
27695	Repair of ankle ligament	Y		A2	25.3445	$1,061.25
27696	Repair of ankle ligaments	Y		A2	25.3445	$1,061.25
27698	Repair of ankle ligament	Y		A2	25.3445	$1,061.25
27700	Revision of ankle joint	Y		A2	32.7158	$1,369.91
27704	Removal of ankle implant	Y		A2	18.3436	$768.10
27705	Incision of tibia	Y		A2	35.969	$1,506.13
27707	Incision of fibula	Y		A2	18.3436	$768.10
27709	Incision of tibia & fibula	Y		A2	25.3445	$1,061.25
27720	Repair of tibia	Y	CH	G2	43.499	$1,821.43
27726	Repair fibula nonunion	Y		G2	43.499	$1,821.43
27730	Repair of tibia epiphysis	Y		A2	25.3445	$1,061.25
27732	Repair of fibula epiphysis	Y		A2	25.3445	$1,061.25
27734	Repair lower leg epiphyses	Y		A2	25.3445	$1,061.25
27740	Repair of leg epiphyses	Y		A2	25.3445	$1,061.25
27742	Repair of leg epiphyses	Y		A2	35.969	$1,506.13
27745	Reinforce tibia	Y		A2	66.5231	$2,785.52
27750	Treatment of tibia fracture	Y		A2	1.7811	$74.58
27752	Treatment of tibia fracture	Y		A2	13.7917	$577.50
27756	Treatment of tibia fracture	Y		A2	21.4573	$898.48
27758	Treatment of tibia fracture	Y		A2	36.2226	$1,516.75
27759	Treatment of tibia fracture	Y		A2	50.5787	$2,117.88
27760	Cltx medial ankle fx	Y		A2	1.7811	$74.58

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27762	Cltx med ankle fx w/mnpj	Y		A2	13.7917	$577.50
27766	Optx medial ankle fx	Y		A2	35.5372	$1,488.05
27767	Cltx post ankle fx	Y		G2	1.5858	$66.40
27768	Cltx post ankle fx w/mnpj	Y		G2	1.5858	$66.40
27769	Optx post ankle fx	Y		G2	43.499	$1,821.43
27780	Treatment of fibula fracture	Y		A2	1.7811	$74.58
27781	Treatment of fibula fracture	Y		A2	13.7917	$577.50
27784	Treatment of fibula fracture	Y		A2	35.5372	$1,488.05
27786	Treatment of ankle fracture	Y		A2	1.7811	$74.58
27788	Treatment of ankle fracture	Y		A2	1.7811	$74.58
27792	Treatment of ankle fracture	Y		A2	35.5372	$1,488.05
27808	Treatment of ankle fracture	Y		A2	1.7811	$74.58
27810	Treatment of ankle fracture	Y		A2	4.0322	$168.84
27814	Treatment of ankle fracture	Y		A2	35.5372	$1,488.05
27816	Treatment of ankle fracture	Y		A2	1.7811	$74.58
27818	Treatment of ankle fracture	Y		A2	4.0322	$168.84
27822	Treatment of ankle fracture	Y		A2	35.5372	$1,488.05
27823	Treatment of ankle fracture	Y		A2	49.8932	$2,089.18
27824	Treat lower leg fracture	Y		A2	1.7811	$74.58
27825	Treat lower leg fracture	Y		A2	13.7917	$577.50
27826	Treat lower leg fracture	Y		A2	35.5372	$1,488.05
27827	Treat lower leg fracture	Y		A2	49.8932	$2,089.18
27828	Treat lower leg fracture	Y		A2	50.5787	$2,117.88
27829	Treat lower leg joint	Y		A2	35.1716	$1,472.74
27830	Treat lower leg dislocation	Y		A2	1.7811	$74.58
27831	Treat lower leg dislocation	Y		A2	13.7917	$577.50
27832	Treat lower leg dislocation	Y		A2	35.1716	$1,472.74
27840	Treat ankle dislocation	Y		A2	4.0322	$168.84
27842	Treat ankle dislocation	Y		A2	12.8746	$539.10

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
27846	Treat ankle dislocation	Y		A2	35.5372	$1,488.05
27848	Treat ankle dislocation	Y		A2	35.5372	$1,488.05
27860	Fixation of ankle joint	Y		A2	12.8746	$539.10
27870	Fusion of ankle joint, open	Y		A2	67.2085	$2,814.22
27871	Fusion of tibiofibular joint	Y		A2	67.2085	$2,814.22
27884	Amputation follow-up surgery	Y		A2	18.7092	$783.41
27889	Amputation of foot at ankle	Y		A2	25.7101	$1,076.56
27892	Decompression of leg	Y		A2	25.7101	$1,076.56
27893	Decompression of leg	Y		A2	25.7101	$1,076.56
27894	Decompression of leg	Y		A2	25.7101	$1,076.56
28001	Drainage of bursa of foot	Y		P3		$109.58
28002	Treatment of foot infection	Y		A2	18.7092	$783.41
28003	Treatment of foot infection	Y		A2	18.7092	$783.41
28005	Treat foot bone lesion	Y		A2	18.5864	$778.27
28008	Incision of foot fascia	Y		A2	18.5864	$778.27
28010	Incision of toe tendon	Y		P3		$80.06
28011	Incision of toe tendons	Y		A2	18.5864	$778.27
28020	Exploration of foot joint	Y		A2	18.221	$762.97
28022	Exploration of foot joint	Y		A2	18.221	$762.97
28024	Exploration of toe joint	Y		A2	18.221	$762.97
28035	Decompression of tibia nerve	Y		A2	17.0305	$713.12
28039*	Exc foot/toe tum sc > 1.5 cm	Y	NI	P3		$199.58
28041*	Exc foot/toe tum deep >1.5cm	Y	NI	R2	22.3753	$936.92
28043*	Exc foot/toe tum sc < 1.5 cm	Y	NI	P3		$141.95
28045*	Exc foot/toe tum deep <1.5cm	Y	NI	P3		$194.75
28046*	Resect foot/toe tumor < 3 cm	Y	NI	R2	16.7399	$700.95
28047	Resect foot/toe tumor > 3 cm	Y	NI	G2	22.3753	$936.92
28050	Biopsy of foot joint lining	Y		A2	18.221	$762.97
28052	Biopsy of foot joint lining	Y		A2	18.221	$762.97

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
28054	Biopsy of toe joint lining	Y		A2	18.221	$762.97
28055	Neurectomy, foot	Y		A2	17.0305	$713.12
28060	Partial removal, foot fascia	Y		A2	18.221	$762.97
28062	Removal of foot fascia	Y		A2	18.5864	$778.27
28070	Removal of foot joint lining	Y		A2	18.5864	$778.27
28072	Removal of foot joint lining	Y		A2	18.5864	$778.27
28080	Removal of foot lesion	Y		A2	18.5864	$778.27
28086	Excise foot tendon sheath	Y		A2	18.221	$762.97
28088	Excise foot tendon sheath	Y		A2	18.221	$762.97
28090	Removal of foot lesion	Y		A2	18.5864	$778.27
28092	Removal of toe lesions	Y		A2	18.5864	$778.27
28100	Removal of ankle/heel lesion	Y		A2	18.221	$762.97
28102	Remove/graft foot lesion	Y		A2	40.6016	$1,700.11
28103	Remove/graft foot lesion	Y		A2	40.6016	$1,700.11
28104	Removal of foot lesion	Y		A2	18.221	$762.97
28106	Remove/graft foot lesion	Y		A2	40.6016	$1,700.11
28107	Remove/graft foot lesion	Y		A2	40.6016	$1,700.11
28108	Removal of toe lesions	Y		A2	18.221	$762.97
28110	Part removal of metatarsal	Y		A2	18.5864	$778.27
28111	Part removal of metatarsal	Y		A2	18.5864	$778.27
28112	Part removal of metatarsal	Y		A2	18.5864	$778.27
28113	Part removal of metatarsal	Y		A2	18.5864	$778.27
28114	Removal of metatarsal heads	Y		A2	18.5864	$778.27
28116	Revision of foot	Y		A2	18.5864	$778.27
28118	Removal of heel bone	Y		A2	19.2721	$806.98
28119	Removal of heel spur	Y		A2	19.2721	$806.98
28120	Part removal of ankle/heel	Y		A2	21.3567	$894.27
28122	Partial removal of foot bone	Y		A2	18.5864	$778.27
28124	Partial removal of toe	Y		P3		$185.67

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

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28126	Partial removal of toe	Y		A2	18.5864	$778.27
28130	Removal of ankle bone	Y		A2	18.5864	$778.27
28140	Removal of metatarsal	Y		A2	18.5864	$778.27
28150	Removal of toe	Y		A2	18.5864	$778.27
28153	Partial removal of toe	Y		A2	18.5864	$778.27
28160	Partial removal of toe	Y		A2	18.5864	$778.27
28171	Resect tarsal tumor	Y		A2	18.5864	$778.27
28173	Resect metatarsal tumor	Y		A2	18.5864	$778.27
28175	Resect phalanx of toe tumor	Y		A2	18.5864	$778.27
28190	Removal of foot foreign body	Y		P3		$113.56
28192	Removal of foot foreign body	Y		A2	15.1023	$632.38
28193	Removal of foot foreign body	Y		A2	8.2762	$346.55
28200	Repair of foot tendon	Y		A2	18.5864	$778.27
28202	Repair/graft of foot tendon	Y		A2	18.5864	$778.27
28208	Repair of foot tendon	Y		A2	18.5864	$778.27
28210	Repair/graft of foot tendon	Y		A2	40.6016	$1,700.11
28220	Release of foot tendon	Y		P3		$175.45
28222	Release of foot tendons	Y		A2	17.5755	$735.94
28225	Release of foot tendon	Y		A2	17.5755	$735.94
28226	Release of foot tendons	Y		A2	17.5755	$735.94
28230	Incision of foot tendon(s)	Y		P3		$171.47
28232	Incision of toe tendon	Y		P3		$164.38
28234	Incision of foot tendon	Y		A2	18.221	$762.97
28238	Revision of foot tendon	Y		A2	40.6016	$1,700.11
28240	Release of big toe	Y		A2	18.221	$762.97
28250	Revision of foot fascia	Y		A2	18.5864	$778.27
28260	Release of midfoot joint	Y		A2	18.5864	$778.27
28261	Revision of foot tendon	Y		A2	18.5864	$778.27
28262	Revision of foot and ankle	Y		A2	19.2721	$806.98

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

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28264	Release of midfoot joint	Y		A2	39.5907	$1,657.78
28270	Release of foot contracture	Y		A2	18.5864	$778.27
28272	Release of toe joint, each	Y		P3		$158.41
28280	Fusion of toes	Y		A2	18.221	$762.97
28285	Repair of hammertoe	Y		A2	18.5864	$778.27
28286	Repair of hammertoe	Y		A2	19.2721	$806.98
28288	Partial removal of foot bone	Y		A2	18.5864	$778.27
28289	Repair hallux rigidus	Y		A2	18.5864	$778.27
28290	Correction of bunion	Y		A2	25.1878	$1,054.69
28292	Correction of bunion	Y		A2	25.1878	$1,054.69
28293	Correction of bunion	Y		A2	25.5535	$1,070.00
28294	Correction of bunion	Y		A2	25.5535	$1,070.00
28296	Correction of bunion	Y		A2	25.5535	$1,070.00
28297	Correction of bunion	Y		A2	25.5535	$1,070.00
28298	Correction of bunion	Y		A2	25.5535	$1,070.00
28299	Correction of bunion	Y		A2	26.7358	$1,119.51
28300	Incision of heel bone	Y		A2	40.2362	$1,684.81
28302	Incision of ankle bone	Y		A2	18.221	$762.97
28304	Incision of midfoot bones	Y		A2	40.2362	$1,684.81
28305	Incise/graft midfoot bones	Y		A2	40.6016	$1,700.11
28306	Incision of metatarsal	Y		A2	19.2721	$806.98
28307	Incision of metatarsal	Y		A2	19.2721	$806.98
28308	Incision of metatarsal	Y		A2	18.221	$762.97
28309	Incision of metatarsals	Y		A2	41.2872	$1,728.82
28310	Revision of big toe	Y		A2	18.5864	$778.27
28312	Revision of toe	Y		A2	18.5864	$778.27
28313	Repair deformity of toe	Y		A2	18.221	$762.97
28315	Removal of sesamoid bone	Y		A2	19.2721	$806.98
28320	Repair of foot bones	Y		A2	41.2872	$1,728.82

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28322	Repair of metatarsals	Y		A2	41.2872	$1,728.82
28340	Resect enlarged toe tissue	Y		A2	19.2721	$806.98
28341	Resect enlarged toe	Y		A2	19.2721	$806.98
28344	Repair extra toe(s)	Y		A2	19.2721	$806.98
28345	Repair webbed toe(s)	Y		A2	19.2721	$806.98
28400	Treatment of heel fracture	Y		A2	1.7811	$74.58
28405	Treatment of heel fracture	Y		A2	13.7917	$577.50
28406	Treatment of heel fracture	Y		A2	21.0916	$883.17
28415	Treat heel fracture	Y		A2	49.8932	$2,089.18
28420	Treat/graft heel fracture	Y		A2	36.2226	$1,516.75
28430	Treatment of ankle fracture	Y		P2	1.5858	$66.40
28435	Treatment of ankle fracture	Y		A2	1.7811	$74.58
28436	Treatment of ankle fracture	Y		A2	21.0916	$883.17
28445	Treat ankle fracture	Y		A2	35.5372	$1,488.05
28446	Osteochondral talus autogrft	Y		G2	50.2514	$2,104.18
28450	Treat midfoot fracture, each	Y		P2	1.5858	$66.40
28455	Treat midfoot fracture, each	Y		P2	1.5858	$66.40
28456	Treat midfoot fracture	Y		A2	21.0916	$883.17
28465	Treat midfoot fracture, each	Y		A2	35.5372	$1,488.05
28470	Treat metatarsal fracture	Y		P2	1.5858	$66.40
28475	Treat metatarsal fracture	Y		P2	1.5858	$66.40
28476	Treat metatarsal fracture	Y		A2	21.0916	$883.17
28485	Treat metatarsal fracture	Y		A2	36.2226	$1,516.75
28490	Treat big toe fracture	Y	CH	P3		$61.61
28495	Treat big toe fracture	Y		P2	1.5858	$66.40
28496	Treat big toe fracture	Y		A2	21.0916	$883.17
28505	Treat big toe fracture	Y		A2	21.4573	$898.48
28510	Treatment of toe fracture	Y		P3		$48.83
28515	Treatment of toe fracture	Y	CH	P3		$63.31

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
28525	Treat toe fracture	Y		A2	21.4573	$898.48
28530	Treat sesamoid bone fracture	Y		P3		$46.84
28531	Treat sesamoid bone fracture	Y		A2	21.4573	$898.48
28540	Treat foot dislocation	Y		P2	1.5858	$66.40
28545	Treat foot dislocation	Y		A2	20.4461	$856.14
28546	Treat foot dislocation	Y		A2	21.0916	$883.17
28555	Repair foot dislocation	Y		A2	35.1716	$1,472.74
28570	Treat foot dislocation	Y		P3		$67.57
28575	Treat foot dislocation	Y		A2	13.7917	$577.50
28576	Treat foot dislocation	Y		A2	21.4573	$898.48
28585	Repair foot dislocation	Y		A2	21.4573	$898.48
28600	Treat foot dislocation	Y		P2	1.5858	$66.40
28605	Treat foot dislocation	Y		A2	1.7811	$74.58
28606	Treat foot dislocation	Y		A2	21.0916	$883.17
28615	Repair foot dislocation	Y		A2	35.5372	$1,488.05
28630	Treat toe dislocation	Y	CH	P3		$53.09
28635	Treat toe dislocation	Y		A2	12.8746	$539.10
28636	Treat toe dislocation	Y		A2	21.4573	$898.48
28645	Repair toe dislocation	Y		A2	21.4573	$898.48
28660	Treat toe dislocation	Y		P3		$38.89
28665	Treat toe dislocation	Y		A2	12.8746	$539.10
28666	Treat toe dislocation	Y		A2	21.4573	$898.48
28675	Repair of toe dislocation	Y		A2	21.4573	$898.48
28705	Fusion of foot bones	Y		A2	41.2872	$1,728.82
28715	Fusion of foot bones	Y		A2	67.2085	$2,814.22
28725	Fusion of foot bones	Y		A2	41.2872	$1,728.82
28730	Fusion of foot bones	Y		A2	41.2872	$1,728.82
28735	Fusion of foot bones	Y		A2	41.2872	$1,728.82
28737	Revision of foot bones	Y		A2	41.784	$1,749.62

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28740	Fusion of foot bones	Y		A2	41.2872	$1,728.82
28750	Fusion of big toe joint	Y		A2	41.2872	$1,728.82
28755	Fusion of big toe joint	Y		A2	19.2721	$806.98
28760	Fusion of big toe joint	Y		A2	41.2872	$1,728.82
28810	Amputation toe & metatarsal	Y		A2	18.221	$762.97
28820	Amputation of toe	Y		A2	18.221	$762.97
28825	Partial amputation of toe	Y		A2	18.221	$762.97
28890	High energy eswt, plantar f	Y		P3		$141.38
29000	Application of body cast	N		G2	1.0081	$42.21
29010	Application of body cast	N		P2	2.2441	$93.97
29015	Application of body cast	N		P2	2.2441	$93.97
29020	Application of body cast	N		G2	1.0081	$42.21
29025	Application of body cast	N		P2	1.0081	$42.21
29035	Application of body cast	N		P2	2.2441	$93.97
29040	Application of body cast	N		G2	1.0081	$42.21
29044	Application of body cast	N		P2	2.2441	$93.97
29046	Application of body cast	N		G2	2.2441	$93.97
29049	Application of figure eight	N		P3		$34.64
29055	Application of shoulder cast	N	CH	P3		$90.85
29058	Application of shoulder cast	N	CH	P3		$38.04
29065	Application of long arm cast	N		P3		$38.61
29075	Application of forearm cast	N		P3		$37.19
29085	Apply hand/wrist cast	N	CH	P3		$38.04
29086	Apply finger cast	N		P3		$32.08
29105	Apply long arm splint	N		P3		$33.50
29125	Apply forearm splint	N		P3		$29.24
29126	Apply forearm splint	N		P3		$30.94
29130	Application of finger splint	N		P3		$13.34
29131	Application of finger splint	N		P3		$19.02

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29200	Strapping of chest	N		P3		$18.74
29220	Strapping of low back	N	CH	D5		
29240	Strapping of shoulder	N		P3		$20.44
29260	Strapping of elbow or wrist	N		P3		$19.87
29280	Strapping of hand or finger	N		P3		$20.16
29305	Application of hip cast	N		P2	2.2441	$93.97
29325	Application of hip casts	N		P2	2.2441	$93.97
29345	Application of long leg cast	N		P3		$50.53
29355	Application of long leg cast	N		P3		$49.97
29358	Apply long leg cast brace	N		P3		$62.46
29365	Application of long leg cast	N		P3		$47.69
29405	Apply short leg cast	N		P3		$35.77
29425	Apply short leg cast	N		P3		$36.05
29435	Apply short leg cast	N		P3		$45.71
29440	Addition of walker to cast	N		P3		$19.59
29445	Apply rigid leg cast	N		P3		$47.69
29450	Application of leg cast	N		P2	1.0081	$42.21
29505	Application, long leg splint	N		P3		$32.65
29515	Application lower leg splint	N		P3		$28.11
29520	Strapping of hip	N		P3		$19.30
29530	Strapping of knee	N		P3		$19.87
29540	Strapping of ankle and/or ft	N		P3		$15.05
29550	Strapping of toes	N		P3		$15.33
29580	Application of paste boot	N		P3		$20.72
29581	Apply multlay comprs lwr leg	N	NI	P2	1.0081	$42.21
29590	Application of foot splint	N		P3		$16.75
29700	Removal/revision of cast	N		P3		$27.54
29705	Removal/revision of cast	N		P3		$23.56
29710	Removal/revision of cast	N		P3		$42.30

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
29715	Removal/revision of cast	N	CH	P3		$33.22
29720	Repair of body cast	N		P3		$34.92
29730	Windowing of cast	N		P3		$22.71
29740	Wedging of cast	N		P3		$30.66
29750	Wedging of clubfoot cast	N		P3		$33.50
29800	Jaw arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29804	Jaw arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29805	Shoulder arthroscopy, dx	Y		A2	24.3811	$1,020.91
29806	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29807	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29819	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29820	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29821	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29822	Shoulder arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29823	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29824	Shoulder arthroscopy/surgery	Y		A2	25.5635	$1,070.42
29825	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29826	Shoulder arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29827	Arthroscop rotator cuff repr	Y		A2	39.1233	$1,638.21
29828	Arthroscopy biceps tenodesis	Y		G2	46.7038	$1,955.63
29830	Elbow arthroscopy	Y		A2	24.3811	$1,020.91
29834	Elbow arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29835	Elbow arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29836	Elbow arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29837	Elbow arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29838	Elbow arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29840	Wrist arthroscopy	Y		A2	24.3811	$1,020.91
29843	Wrist arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29844	Wrist arthroscopy/surgery	Y		A2	24.3811	$1,020.91

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29845	Wrist arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29846	Wrist arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29847	Wrist arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29848	Wrist endoscopy/surgery	Y		A2	29.1164	$1,219.19
29850	Knee arthroscopy/surgery	Y		A2	25.0667	$1,049.62
29851	Knee arthroscopy/surgery	Y		A2	38.6263	$1,617.40
29855	Tibial arthroscopy/surgery	Y		A2	38.6263	$1,617.40
29856	Tibial arthroscopy/surgery	Y		A2	38.6263	$1,617.40
29860	Hip arthroscopy, dx	Y		A2	38.6263	$1,617.40
29861	Hip arthroscopy/surgery	Y		A2	38.6263	$1,617.40
29862	Hip arthroscopy/surgery	Y		A2	42.6762	$1,786.98
29863	Hip arthroscopy/surgery	Y		A2	38.6263	$1,617.40
29866	Autgrft implnt, knee w/scope	Y		G2	46.7038	$1,955.63
29870	Knee arthroscopy, dx	Y		A2	24.3811	$1,020.91
29871	Knee arthroscopy/drainage	Y		A2	24.3811	$1,020.91
29873	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29874	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29875	Knee arthroscopy/surgery	Y		A2	25.0667	$1,049.62
29876	Knee arthroscopy/surgery	Y		A2	25.0667	$1,049.62
29877	Knee arthroscopy/surgery	Y		A2	25.0667	$1,049.62
29879	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29880	Knee arthroscopy/surgery	Y		A2	25.0667	$1,049.62
29881	Knee arthroscopy/surgery	Y		A2	25.0667	$1,049.62
29882	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29883	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29884	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29885	Knee arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29886	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29887	Knee arthroscopy/surgery	Y		A2	24.3811	$1,020.91

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29888	Knee arthroscopy/surgery	Y		A2	66.5231	$2,785.52
29889	Knee arthroscopy/surgery	Y		A2	66.5231	$2,785.52
29891	Ankle arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29892	Ankle arthroscopy/surgery	Y		A2	66.5231	$2,785.52
29893	Scope, plantar fasciotomy	Y		A2	22.845	$956.59
29894	Ankle arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29895	Ankle arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29897	Ankle arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29898	Ankle arthroscopy/surgery	Y		A2	24.3811	$1,020.91
29899	Ankle arthroscopy/surgery	Y		A2	37.9409	$1,588.70
29900	Mcp joint arthroscopy, dx	Y		A2	24.3811	$1,020.91
29901	Mcp joint arthroscopy, surg	Y		A2	24.3811	$1,020.91
29902	Mcp joint arthroscopy, surg	Y		A2	24.3811	$1,020.91
29904	Subtalar arthro w/fb rmvl	Y		G2	28.6243	$1,198.59
29905	Subtalar arthro w/exc	Y		G2	28.6243	$1,198.59
29906	Subtalar arthro w/deb	Y		G2	28.6243	$1,198.59
29907	Subtalar arthro w/fusion	Y		G2	46.7038	$1,955.63
30000	Drainage of nose lesion	Y	CH	P3		$118.95
30020	Drainage of nose lesion	Y	CH	P3		$115.26
30100	Intranasal biopsy	Y		P3		$71.26
30110	Removal of nose polyp(s)	Y		P3		$110.44
30115	Removal of nose polyp(s)	Y		A2	14.8802	$623.08
30117	Removal of intranasal lesion	Y		A2	15.2459	$638.39
30118	Removal of intranasal lesion	Y		A2	20.8254	$872.02
30120	Revision of nose	Y		A2	19.8142	$829.68
30124	Removal of nose lesion	Y		R2	7.2897	$305.24
30125	Removal of nose lesion	Y		A2	33.3886	$1,398.08
30130	Excise inferior turbinate	Y		A2	15.2459	$638.39
30140	Resect inferior turbinate	Y		A2	20.4597	$856.71

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30150	Partial removal of nose	Y		A2	33.7542	$1,413.39
30160	Removal of nose	Y		A2	34.4396	$1,442.09
30200	Injection treatment of nose	Y		P3		$56.21
30210	Nasal sinus therapy	Y		P3		$71.54
30220	Insert nasal septal button	Y		A2	8.1184	$339.94
30300	Remove nasal foreign body	N		P2	0.6403	$26.81
30310	Remove nasal foreign body	Y		A2	14.2349	$596.06
30320	Remove nasal foreign body	Y		A2	14.8802	$623.08
30400	Reconstruction of nose	Y		A2	34.4396	$1,442.09
30410	Reconstruction of nose	Y		A2	34.9366	$1,462.90
30420	Reconstruction of nose	Y		A2	34.9366	$1,462.90
30430	Revision of nose	Y		A2	20.8254	$872.02
30435	Revision of nose	Y		A2	34.9366	$1,462.90
30450	Revision of nose	Y		A2	36.5245	$1,529.39
30460	Revision of nose	Y		A2	36.5245	$1,529.39
30462	Revision of nose	Y		A2	38.4895	$1,611.67
30465	Repair nasal stenosis	Y		A2	38.4895	$1,611.67
30520	Repair of nasal septum	Y		A2	21.5108	$900.72
30540	Repair nasal defect	Y		A2	34.9366	$1,462.90
30545	Repair nasal defect	Y		A2	34.9366	$1,462.90
30560	Release of nasal adhesions	Y		A2	3.3186	$138.96
30580	Repair upper jaw fistula	Y		A2	34.4396	$1,442.09
30600	Repair mouth/nose fistula	Y		A2	34.4396	$1,442.09
30620	Intranasal reconstruction	Y		A2	36.5245	$1,529.39
30630	Repair nasal septum defect	Y		A2	23.5956	$988.02
30801	Ablate inf turbinate, superf	Y		A2	7.3694	$308.58
30802	Ablate inf turbinate submuc	Y		A2	14.2349	$596.06
30901	Control of nosebleed	Y	CH	P3		$38.61
30903	Control of nosebleed	Y		A2	1.2409	$51.96

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30905	Control of nosebleed	Y		A2	1.2409	$51.96
30906	Repeat control of nosebleed	Y		A2	1.2409	$51.96
30915	Ligation, nasal sinus artery	Y		A2	21.613	$905.00
30920	Ligation, upper jaw artery	Y		A2	21.9786	$920.31
30930	Ther fx, nasal inf turbinate	Y		A2	15.9313	$667.09
31000	Irrigation, maxillary sinus	Y		P3		$91.13
31002	Irrigation, sphenoid sinus	Y		R2	7.2897	$305.24
31020	Exploration, maxillary sinus	Y		A2	20.4597	$856.71
31030	Exploration, maxillary sinus	Y		A2	33.7542	$1,413.39
31032	Explore sinus, remove polyps	Y		A2	34.4396	$1,442.09
31040	Exploration behind upper jaw	Y		R2	23.8828	$1,000.04
31050	Exploration, sphenoid sinus	Y		A2	33.3886	$1,398.08
31051	Sphenoid sinus surgery	Y		A2	34.4396	$1,442.09
31070	Exploration of frontal sinus	Y		A2	20.4597	$856.71
31075	Exploration of frontal sinus	Y		A2	34.4396	$1,442.09
31080	Removal of frontal sinus	Y		A2	34.4396	$1,442.09
31081	Removal of frontal sinus	Y		A2	34.4396	$1,442.09
31084	Removal of frontal sinus	Y		A2	34.4396	$1,442.09
31085	Removal of frontal sinus	Y		A2	34.4396	$1,442.09
31086	Removal of frontal sinus	Y		A2	34.4396	$1,442.09
31087	Removal of frontal sinus	Y		A2	34.4396	$1,442.09
31090	Exploration of sinuses	Y		A2	34.9366	$1,462.90
31200	Removal of ethmoid sinus	Y		A2	33.3886	$1,398.08
31201	Removal of ethmoid sinus	Y		A2	34.9366	$1,462.90
31205	Removal of ethmoid sinus	Y		A2	33.7542	$1,413.39
31231	Nasal endoscopy, dx	Y		P2	1.7627	$73.81
31233	Nasal/sinus endoscopy, dx	Y		A2	1.8155	$76.02
31235	Nasal/sinus endoscopy, dx	Y		A2	17.4415	$730.33
31237	Nasal/sinus endoscopy, surg	Y		A2	18.0871	$757.36

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31238	Nasal/sinus endoscopy, surg	Y		A2	17.4415	$730.33
31239	Nasal/sinus endoscopy, surg	Y		A2	24.6018	$1,030.15
31240	Nasal/sinus endoscopy, surg	Y		A2	18.0871	$757.36
31254	Revision of ethmoid sinus	Y		A2	23.9164	$1,001.45
31255	Removal of ethmoid sinus	Y		A2	25.0988	$1,050.96
31256	Exploration maxillary sinus	Y		A2	23.9164	$1,001.45
31267	Endoscopy, maxillary sinus	Y		A2	23.9164	$1,001.45
31276	Sinus endoscopy, surgical	Y		A2	23.9164	$1,001.45
31287	Nasal/sinus endoscopy, surg	Y		A2	23.9164	$1,001.45
31288	Nasal/sinus endoscopy, surg	Y		A2	23.9164	$1,001.45
31300	Removal of larynx lesion	Y		A2	22.0077	$921.53
31320	Diagnostic incision, larynx	Y		A2	33.3886	$1,398.08
31400	Revision of larynx	Y		A2	33.3886	$1,398.08
31420	Removal of epiglottis	Y		A2	33.3886	$1,398.08
31500	Insert emergency airway	N		G2	2.349	$98.36
31502	Change of windpipe airway	N		G2	1.353	$56.65
31505	Diagnostic laryngoscopy	Y		P2	0.766	$32.07
31510	Laryngoscopy with biopsy	Y		A2	18.0871	$757.36
31511	Remove foreign body, larynx	Y		A2	1.8155	$76.02
31512	Removal of larynx lesion	Y		A2	18.0871	$757.36
31513	Injection into vocal cord	Y		A2	1.8155	$76.02
31515	Laryngoscopy for aspiration	Y		A2	17.4415	$730.33
31520	Dx laryngoscopy, newborn	Y		G2	1.7627	$73.81
31525	Dx laryngoscopy excl nb	Y		A2	17.4415	$730.33
31526	Dx laryngoscopy w/oper scope	Y		A2	18.0871	$757.36
31527	Laryngoscopy for treatment	Y		A2	22.9055	$959.12
31528	Laryngoscopy and dilation	Y		A2	18.0871	$757.36
31529	Laryngoscopy and dilation	Y		A2	18.0871	$757.36
31530	Laryngoscopy w/fb removal	Y		A2	18.0871	$757.36

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31531	Laryngoscopy w/fb & op scope	Y		A2	18.4525	$772.66
31535	Laryngoscopy w/biopsy	Y		A2	18.0871	$757.36
31536	Laryngoscopy w/bx & op scope	Y		A2	18.4525	$772.66
31540	Laryngoscopy w/exc of tumor	Y		A2	18.4525	$772.66
31541	Larynscop w/tumr exc + scope	Y		A2	19.1381	$801.37
31545	Remove vc lesion w/scope	Y		A2	24.6018	$1,030.15
31546	Remove vc lesion scope/graft	Y		A2	24.6018	$1,030.15
31560	Laryngoscop w/arytenoidectom	Y		A2	25.0988	$1,050.96
31561	Larynscop, remve cart + scop	Y		A2	25.0988	$1,050.96
31570	Laryngoscope w/vc inj	Y		A2	18.0871	$757.36
31571	Laryngoscop w/vc inj + scope	Y		A2	23.5507	$986.14
31575	Diagnostic laryngoscopy	Y		P3		$51.10
31576	Laryngoscopy with biopsy	Y		A2	18.0871	$757.36
31577	Remove foreign body, larynx	Y		A2	4.516	$189.10
31578	Removal of larynx lesion	Y		A2	23.5507	$986.14
31579	Diagnostic laryngoscopy	Y		P3		$90.28
31580	Revision of larynx	Y		A2	34.9366	$1,462.90
31582	Revision of larynx	Y		A2	34.9366	$1,462.90
31588	Revision of larynx	Y		A2	34.9366	$1,462.90
31590	Reinnervate larynx	Y		A2	34.9366	$1,462.90
31595	Larynx nerve surgery	Y		A2	33.3886	$1,398.08
31603	Incision of windpipe	Y		A2	7.3694	$308.58
31605	Incision of windpipe	Y		G2	7.2897	$305.24
31611	Surgery/speech prosthesis	Y		A2	20.8254	$872.02
31612	Puncture/clear windpipe	Y		A2	19.8142	$829.68
31613	Repair windpipe opening	Y		A2	20.4597	$856.71
31614	Repair windpipe opening	Y		A2	33.3886	$1,398.08
31615	Visualization of windpipe	Y		A2	7.3694	$308.58
31620	Endobronchial us add-on	N		N1		

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31622	Dx bronchoscope/wash	Y		A2	9.3433	$391.23
31623	Dx bronchoscope/brush	Y		A2	9.9888	$418.26
31624	Dx bronchoscope/lavage	Y		A2	9.9888	$418.26
31625	Bronchoscopy w/biopsy(s)	Y		A2	9.9888	$418.26
31626	Bronchoscopy w/markers	Y	NI	G2	9.9216	$415.45
31627	Navigational bronchoscopy	N	NI	N1		
31628	Bronchoscopy/lung bx, each	Y		A2	9.9888	$418.26
31629	Bronchoscopy/needle bx, each	Y		A2	9.9888	$418.26
31630	Bronchoscopy dilate/fx repr	Y		A2	21.1332	$884.91
31631	Bronchoscopy, dilate w/stent	Y		A2	21.1332	$884.91
31632	Bronchoscopy/lung bx, addl	Y		G2	9.9216	$415.45
31633	Bronchoscopy/needle bx addl	Y		G2	9.9216	$415.45
31635	Bronchoscopy w/fb removal	Y		A2	9.9888	$418.26
31636	Bronchoscopy, bronch stents	Y		A2	21.1332	$884.91
31637	Bronchoscopy, stent add-on	Y		A2	9.3433	$391.23
31638	Bronchoscopy, revise stent	Y		A2	21.1332	$884.91
31640	Bronchoscopy w/tumor excise	Y		A2	21.1332	$884.91
31641	Bronchoscopy, treat blockage	Y		A2	21.1332	$884.91
31643	Diag bronchoscope/catheter	Y		A2	9.9888	$418.26
31645	Bronchoscopy, clear airways	Y		A2	9.3433	$391.23
31646	Bronchoscopy, reclear airway	Y		A2	9.3433	$391.23
31656	Bronchoscopy, inj for x-ray	Y		A2	9.3433	$391.23
31715	Injection for bronchus x-ray	N		N1		
31717	Bronchial brush biopsy	Y		A2	4.516	$189.10
31720	Clearance of airways	N		A2	0.5615	$23.51
31730	Intro, windpipe wire/tube	Y		A2	4.516	$189.10
31750	Repair of windpipe	Y		A2	34.9366	$1,462.90
31755	Repair of windpipe	Y		A2	33.3886	$1,398.08
31820	Closure of windpipe lesion	Y		A2	19.8142	$829.68

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
31825	Repair of windpipe defect	Y		A2	20.4597	$856.71
31830	Revise windpipe scar	Y		A2	20.4597	$856.71
32400	Needle biopsy chest lining	Y		A2	8.8382	$370.08
32405	Biopsy, lung or mediastinum	Y		A2	8.8382	$370.08
32420	Puncture/clear lung	Y		A2	5.2561	$220.09
32421	Thoracentesis for aspiration	Y		A2	5.2561	$220.09
32422	Thoracentesis w/tube insert	Y		G2	5.3117	$222.42
32550	Insert pleural cath	Y		G2	29.1413	$1,220.23
32552	Remove lung catheter	N	NI	G2	1.353	$56.65
32553	Ins mark thor for rt perq	N	NI	G2	13.1619	$551.13
32960	Therapeutic pneumothorax	Y		G2	5.3117	$222.42
32998	Perq rf ablate tx, pul tumor	Y		G2	49.1378	$2,057.55
33010	Drainage of heart sac	Y		A2	5.2561	$220.09
33011	Repeat drainage of heart sac	Y		A2	5.2561	$220.09
33206	Insertion of heart pacemaker	Y		J8	169.4488	$7,095.33
33207	Insertion of heart pacemaker	Y		J8	169.4488	$7,095.33
33208	Insertion of heart pacemaker	Y		J8	205.4713	$8,603.70
33210	Insertion of heart electrode	Y		G2	46.8172	$1,960.38
33211	Insertion of heart electrode	Y		G2	46.8172	$1,960.38
33212	Insertion of pulse generator	Y		H8	138.5387	$5,801.03
33213	Insertion of pulse generator	Y		H8	152.6905	$6,393.61
33214	Upgrade of pacemaker system	Y		J8	205.4713	$8,603.70
33215	Reposition pacing-defib lead	Y		G2	21.9478	$919.02
33216	Insert 1 electrode pm-defib	Y		G2	46.8172	$1,960.38
33217	Insert 2 electrode pm-defib	Y		G2	46.8172	$1,960.38
33218	Repair lead pace-defib, one	Y		G2	21.9478	$919.02
33220	Repair lead pace-defib, dual	Y		G2	21.9478	$919.02
33222	Revise pocket, pacemaker	Y		A2	14.0668	$589.02
33223	Revise pocket for defib	Y		A2	14.0668	$589.02

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33224	Insert pacing lead & connect	Y		J8	303.507	$12,708.75
33225	L ventric pacing lead add-on	Y		J8	303.507	$12,708.75
33226	Reposition l ventric lead	Y		G2	21.9478	$919.02
33233	Removal of pacemaker system	Y		A2	19.0084	$795.94
33234	Removal of pacemaker system	Y		G2	21.9478	$919.02
33235	Removal pacemaker electrode	Y		G2	21.9478	$919.02
33240	Insert pulse generator	Y		J8	500.9758	$20,977.36
33241	Remove pulse generator	Y		G2	21.9478	$919.02
33249	Eltrd/insert pace-defib	Y		J8	632.2356	$26,473.60
33282	Implant pat-active ht record	N		J8	111.8317	$4,682.73
33284	Remove pat-active ht record	Y		G2	7.8476	$328.60
33508	Endoscopic vein harvest	N		N1		
34490	Removal of vein clot	Y		G2	39.1293	$1,638.46
35188	Repair blood vessel lesion	Y		A2	32.9456	$1,379.53
35207	Repair blood vessel lesion	Y		A2	32.9456	$1,379.53
35460	Repair venous blockage	Y	CH	G2	48.4864	$2,030.27
35473	Repair arterial blockage	Y		G2	48.4864	$2,030.27
35475	Repair arterial blockage	Y	CH	G2	48.4864	$2,030.27
35476	Repair venous blockage	Y		G2	48.4864	$2,030.27
35492	Atherectomy, percutaneous	Y		G2	89.2835	$3,738.57
35572	Harvest femoropopliteal vein	N		N1		
35761	Exploration of artery/vein	Y		G2	34.0556	$1,426.01
35875	Removal of clot in graft	Y		A2	36.9952	$1,549.10
35876	Removal of clot in graft	Y		A2	36.9952	$1,549.10
36000	Place needle in vein	N		N1		
36002	Pseudoaneurysm injection trt	N		G2	2.2009	$92.16
36005	Injection ext venography	N		N1		
36010	Place catheter in vein	N		N1		
36011	Place catheter in vein	N		N1		

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36012	Place catheter in vein	N		N1		
36013	Place catheter in artery	N		N1		
36014	Place catheter in artery	N		N1		
36015	Place catheter in artery	N		N1		
36100	Establish access to artery	N		N1		
36120	Establish access to artery	N		N1		
36140	Establish access to artery	N		N1		
36145	Artery to vein shunt	N	CH	D5		
36147	Access av dial grft for eval	Y	NI	P2	2.2917	$95.96
36148	Access av dial grft for proc	N	NI	N1		
36160	Establish access to aorta	N		N1		
36200	Place catheter in aorta	N		N1		
36215	Place catheter in artery	N		N1		
36216	Place catheter in artery	N		N1		
36217	Place catheter in artery	N		N1		
36218	Place catheter in artery	N		N1		
36245	Place catheter in artery	N		N1		
36246	Place catheter in artery	N		N1		
36247	Place catheter in artery	N		N1		
36248	Place catheter in artery	N		N1		
36260	Insertion of infusion pump	Y		A2	24.7544	$1,036.54
36261	Revision of infusion pump	Y		A2	19.0084	$795.94
36262	Removal of infusion pump	Y		A2	18.3631	$768.92
36400	Bl draw < 3 yrs fem/jugular	N		N1		
36405	Bl draw < 3 yrs scalp vein	N		N1		
36406	Bl draw < 3 yrs other vein	N		N1		
36410	Non-routine bl draw > 3 yrs	N		N1		
36416	Capillary blood draw	N		N1		
36420	Vein access cutdown < 1 yr	N	CH	R2	0.222	$9.30

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36425	Vein access cutdown > 1 yr	N		R2	0.222	$9.30
36430	Blood transfusion service	N		P3		$25.83
36440	Bl push transfuse, 2 yr or <	N		R2	3.2345	$135.44
36450	Bl exchange/transfuse, nb	N		R2	3.2345	$135.44
36455	Bl exchange/transfuse non-nb	N		G2	3.2345	$135.44
36468	Injection(s), spider veins	Y		R2	0.8408	$35.21
36469	Injection(s), spider veins	Y		R2	0.8408	$35.21
36470	Injection therapy of vein	Y		P2	0.8408	$35.21
36471	Injection therapy of veins	Y		P2	0.8408	$35.21
36475	Endovenous rf, 1st vein	Y		A2	39.958	$1,673.16
36476	Endovenous rf, vein add-on	Y		A2	26.7139	$1,118.59
36478	Endovenous laser, 1st vein	Y		A2	26.7139	$1,118.59
36479	Endovenous laser vein addon	Y		A2	26.7139	$1,118.59
36481	Insertion of catheter, vein	N		N1		
36500	Insertion of catheter, vein	N		N1		
36510	Insertion of catheter, vein	N		N1		
36511	Apheresis wbc	N		G2	11.4253	$478.41
36512	Apheresis rbc	N		G2	11.4253	$478.41
36513	Apheresis platelets	N		G2	11.4253	$478.41
36514	Apheresis plasma	N		G2	11.4253	$478.41
36515	Apheresis, adsorp/reinfuse	N		P2	31.8778	$1,334.82
36516	Apheresis, selective	N		P2	31.8778	$1,334.82
36522	Photopheresis	N		G2	31.8778	$1,334.82
36555	Insert non-tunnel cv cath	Y		A2	9.914	$415.13
36556	Insert non-tunnel cv cath	Y		A2	9.914	$415.13
36557	Insert tunneled cv cath	Y		A2	20.7258	$867.85
36558	Insert tunneled cv cath	Y		A2	20.7258	$867.85
36560	Insert tunneled cv cath	Y		A2	24.7544	$1,036.54
36561	Insert tunneled cv cath	Y		A2	24.7544	$1,036.54

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36563	Insert tunneled cv cath	Y		A2	24.7544	$1,036.54
36565	Insert tunneled cv cath	Y		A2	24.7544	$1,036.54
36566	Insert tunneled cv cath	Y		A2	24.7544	$1,036.54
36568	Insert picc cath	Y		A2	9.914	$415.13
36569	Insert picc cath	Y		A2	9.914	$415.13
36570	Insert picvad cath	Y		A2	21.0912	$883.15
36571	Insert picvad cath	Y		A2	21.0912	$883.15
36575	Repair tunneled cv cath	Y		A2	7.1211	$298.18
36576	Repair tunneled cv cath	Y		A2	10.5593	$442.15
36578	Replace tunneled cv cath	Y		A2	20.7258	$867.85
36580	Replace cvad cath	Y		A2	9.914	$415.13
36581	Replace tunneled cv cath	Y		A2	20.7258	$867.85
36582	Replace tunneled cv cath	Y		A2	24.7544	$1,036.54
36583	Replace tunneled cv cath	Y		A2	24.7544	$1,036.54
36584	Replace picc cath	Y		A2	9.914	$415.13
36585	Replace picvad cath	Y		A2	21.0912	$883.15
36589	Removal tunneled cv cath	Y		A2	6.4758	$271.16
36590	Removal tunneled cv cath	Y		A2	9.914	$415.13
36591	Draw blood off venous device	N		N1		
36592	Collect blood from picc	N		N1		
36593	Declot vascular device	Y		P3		$20.44
36595	Mech remov tunneled cv cath	Y		G2	24.2374	$1,014.89
36596	Mech remov tunneled cv cath	Y		G2	10.6825	$447.31
36597	Reposition venous catheter	Y		G2	10.6825	$447.31
36598	Inj w/fluor, eval cv device	Y		P3		$63.59
36600	Withdrawal of arterial blood	N		N1		
36620	Insertion catheter, artery	N		N1		
36625	Insertion catheter, artery	N		N1		
36640	Insertion catheter, artery	Y		A2	23.7432	$994.20

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36680	Insert needle, bone cavity	Y		G2	1.4457	$60.54
36800	Insertion of cannula	Y		A2	25.1408	$1,052.72
36810	Insertion of cannula	Y		A2	25.1408	$1,052.72
36815	Insertion of cannula	Y		A2	25.1408	$1,052.72
36818	Av fuse, uppr arm, cephalic	Y		A2	32.2599	$1,350.82
36819	Av fuse, uppr arm, basilic	Y		A2	32.2599	$1,350.82
36820	Av fusion/forearm vein	Y		A2	32.2599	$1,350.82
36821	Av fusion direct any site	Y		A2	32.2599	$1,350.82
36825	Artery-vein autograft	Y		A2	32.9456	$1,379.53
36830	Artery-vein nonautograft	Y		A2	32.9456	$1,379.53
36831	Open thrombect av fistula	Y		A2	36.9952	$1,549.10
36832	Av fistula revision, open	Y		A2	32.9456	$1,379.53
36833	Av fistula revision	Y		A2	32.9456	$1,379.53
36834	Repair A-V aneurysm	N	CH	D5		
36835	Artery to vein shunt	Y		A2	25.8262	$1,081.42
36860	External cannula declotting	Y		A2	2.4464	$102.44
36861	Cannula declotting	Y		A2	25.1408	$1,052.72
36870	Percut thrombect av fistula	Y		A2	41.1482	$1,723.00
37184	Prim art mech thrombectomy	Y		G2	39.1293	$1,638.46
37185	Prim art m-thrombect add-on	Y		G2	39.1293	$1,638.46
37186	Sec art m-thrombect add-on	Y		G2	39.1293	$1,638.46
37187	Venous mech thrombectomy	Y		G2	39.1293	$1,638.46
37188	Venous m-thrombectomy add-on	Y		G2	39.1293	$1,638.46
37200	Transcatheter biopsy	Y		G2	29.1216	$1,219.41
37203	Transcatheter retrieval	Y		G2	29.1216	$1,219.41
37250	Iv us first vessel add-on	N		N1		
37251	Iv us each add vessel add-on	N		N1		
37500	Endoscopy ligate perf veins	Y		A2	35.2227	$1,474.88
37607	Ligation of a-v fistula	Y		A2	21.9786	$920.31

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37609	Temporal artery procedure	Y		A2	15.1023	$632.38
37650	Revision of major vein	Y		A2	21.613	$905.00
37700	Revise leg vein	Y		A2	21.613	$905.00
37718	Ligate/strip short leg vein	Y		A2	21.9786	$920.31
37722	Ligate/strip long leg vein	Y		A2	35.2227	$1,474.88
37735	Removal of leg veins/lesion	Y		A2	35.2227	$1,474.88
37760	Ligate leg veins radical	Y		A2	21.9786	$920.31
37761*	Ligate leg veins open	Y	NI	R2	25.4208	$1,064.45
37765	Phleb veins - extrem - to 20	Y		R2	25.4208	$1,064.45
37766	Phleb veins - extrem 20+	Y		R2	25.4208	$1,064.45
37780	Revision of leg vein	Y		A2	21.9786	$920.31
37785	Ligate/divide/excise vein	Y		A2	21.9786	$920.31
37790	Penile venous occlusion	Y		A2	27.9431	$1,170.06
38200	Injection for spleen x-ray	N		N1		
38204	Bl donor search management	N		N1		
38206	Harvest auto stem cells	N		G2	11.4253	$478.41
38220	Bone marrow aspiration	Y		P3		$81.19
38221	Bone marrow biopsy	Y		P3		$84.60
38230	Bone marrow collection	N		G2	31.8778	$1,334.82
38241	Bone marrow/stem transplant	N		G2	31.8778	$1,334.82
38242	Lymphocyte infuse transplant	N		R2	11.4253	$478.41
38300	Drainage, lymph node lesion	Y		A2	10.9586	$458.87
38305	Drainage, lymph node lesion	Y		A2	16.472	$689.73
38308	Incision of lymph channels	Y		A2	20.2092	$846.22
38500	Biopsy/removal, lymph nodes	Y		A2	20.2092	$846.22
38505	Needle biopsy, lymph nodes	Y		A2	6.978	$292.19
38510	Biopsy/removal, lymph nodes	Y		A2	20.2092	$846.22
38520	Biopsy/removal, lymph nodes	Y		A2	20.2092	$846.22
38525	Biopsy/removal, lymph nodes	Y		A2	20.2092	$846.22

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38530	Biopsy/removal, lymph nodes	Y		A2	20.2092	$846.22
38542	Explore deep node(s), neck	Y		A2	37.5311	$1,571.54
38550	Removal, neck/armpit lesion	Y		A2	20.5746	$861.52
38555	Removal, neck/armpit lesion	Y		A2	21.2602	$890.23
38570	Laparoscopy, lymph node biop	Y		A2	41.2571	$1,727.56
38571	Laparoscopy, lymphadenectomy	Y		A2	59.9976	$2,512.28
38572	Laparoscopy, lymphadenectomy	Y		A2	41.2571	$1,727.56
38700	Removal of lymph nodes, neck	Y		G2	23.5488	$986.06
38740	Remove armpit lymph nodes	Y		A2	37.5311	$1,571.54
38745	Remove armpit lymph nodes	Y		A2	38.5821	$1,615.55
38760	Remove groin lymph nodes	Y		A2	20.2092	$846.22
38790	Inject for lymphatic x-ray	N		N1		
38792	Identify sentinel node	N		N1		
38794	Access thoracic lymph duct	N		N1		
40490	Biopsy of lip	Y		P3		$57.06
40500	Partial excision of lip	Y		A2	14.8802	$623.08
40510	Partial excision of lip	Y		A2	20.4597	$856.71
40520	Partial excision of lip	Y		A2	14.8802	$623.08
40525	Reconstruct lip with flap	Y		A2	20.4597	$856.71
40527	Reconstruct lip with flap	Y		A2	20.4597	$856.71
40530	Partial removal of lip	Y		A2	20.4597	$856.71
40650	Repair lip	Y		A2	8.1184	$339.94
40652	Repair lip	Y		A2	8.1184	$339.94
40654	Repair lip	Y		A2	8.1184	$339.94
40700	Repair cleft lip/nasal	Y		A2	36.5245	$1,529.39
40701	Repair cleft lip/nasal	Y		A2	36.5245	$1,529.39
40702	Repair cleft lip/nasal	Y		R2	41.1215	$1,721.88
40720	Repair cleft lip/nasal	Y		A2	36.5245	$1,529.39
40761	Repair cleft lip/nasal	Y		A2	33.7542	$1,413.39

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
40800	Drainage of mouth lesion	Y		P2	1.3927	$58.32
40801	Drainage of mouth lesion	Y		A2	8.0147	$335.60
40804	Removal, foreign body, mouth	N		P2	0.6403	$26.81
40805	Removal, foreign body, mouth	Y		P3		$144.50
40806	Incision of lip fold	Y		P3		$64.44
40808	Biopsy of mouth lesion	Y		P3		$99.08
40810	Excision of mouth lesion	Y		P3		$102.77
40812	Excise/repair mouth lesion	Y		P3		$129.74
40814	Excise/repair mouth lesion	Y		A2	14.8802	$623.08
40816	Excision of mouth lesion	Y		A2	20.4597	$856.71
40818	Excise oral mucosa for graft	Y		A2	3.3186	$138.96
40819	Excise lip or cheek fold	Y		A2	7.3694	$308.58
40820	Treatment of mouth lesion	Y		P3		$146.21
40830	Repair mouth laceration	Y		G2	3.2767	$137.21
40831	Repair mouth laceration	Y		A2	7.3694	$308.58
40840	Reconstruction of mouth	Y		A2	20.4597	$856.71
40842	Reconstruction of mouth	Y		A2	20.8254	$872.02
40843	Reconstruction of mouth	Y		A2	20.8254	$872.02
40844	Reconstruction of mouth	Y		A2	34.9366	$1,462.90
40845	Reconstruction of mouth	Y		A2	34.9366	$1,462.90
41000	Drainage of mouth lesion	Y		P3		$73.81
41005	Drainage of mouth lesion	Y		A2	3.3186	$138.96
41006	Drainage of mouth lesion	Y		A2	19.8142	$829.68
41007	Drainage of mouth lesion	Y		A2	14.2349	$596.06
41008	Drainage of mouth lesion	Y		A2	14.2349	$596.06
41009	Drainage of mouth lesion	Y		A2	3.3186	$138.96
41010	Incision of tongue fold	Y		A2	7.3694	$308.58
41015	Drainage of mouth lesion	Y		A2	3.3186	$138.96
41016	Drainage of mouth lesion	Y		A2	7.3694	$308.58

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

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41017	Drainage of mouth lesion	Y		A2	7.3694	$308.58
41018	Drainage of mouth lesion	Y		A2	7.3694	$308.58
41019	Place needles h&n for rt	Y		G2	23.8828	$1,000.04
41100	Biopsy of tongue	Y		P3		$77.50
41105	Biopsy of tongue	Y		P3		$76.94
41108	Biopsy of floor of mouth	Y		P3		$71.26
41110	Excision of tongue lesion	Y		P3		$103.05
41112	Excision of tongue lesion	Y		A2	14.8802	$623.08
41113	Excision of tongue lesion	Y		A2	14.8802	$623.08
41114	Excision of tongue lesion	Y		A2	20.4597	$856.71
41115	Excision of tongue fold	Y		P3		$119.24
41116	Excision of mouth lesion	Y		A2	14.2349	$596.06
41120	Partial removal of tongue	Y		A2	22.0077	$921.53
41250	Repair tongue laceration	Y		A2	1.6877	$70.67
41251	Repair tongue laceration	Y		A2	3.3186	$138.96
41252	Repair tongue laceration	Y		A2	8.0147	$335.60
41500	Fixation of tongue	Y		A2	19.8142	$829.68
41510	Tongue to lip surgery	Y		A2	14.2349	$596.06
41512	Tongue suspension	Y	CH	G2	7.2897	$305.24
41520	Reconstruction, tongue fold	Y		A2	8.0147	$335.60
41530	Tongue base vol reduction	Y		G2	23.8828	$1,000.04
41800	Drainage of gum lesion	Y		A2	1.5497	$64.89
41805	Removal foreign body, gum	Y		P3		$132.30
41806	Removal foreign body,jawbone	Y		P3		$158.98
41820	Excision, gum, each quadrant	Y		R2	7.2897	$305.24
41821	Excision of gum flap	Y		G2	7.2897	$305.24
41822	Excision of gum lesion	Y		P3		$130.88
41823	Excision of gum lesion	Y		P3		$189.93
41825	Excision of gum lesion	Y		P3		$104.47

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41826	Excision of gum lesion	Y		P3		$135.70
41827	Excision of gum lesion	Y		A2	20.4597	$856.71
41828	Excision of gum lesion	Y		P3		$120.66
41830	Removal of gum tissue	Y		P3		$170.05
41850	Treatment of gum lesion	Y		R2	16.4437	$688.55
41870	Gum graft	Y		G2	23.8828	$1,000.04
41872	Repair gum	Y		P3		$168.07
41874	Repair tooth socket	Y		P3		$163.81
42000	Drainage mouth roof lesion	Y		A2	3.3186	$138.96
42100	Biopsy roof of mouth	Y		P3		$66.15
42104	Excision lesion, mouth roof	Y		P3		$99.08
42106	Excision lesion, mouth roof	Y		P3		$124.06
42107	Excision lesion, mouth roof	Y		A2	20.4597	$856.71
42120	Remove palate/lesion	Y		A2	34.4396	$1,442.09
42140	Excision of uvula	Y		A2	8.0147	$335.60
42145	Repair palate, pharynx/uvula	Y		A2	22.0077	$921.53
42160	Treatment mouth roof lesion	Y		P3		$114.69
42180	Repair palate	Y		A2	3.3186	$138.96
42182	Repair palate	Y		A2	33.3886	$1,398.08
42200	Reconstruct cleft palate	Y		A2	34.9366	$1,462.90
42205	Reconstruct cleft palate	Y		A2	34.9366	$1,462.90
42210	Reconstruct cleft palate	Y		A2	34.9366	$1,462.90
42215	Reconstruct cleft palate	Y		A2	36.5245	$1,529.39
42220	Reconstruct cleft palate	Y		A2	34.9366	$1,462.90
42225	Reconstruct cleft palate	Y	CH	G2	41.1215	$1,721.88
42226	Lengthening of palate	Y		A2	34.9366	$1,462.90
42227	Lengthening of palate	Y	CH	G2	41.1215	$1,721.88
42235	Repair palate	Y		A2	16.4282	$687.90
42260	Repair nose to lip fistula	Y		A2	21.5108	$900.72

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42280	Preparation, palate mold	Y		P3		$65.30
42281	Insertion, palate prosthesis	Y		G2	16.4437	$688.55
42300	Drainage of salivary gland	Y		A2	14.2349	$596.06
42305	Drainage of salivary gland	Y		A2	14.8802	$623.08
42310	Drainage of salivary gland	Y		A2	3.3186	$138.96
42320	Drainage of salivary gland	Y		A2	3.3186	$138.96
42330	Removal of salivary stone	Y		P3		$99.65
42335	Removal of salivary stone	Y		P3		$165.51
42340	Removal of salivary stone	Y		A2	14.8802	$623.08
42400	Biopsy of salivary gland	Y		P3		$55.08
42405	Biopsy of salivary gland	Y		A2	20.4597	$856.71
42408	Excision of salivary cyst	Y		A2	15.2459	$638.39
42409	Drainage of salivary cyst	Y		A2	15.2459	$638.39
42410	Excise parotid gland/lesion	Y		A2	33.7542	$1,413.39
42415	Excise parotid gland/lesion	Y		A2	36.5245	$1,529.39
42420	Excise parotid gland/lesion	Y		A2	36.5245	$1,529.39
42425	Excise parotid gland/lesion	Y		A2	36.5245	$1,529.39
42440	Excise submaxillary gland	Y		A2	33.7542	$1,413.39
42450	Excise sublingual gland	Y		A2	20.4597	$856.71
42500	Repair salivary duct	Y		A2	20.8254	$872.02
42505	Repair salivary duct	Y		A2	34.4396	$1,442.09
42507	Parotid duct diversion	Y		A2	33.7542	$1,413.39
42508	Parotid duct diversion	Y		A2	34.4396	$1,442.09
42509	Parotid duct diversion	Y		A2	34.4396	$1,442.09
42510	Parotid duct diversion	Y		A2	34.4396	$1,442.09
42550	Injection for salivary x-ray	N		N1		
42600	Closure of salivary fistula	Y		A2	14.2349	$596.06
42650	Dilation of salivary duct	Y		P3		$36.62
42660	Dilation of salivary duct	Y		P3		$43.15

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42665	Ligation of salivary duct	Y		A2	23.5956	$988.02
42700	Drainage of tonsil abscess	Y		A2	3.3186	$138.96
42720	Drainage of throat abscess	Y		A2	14.2349	$596.06
42725	Drainage of throat abscess	Y		A2	33.3886	$1,398.08
42800	Biopsy of throat	Y		P3		$70.97
42802	Biopsy of throat	Y		A2	14.2349	$596.06
42804	Biopsy of upper nose/throat	Y		A2	14.2349	$596.06
42806	Biopsy of upper nose/throat	Y		A2	20.4597	$856.71
42808	Excise pharynx lesion	Y		A2	20.4597	$856.71
42809	Remove pharynx foreign body	N		G2	0.6403	$26.81
42810	Excision of neck cyst	Y		A2	20.8254	$872.02
42815	Excision of neck cyst	Y		A2	34.9366	$1,462.90
42820	Remove tonsils and adenoids	Y		A2	20.8254	$872.02
42821	Remove tonsils and adenoids	Y		A2	22.0077	$921.53
42825	Removal of tonsils	Y		A2	21.5108	$900.72
42826	Removal of tonsils	Y		A2	21.5108	$900.72
42830	Removal of adenoids	Y		A2	21.5108	$900.72
42831	Removal of adenoids	Y		A2	21.5108	$900.72
42835	Removal of adenoids	Y		A2	21.5108	$900.72
42836	Removal of adenoids	Y		A2	21.5108	$900.72
42860	Excision of tonsil tags	Y		A2	20.8254	$872.02
42870	Excision of lingual tonsil	Y		A2	20.8254	$872.02
42890	Partial removal of pharynx	Y		A2	36.5245	$1,529.39
42892	Revision of pharyngeal walls	Y		A2	36.5245	$1,529.39
42900	Repair throat wound	Y		A2	7.3694	$308.58
42950	Reconstruction of throat	Y		A2	20.4597	$856.71
42955	Surgical opening of throat	Y		A2	20.4597	$856.71
42960	Control throat bleeding	Y		A2	1.2409	$51.96
42962	Control throat bleeding	Y		A2	33.3886	$1,398.08

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42970	Control nose/throat bleeding	Y		R2	1.1023	$46.16
42972	Control nose/throat bleeding	Y		A2	15.2459	$638.39
43030	Throat muscle surgery	Y		G2	16.4437	$688.55
43130	Removal of esophagus pouch	Y	CH	G2	41.1215	$1,721.88
43200	Esophagus endoscopy	Y		A2	8.1776	$342.42
43201	Esoph scope w/submucous inj	Y		A2	8.1776	$342.42
43202	Esophagus endoscopy, biopsy	Y		A2	8.1776	$342.42
43204	Esoph scope w/sclerosis inj	Y		A2	8.1776	$342.42
43205	Esophagus endoscopy/ligation	Y		A2	8.1776	$342.42
43215	Esophagus endoscopy	Y		A2	8.1776	$342.42
43216	Esophagus endoscopy/lesion	Y		A2	8.1776	$342.42
43217	Esophagus endoscopy	Y		A2	8.1776	$342.42
43219	Esophagus endoscopy	Y		A2	20.9104	$875.58
43220	Esoph endoscopy, dilation	Y		A2	8.1776	$342.42
43226	Esoph endoscopy, dilation	Y		A2	8.1776	$342.42
43227	Esoph endoscopy, repair	Y		A2	8.8231	$369.45
43228	Esoph endoscopy, ablation	Y		A2	19.962	$835.87
43231	Esoph endoscopy w/us exam	Y		A2	8.8231	$369.45
43232	Esoph endoscopy w/us fn bx	Y		A2	8.8231	$369.45
43234	Upper GI endoscopy, exam	Y		A2	8.1776	$342.42
43235	Uppr gi endoscopy, diagnosis	Y		A2	8.1776	$342.42
43236	Uppr gi scope w/submuc inj	Y		A2	8.8231	$369.45
43237	Endoscopic us exam, esoph	Y		A2	8.8231	$369.45
43238	Uppr gi endoscopy w/us fn bx	Y		A2	8.8231	$369.45
43239	Upper GI endoscopy, biopsy	Y		A2	8.8231	$369.45
43240	Esoph endoscope w/drain cyst	Y		A2	8.8231	$369.45
43241	Upper GI endoscopy with tube	Y		A2	8.8231	$369.45
43242	Uppr gi endoscopy w/us fn bx	Y		A2	8.8231	$369.45
43243	Upper gi endoscopy & inject	Y		A2	8.8231	$369.45

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43244	Upper GI endoscopy/ligation	Y		A2	8.8231	$369.45
43245	Uppr gi scope dilate strictr	Y		A2	8.8231	$369.45
43246	Place gastrostomy tube	Y		A2	8.8231	$369.45
43247	Operative upper GI endoscopy	Y		A2	8.8231	$369.45
43248	Uppr gi endoscopy/guide wire	Y		A2	8.8231	$369.45
43249	Esoph endoscopy, dilation	Y		A2	8.8231	$369.45
43250	Upper GI endoscopy/tumor	Y		A2	8.8231	$369.45
43251	Operative upper GI endoscopy	Y		A2	8.8231	$369.45
43255	Operative upper GI endoscopy	Y		A2	8.8231	$369.45
43256	Uppr gi endoscopy w/stent	Y		A2	21.9213	$917.91
43257	Uppr gi scope w/thrml txmnt	Y		A2	20.3277	$851.18
43258	Operative upper GI endoscopy	Y		A2	9.1887	$384.76
43259	Endoscopic ultrasound exam	Y		A2	9.1887	$384.76
43260	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43261	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43262	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43263	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43264	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43265	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43267	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43268	Endo cholangiopancreatograph	Y		A2	21.5557	$902.60
43269	Endo cholangiopancreatograph	Y		A2	21.5557	$902.60
43271	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43272	Endo cholangiopancreatograph	Y		A2	18.7713	$786.01
43273	Endoscopic pancreatoscopy	Y		G2	21.632	$905.80
43450	Dilate esophagus	Y		A2	6.1801	$258.78
43453	Dilate esophagus	Y		A2	6.1801	$258.78
43456	Dilate esophagus	Y		A2	6.194	$259.36
43458	Dilate esophagus	Y		A2	8.1914	$343.00

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43600	Biopsy of stomach	Y		A2	8.1776	$342.42
43653	Laparoscopy, gastrostomy	Y		A2	41.2571	$1,727.56
43752	Nasal/orogastric w/stent	N	CH	G2	1.2143	$50.85
43760	Change gastrostomy tube	Y		A2	2.547	$106.65
43761	Reposition gastrostomy tube	Y		A2	8.1776	$342.42
43870	Repair stomach opening	Y		A2	8.1776	$342.42
43886	Revise gastric port, open	Y		G2	22.8955	$958.70
43887	Remove gastric port, open	Y		G2	4.2464	$177.81
43888	Change gastric port, open	Y		G2	22.8955	$958.70
44100	Biopsy of bowel	Y		A2	8.1776	$342.42
44312	Revision of ileostomy	Y		A2	19.0736	$798.67
44340	Revision of colostomy	Y		A2	20.0845	$841.00
44360	Small bowel endoscopy	Y		A2	9.6153	$402.62
44361	Small bowel endoscopy/biopsy	Y		A2	9.6153	$402.62
44363	Small bowel endoscopy	Y		A2	9.6153	$402.62
44364	Small bowel endoscopy	Y		A2	9.6153	$402.62
44365	Small bowel endoscopy	Y		A2	9.6153	$402.62
44366	Small bowel endoscopy	Y		A2	9.6153	$402.62
44369	Small bowel endoscopy	Y		A2	9.6153	$402.62
44370	Small bowel endoscopy/stent	Y		A2	26.6566	$1,116.19
44372	Small bowel endoscopy	Y		A2	9.6153	$402.62
44373	Small bowel endoscopy	Y		A2	9.6153	$402.62
44376	Small bowel endoscopy	Y		A2	9.6153	$402.62
44377	Small bowel endoscopy/biopsy	Y		A2	9.6153	$402.62
44378	Small bowel endoscopy	Y		A2	9.6153	$402.62
44379	S bowel endoscope w/stent	Y		A2	26.6566	$1,116.19
44380	Small bowel endoscopy	Y		A2	8.97	$375.60
44382	Small bowel endoscopy	Y		A2	8.97	$375.60
44383	Ileoscopy w/stent	Y		A2	26.6566	$1,116.19

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
44385	Endoscopy of bowel pouch	Y		A2	8.4353	$353.21
44386	Endoscopy, bowel pouch/biop	Y		A2	8.4353	$353.21
44388	Colonoscopy	Y		A2	8.4353	$353.21
44389	Colonoscopy with biopsy	Y		A2	8.4353	$353.21
44390	Colonoscopy for foreign body	Y		A2	8.4353	$353.21
44391	Colonoscopy for bleeding	Y		A2	8.4353	$353.21
44392	Colonoscopy & polypectomy	Y		A2	8.4353	$353.21
44393	Colonoscopy, lesion removal	Y		A2	8.4353	$353.21
44394	Colonoscopy w/snare	Y		A2	8.4353	$353.21
44397	Colonoscopy w/stent	Y		A2	20.9104	$875.58
44500	Intro, gastrointestinal tube	Y		G2	6.0982	$255.35
44701	Intraop colon lavage add-on	N		N1		
45000	Drainage of pelvic abscess	Y		A2	11.9098	$498.70
45005	Drainage of rectal abscess	Y		A2	12.6748	$530.73
45020	Drainage of rectal abscess	Y		A2	12.6748	$530.73
45100	Biopsy of rectum	Y		A2	19.1013	$799.83
45108	Removal of anorectal lesion	Y		A2	19.7469	$826.86
45150	Excision of rectal stricture	Y		A2	19.7469	$826.86
45160	Excision of rectal lesion	Y		A2	19.7469	$826.86
45170	Excision of rectal lesion	N	CH	D5		
45171	Exc rect tum transanal part	Y	NI	G2	13.5029	$565.41
45172	Exc rect tum transanal full	Y	NI	G2	22.9324	$960.25
45190	Destruction, rectal tumor	Y		A2	24.8475	$1,040.44
45300	Proctosigmoidoscopy dx	Y		P3		$55.93
45303	Proctosigmoidoscopy dilate	Y		P2	8.8447	$370.35
45305	Proctosigmoidoscopy w/bx	Y		A2	8.5358	$357.42
45307	Proctosigmoidoscopy fb	Y		A2	18.2767	$765.30
45308	Proctosigmoidoscopy removal	Y		A2	8.5358	$357.42
45309	Proctosigmoidoscopy removal	Y		A2	8.5358	$357.42

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45315	Proctosigmoidoscopy removal	Y		A2	8.5358	$357.42
45317	Proctosigmoidoscopy bleed	Y		A2	8.5358	$357.42
45320	Proctosigmoidoscopy ablate	Y		A2	18.2767	$765.30
45321	Proctosigmoidoscopy volvul	Y		A2	18.2767	$765.30
45327	Proctosigmoidoscopy w/stent	Y		A2	20.9104	$875.58
45330	Diagnostic sigmoidoscopy	Y		P3		$70.12
45331	Sigmoidoscopy and biopsy	Y		A2	5.8527	$245.07
45332	Sigmoidoscopy w/fb removal	Y		A2	5.8527	$245.07
45333	Sigmoidoscopy & polypectomy	Y		A2	8.5358	$357.42
45334	Sigmoidoscopy for bleeding	Y		A2	8.5358	$357.42
45335	Sigmoidoscopy w/submuc inj	Y		A2	5.8527	$245.07
45337	Sigmoidoscopy & decompress	Y		A2	5.8527	$245.07
45338	Sigmoidoscopy w/tumr remove	Y		A2	8.5358	$357.42
45339	Sigmoidoscopy w/ablate tumr	Y		A2	8.5358	$357.42
45340	Sig w/balloon dilation	Y		A2	8.5358	$357.42
45341	Sigmoidoscopy w/ultrasound	Y		A2	8.5358	$357.42
45342	Sigmoidoscopy w/us guide bx	Y		A2	8.5358	$357.42
45345	Sigmoidoscopy w/stent	Y		A2	20.9104	$875.58
45355	Surgical colonoscopy	Y		A2	8.4353	$353.21
45378	Diagnostic colonoscopy	Y		A2	9.0806	$380.23
45379	Colonoscopy w/fb removal	Y		A2	9.0806	$380.23
45380	Colonoscopy and biopsy	Y		A2	9.0806	$380.23
45381	Colonoscopy, submucous inj	Y		A2	9.0806	$380.23
45382	Colonoscopy/control bleeding	Y		A2	9.0806	$380.23
45383	Lesion removal colonoscopy	Y		A2	9.0806	$380.23
45384	Lesion remove colonoscopy	Y		A2	9.0806	$380.23
45385	Lesion removal colonoscopy	Y		A2	9.0806	$380.23
45386	Colonoscopy dilate stricture	Y		A2	9.0806	$380.23
45387	Colonoscopy w/stent	Y		A2	20.9104	$875.58

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45391	Colonoscopy w/endoscope us	Y		A2	9.0806	$380.23
45392	Colonoscopy w/endoscopic fnb	Y		A2	9.0806	$380.23
45500	Repair of rectum	Y		A2	19.7469	$826.86
45505	Repair of rectum	Y		A2	25.6382	$1,073.55
45520	Treatment of rectal prolapse	Y		P2	0.8408	$35.21
45541	Correct rectal prolapse	Y	CH	G2	30.7878	$1,289.18
45560	Repair of rectocele	Y		A2	25.6382	$1,073.55
45900	Reduction of rectal prolapse	Y		A2	5.632	$235.83
45905	Dilation of anal sphincter	Y		A2	19.1013	$799.83
45910	Dilation of rectal narrowing	Y		A2	19.1013	$799.83
45915	Remove rectal obstruction	Y		A2	11.9098	$498.70
45990	Surg dx exam, anorectal	Y		A2	18.9819	$794.83
46020	Placement of seton	Y		A2	20.1125	$842.17
46030	Removal of rectal marker	Y		A2	5.632	$235.83
46040	Incision of rectal abscess	Y		A2	20.1125	$842.17
46045	Incision of rectal abscess	Y		A2	19.7469	$826.86
46050	Incision of anal abscess	Y		A2	11.9098	$498.70
46060	Incision of rectal abscess	Y		A2	19.7469	$826.86
46070	Incision of anal septum	Y		G2	13.5029	$565.41
46080	Incision of anal sphincter	Y		A2	20.1125	$842.17
46083	Incise external hemorrhoid	Y	CH	P3		$78.92
46200	Removal of anal fissure	Y		A2	19.7469	$826.86
46210	Removal of anal crypt	N	CH	D5		
46211	Removal of anal crypts	N	CH	D5		
46220	Excise anal ext tag/papilla	Y		A2	12.0292	$503.70
46221	Ligation of hemorrhoid(s)	Y		P3		$105.33
46230	Removal of anal tags	Y		A2	19.1013	$799.83
46250	Remove ext hem groups = 2	Y		A2	20.1125	$842.17
46255	Remove int/ext hem 1 group	Y		A2	20.1125	$842.17

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46257	Remove in/ex hem grp & fiss	Y		A2	20.1125	$842.17
46258	Remove in/ex hem grp w/fistu	Y		A2	20.1125	$842.17
46260	Remove in/ex hem groups = 2	Y		A2	20.1125	$842.17
46261	Remove in/ex hem grps & fiss	Y		A2	20.7979	$870.87
46262	Remove in/ex hem grps w/fist	Y		A2	20.7979	$870.87
46270	Remove anal fist subq	Y		A2	20.1125	$842.17
46275	Remove anal fist inter	Y		A2	20.1125	$842.17
46280	Remove anal fist complex	Y		A2	20.7979	$870.87
46285	Remove anal fist 2 stage	Y		A2	19.1013	$799.83
46288	Repair anal fistula	Y		A2	20.7979	$870.87
46320	Removal of hemorrhoid clot	Y		P3		$70.97
46500	Injection into hemorrhoid(s)	Y		P3		$99.36
46505	Chemodenervation anal musc	Y		G2	22.9324	$960.25
46600	Diagnostic anoscopy	N		P2	0.6403	$26.81
46604	Anoscopy and dilation	Y	CH	P3		$343.51
46606	Anoscopy and biopsy	Y		P3		$113.84
46608	Anoscopy, remove for body	Y		A2	8.5358	$357.42
46610	Anoscopy, remove lesion	Y		A2	18.2767	$765.30
46611	Anoscopy	Y		A2	8.5358	$357.42
46612	Anoscopy, remove lesions	Y		A2	18.2767	$765.30
46614	Anoscopy, control bleeding	Y		P3		$59.05
46615	Anoscopy	Y		A2	18.922	$792.32
46700	Repair of anal stricture	Y		A2	20.1125	$842.17
46706	Repr of anal fistula w/glue	Y		A2	24.9927	$1,046.52
46707	Repair anorectal fist w/plug	Y	NI	G2	30.7878	$1,289.18
46750	Repair of anal sphincter	Y		A2	26.0039	$1,088.86
46753	Reconstruction of anus	Y		A2	20.1125	$842.17
46754	Removal of suture from anus	Y		A2	19.7469	$826.86
46760	Repair of anal sphincter	Y		A2	25.6382	$1,073.55

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46761	Repair of anal sphincter	Y		A2	26.0039	$1,088.86
46762	Implant artificial sphincter	Y		A2	28.7742	$1,204.86
46900	Destruction, anal lesion(s)	Y	CH	P3		$102.77
46910	Destruction, anal lesion(s)	Y		P3		$110.44
46916	Cryosurgery, anal lesion(s)	Y		P2	1.4745	$61.74
46917	Laser surgery, anal lesions	Y		A2	17.1605	$718.56
46922	Excision of anal lesion(s)	Y		A2	17.1605	$718.56
46924	Destruction, anal lesion(s)	Y		A2	17.1605	$718.56
46930*	Destroy internal hemorrhoids	Y		P3		$100.50
46937	Cryotherapy of rectal lesion	N	CH	D5		
46938	Cryotherapy of rectal lesion	N	CH	D5		
46940	Treatment of anal fissure	Y		P3		$80.91
46942	Treatment of anal fissure	Y		P3		$79.21
46945	Remove by ligat int hem grp	Y		P3		$132.01
46946	Remove by ligat int hem grps	Y		A2	12.0292	$503.70
46947	Hemorrhoidopexy by stapling	Y		A2	28.7742	$1,204.86
47000	Needle biopsy of liver	Y		A2	8.8382	$370.08
47001	Needle biopsy, liver add-on	N		N1		
47382	Percut ablate liver rf	Y		G2	49.1378	$2,057.55
47500	Injection for liver x-rays	N		N1		
47505	Injection for liver x-rays	N		N1		
47510	Insert catheter, bile duct	Y		A2	24.6063	$1,030.34
47511	Insert bile duct drain	Y		A2	29.1751	$1,221.65
47525	Change bile duct catheter	Y		A2	12.8875	$539.64
47530	Revise/reinsert bile tube	Y		A2	12.8875	$539.64
47552	Biliary endoscopy thru skin	Y		A2	24.6063	$1,030.34
47553	Biliary endoscopy thru skin	Y		A2	24.9719	$1,045.65
47554	Biliary endoscopy thru skin	Y		A2	24.9719	$1,045.65
47555	Biliary endoscopy thru skin	Y		A2	24.9719	$1,045.65

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47556	Biliary endoscopy thru skin	Y		A2	29.1751	$1,221.65
47560	Laparoscopy w/cholangio	Y		A2	30.2178	$1,265.31
47561	Laparo w/cholangio/biopsy	Y		A2	30.2178	$1,265.31
47562	Laparoscopic cholecystectomy	Y		G2	44.8118	$1,876.40
47563	Laparo cholecystectomy/graph	Y		G2	44.8118	$1,876.40
47564	Laparo cholecystectomy/explr	Y		G2	44.8118	$1,876.40
47630	Remove bile duct stone	Y		A2	24.9719	$1,045.65
48102	Needle biopsy, pancreas	Y		A2	8.8382	$370.08
49080	Puncture, peritoneal cavity	Y		A2	5.2561	$220.09
49081	Removal of abdominal fluid	Y		A2	5.2561	$220.09
49180	Biopsy, abdominal mass	Y		A2	8.8382	$370.08
49250	Excision of umbilicus	Y		A2	23.1049	$967.47
49320	Diag laparo separate proc	Y		A2	30.2178	$1,265.31
49321	Laparoscopy, biopsy	Y		A2	30.9032	$1,294.01
49322	Laparoscopy, aspiration	Y		A2	30.9032	$1,294.01
49324	Lap insertion perm ip cath	Y		G2	36.4063	$1,524.44
49325	Lap revision perm ip cath	Y		G2	36.4063	$1,524.44
49326	Lap w/omentopexy add-on	Y		G2	36.4063	$1,524.44
49400	Air injection into abdomen	N		N1		
49402	Remove foreign body, adbomen	Y		A2	22.0538	$923.46
49411	Ins mark abd/pel for rt perq	N	NI	P3		$281.34
49419	Insrt abdom cath for chemotx	Y		A2	24.1299	$1,010.39
49420	Insert abdom drain, temp	Y		A2	23.758	$994.82
49421	Insert abdom drain, perm	Y		A2	23.758	$994.82
49422	Remove perm cannula/catheter	Y		A2	18.3631	$768.92
49423	Exchange drainage catheter	Y		G2	14.6474	$613.33
49424	Assess cyst, contrast inject	N		N1		
49426	Revise abdomen-venous shunt	Y		A2	22.0538	$923.46
49427	Injection, abdominal shunt	N		N1		

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49429	Removal of shunt	Y		G2	21.9478	$919.02
49435	Insert subq exten to ip cath	Y	CH	G2	14.6474	$613.33
49436	Embedded ip cath exit-site	Y	CH	G2	14.6474	$613.33
49440	Place gastrostomy tube perc	Y		G2	8.3675	$350.37
49441	Place duod/jej tube perc	Y		G2	8.3675	$350.37
49442	Place cecostomy tube perc	Y	CH	G2	13.5029	$565.41
49446	Change g-tube to g-j perc	Y		G2	8.3675	$350.37
49450	Replace g/c tube perc	Y		G2	6.0982	$255.35
49451	Replace duod/jej tube perc	Y		G2	6.0982	$255.35
49452	Replace g-j tube perc	Y		G2	6.0982	$255.35
49460	Fix g/colon tube w/device	Y		G2	6.0982	$255.35
49465	Fluoro exam of g/colon tube	N		N1		
49495	Rpr ing hernia baby, reduc	Y		A2	26.5364	$1,111.16
49496	Rpr ing hernia baby, blocked	Y		A2	26.5364	$1,111.16
49500	Rpr ing hernia, init, reduce	Y		A2	26.5364	$1,111.16
49501	Rpr ing hernia, init blocked	Y		A2	30.5863	$1,280.74
49505	Prp i/hern init reduc >5 yr	Y		A2	26.5364	$1,111.16
49507	Prp i/hern init block >5 yr	Y		A2	30.5863	$1,280.74
49520	Rerepair ing hernia, reduce	Y		A2	28.6213	$1,198.46
49521	Rerepair ing hernia, blocked	Y		A2	30.5863	$1,280.74
49525	Repair ing hernia, sliding	Y		A2	26.5364	$1,111.16
49540	Repair lumbar hernia	Y		A2	25.4854	$1,067.15
49550	Rpr rem hernia, init, reduce	Y		A2	27.0334	$1,131.97
49553	Rpr fem hernia, init blocked	Y		A2	30.5863	$1,280.74
49555	Rerepair fem hernia, reduce	Y		A2	27.0334	$1,131.97
49557	Rerepair fem hernia, blocked	Y		A2	30.5863	$1,280.74
49560	Rpr ventral hern init, reduc	Y		A2	26.5364	$1,111.16
49561	Rpr ventral hern init, block	Y		A2	30.5863	$1,280.74
49565	Rerepair ventrl hern, reduce	Y		A2	26.5364	$1,111.16

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49566	Rerepair ventrl hern, block	Y		A2	30.5863	$1,280.74
49568	Hernia repair w/mesh	Y		A2	28.6213	$1,198.46
49570	Rpr epigastric hern, reduce	Y		A2	26.5364	$1,111.16
49572	Rpr epigastric hern, blocked	Y		A2	30.5863	$1,280.74
49580	Rpr umbil hern, reduc < 5 yr	Y		A2	26.5364	$1,111.16
49582	Rpr umbil hern, block < 5 yr	Y		A2	30.5863	$1,280.74
49585	Rpr umbil hern, reduc > 5 yr	Y		A2	26.5364	$1,111.16
49587	Rpr umbil hern, block > 5 yr	Y		A2	30.5863	$1,280.74
49590	Repair spigelian hernia	Y		A2	25.851	$1,082.46
49600	Repair umbilical lesion	Y		A2	26.5364	$1,111.16
49650	Lap ing hernia repair init	Y		A2	37.2073	$1,557.98
49651	Lap ing hernia repair recur	Y		A2	39.2921	$1,645.28
49652	Lap vent/abd hernia repair	Y		G2	69.7991	$2,922.70
49653	Lap vent/abd hern proc comp	Y		G2	69.7991	$2,922.70
49654	Lap inc hernia repair	Y		G2	69.7991	$2,922.70
49655	Lap inc hern repair comp	Y		G2	69.7991	$2,922.70
49656	Lap inc hernia repair recur	Y		G2	69.7991	$2,922.70
49657	Lap inc hern recur comp	Y		G2	69.7991	$2,922.70
50080	Removal of kidney stone	Y	CH	G2	44.6588	$1,870.00
50081	Removal of kidney stone	Y	CH	G2	44.6588	$1,870.00
50200	Renal biopsy perq	Y		A2	8.8382	$370.08
50382	Change ureter stent, percut	Y		G2	24.4172	$1,022.42
50384	Remove ureter stent, percut	Y		G2	16.2968	$682.40
50385	Change stent via transureth	Y		G2	24.4172	$1,022.42
50386	Remove stent via transureth	Y	CH	P2	6.8253	$285.80
50387	Change ext/int ureter stent	Y		G2	14.6474	$613.33
50389	Remove renal tube w/fluoro	Y		G2	6.8253	$285.80
50390	Drainage of kidney lesion	Y		A2	8.8382	$370.08
50391	Instll rx agnt into rnal tub	Y	CH	P3		$42.30

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
50392	Insert kidney drain	Y		A2	14.1246	$591.44
50393	Insert ureteral tube	Y		A2	20.2152	$846.47
50394	Injection for kidney x-ray	N		N1		
50395	Create passage to kidney	Y		A2	20.2152	$846.47
50396	Measure kidney pressure	Y		A2	2.2002	$92.13
50398	Change kidney tube	Y		A2	12.8875	$539.64
50551	Kidney endoscopy	Y		A2	7.021	$293.99
50553	Kidney endoscopy	Y		A2	20.2152	$846.47
50555	Kidney endoscopy & biopsy	Y		A2	7.021	$293.99
50557	Kidney endoscopy & treatment	Y		A2	20.2152	$846.47
50561	Kidney endoscopy & treatment	Y		A2	20.2152	$846.47
50562	Renal scope w/tumor resect	Y		G2	6.8253	$285.80
50570	Kidney endoscopy	Y		G2	6.8253	$285.80
50572	Kidney endoscopy	Y		G2	6.8253	$285.80
50574	Kidney endoscopy & biopsy	Y		G2	6.8253	$285.80
50575	Kidney endoscopy	Y		G2	34.6334	$1,450.20
50576	Kidney endoscopy & treatment	Y		G2	16.2968	$682.40
50580	Kidney endoscopy & treatment	Y		G2	16.2968	$682.40
50590	Fragmenting of kidney stone	Y		G2	39.5716	$1,656.98
50592	Perc rf ablate renal tumor	Y		G2	49.1378	$2,057.55
50684	Injection for ureter x-ray	N		N1		
50686	Measure ureter pressure	Y	CH	P3		$37.76
50688	Change of ureter tube/stent	Y		A2	12.8875	$539.64
50690	Injection for ureter x-ray	N		N1		
50727	Revise ureter	Y	CH	G2	19.1572	$802.17
50947	Laparo new ureter/bladder	Y		A2	41.2571	$1,727.56
50948	Laparo new ureter/bladder	Y		A2	41.2571	$1,727.56
50951	Endoscopy of ureter	Y		A2	7.021	$293.99
50953	Endoscopy of ureter	Y		A2	7.021	$293.99

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50955	Ureter endoscopy & biopsy	Y		A2	20.2152	$846.47
50957	Ureter endoscopy & treatment	Y		A2	20.2152	$846.47
50961	Ureter endoscopy & treatment	Y		A2	20.2152	$846.47
50970	Ureter endoscopy	Y		A2	7.021	$293.99
50972	Ureter endoscopy & catheter	Y		A2	7.021	$293.99
50974	Ureter endoscopy & biopsy	Y		A2	14.1246	$591.44
50976	Ureter endoscopy & treatment	Y		A2	14.1246	$591.44
50980	Ureter endoscopy & treatment	Y		A2	20.2152	$846.47
51020	Incise & treat bladder	Y		A2	21.9115	$917.50
51030	Incise & treat bladder	Y		A2	21.9115	$917.50
51040	Incise & drain bladder	Y		A2	21.9115	$917.50
51045	Incise bladder/drain ureter	Y		A2	7.3993	$309.83
51050	Removal of bladder stone	Y		A2	21.9115	$917.50
51065	Remove ureter calculus	Y		A2	21.9115	$917.50
51080	Drainage of bladder abscess	Y		A2	15.8264	$662.70
51100	Drain bladder by needle	Y		P3		$24.98
51101	Drain bladder by trocar/cath	Y		P2	1.0484	$43.90
51102	Drain bl w/cath insertion	Y		A2	16.2699	$681.27
51500	Removal of bladder cyst	Y		A2	26.5364	$1,111.16
51520	Removal of bladder lesion	Y		A2	21.9115	$917.50
51535	Repair of ureter lesion	Y	CH	G2	24.4172	$1,022.42
51600	Injection for bladder x-ray	N		N1		
51605	Preparation for bladder xray	N		N1		
51610	Injection for bladder x-ray	N		N1		
51700	Irrigation of bladder	Y		P3		$41.45
51701	Insert bladder catheter	N		P2	0.6403	$26.81
51702	Insert temp bladder cath	N		P2	0.6403	$26.81
51703	Insert bladder cath, complex	Y		P2	1.0484	$43.90
51705	Change of bladder tube	Y	CH	P3		$56.78

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51710	Change of bladder tube	Y		A2	6.4758	$271.16
51715	Endoscopic injection/implant	Y		A2	25.4269	$1,064.70
51720	Treatment of bladder lesion	Y		P3		$45.42
51725	Simple cystometrogram	Y	CH	P3		$106.46
51726	Complex cystometrogram	Y		A2	3.3645	$140.88
51727	Cystometrogram w/up	Y	NI	P2	2.8906	$121.04
51728	Cystometrogram w/vp	Y	NI	P2	2.8906	$121.04
51729	Cystometrogram w/vp&up	Y	NI	P2	2.8906	$121.04
51736	Urine flow measurement	Y		P3		$17.03
51741	Electro-uroflowmetry, first	Y		P3		$19.87
51772	Urethra pressure profile	N	CH	D5		
51784	Anal/urinary muscle study	Y		P2	1.0484	$43.90
51785	Anal/urinary muscle study	Y		A2	1.8313	$76.68
51792	Urinary reflex study	Y		P2	1.0484	$43.90
51795	Urine voiding pressure study	N	CH	D5		
51797	Intraabdominal pressure test	Y	CH	P3		$74.66
51798	Us urine capacity measure	N		P3		$14.48
51880	Repair of bladder opening	Y		A2	20.2152	$846.47
51992	Laparo sling operation	Y		A2	37.7042	$1,578.79
52000	Cystoscopy	Y		A2	7.021	$293.99
52001	Cystoscopy, removal of clots	Y		A2	14.5029	$607.28
52005	Cystoscopy & ureter catheter	Y		A2	20.8605	$873.49
52007	Cystoscopy and biopsy	Y		A2	20.8605	$873.49
52010	Cystoscopy & duct catheter	Y		A2	7.3993	$309.83
52204	Cystoscopy w/biopsy(s)	Y		A2	20.8605	$873.49
52214	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52224	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52234	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52235	Cystoscopy and treatment	Y		A2	21.2261	$888.80

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52240	Cystoscopy and treatment	Y		A2	21.2261	$888.80
52250	Cystoscopy and radiotracer	Y		A2	21.9115	$917.50
52260	Cystoscopy and treatment	Y		A2	14.7699	$618.46
52265	Cystoscopy and treatment	Y	CH	P3		$235.63
52270	Cystoscopy & revise urethra	Y		A2	14.7699	$618.46
52275	Cystoscopy & revise urethra	Y		A2	20.8605	$873.49
52276	Cystoscopy and treatment	Y		A2	21.2261	$888.80
52277	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52281	Cystoscopy and treatment	Y		A2	14.7699	$618.46
52282	Cystoscopy, implant stent	Y		A2	33.6233	$1,407.91
52283	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52285	Cystoscopy and treatment	Y		A2	14.7699	$618.46
52290	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52300	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52301	Cystoscopy and treatment	Y		A2	21.2261	$888.80
52305	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52310	Cystoscopy and treatment	Y		A2	14.5029	$607.28
52315	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52317	Remove bladder stone	Y		A2	20.2152	$846.47
52318	Remove bladder stone	Y		A2	20.8605	$873.49
52320	Cystoscopy and treatment	Y		A2	22.4085	$938.31
52325	Cystoscopy, stone removal	Y		A2	21.9115	$917.50
52327	Cystoscopy, inject material	Y		A2	28.5224	$1,194.32
52330	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52332	Cystoscopy and treatment	Y		A2	20.8605	$873.49
52334	Create passage to kidney	Y		A2	21.2261	$888.80
52341	Cysto w/ureter stricture tx	Y		A2	21.2261	$888.80
52342	Cysto w/up stricture tx	Y		A2	21.2261	$888.80
52343	Cysto w/renal stricture tx	Y		A2	21.2261	$888.80

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52344	Cysto/uretero, stricture tx	Y		A2	21.2261	$888.80
52345	Cysto/uretero w/up stricture	Y		A2	21.2261	$888.80
52346	Cystouretero w/renal strict	Y		A2	21.2261	$888.80
52351	Cystouretero & or pyeloscope	Y		A2	21.2261	$888.80
52352	Cystouretero w/stone remove	Y		A2	21.9115	$917.50
52353	Cystouretero w/lithotripsy	Y		A2	29.5735	$1,238.33
52354	Cystouretero w/biopsy	Y		A2	21.9115	$917.50
52355	Cystouretero w/excise tumor	Y		A2	21.9115	$917.50
52400	Cystouretero w/congen repr	Y		A2	21.2261	$888.80
52402	Cystourethro cut ejacul duct	Y		A2	21.2261	$888.80
52450	Incision of prostate	Y		A2	21.2261	$888.80
52500	Revision of bladder neck	Y		A2	21.2261	$888.80
52601	Prostatectomy (TURP)	Y		A2	29.5735	$1,238.33
52630	Remove prostate regrowth	Y		A2	28.5224	$1,194.32
52640	Relieve bladder contracture	Y		A2	20.8605	$873.49
52647	Laser surgery of prostate	Y		A2	41.1423	$1,722.75
52648	Laser surgery of prostate	Y		A2	41.1423	$1,722.75
52700	Drainage of prostate abscess	Y		A2	20.8605	$873.49
53000	Incision of urethra	Y		A2	16.4949	$690.69
53010	Incision of urethra	Y		A2	16.4949	$690.69
53020	Incision of urethra	Y		A2	16.4949	$690.69
53025	Incision of urethra	Y		R2	19.4568	$814.71
53040	Drainage of urethra abscess	Y		A2	17.1402	$717.71
53060	Drainage of urethra abscess	Y		P3		$58.48
53080	Drainage of urinary leakage	Y		A2	17.5058	$733.02
53085	Drainage of urinary leakage	Y		G2	19.4568	$814.71
53200	Biopsy of urethra	Y		A2	16.4949	$690.69
53210	Removal of urethra	Y		A2	26.6093	$1,114.21
53215	Removal of urethra	Y		A2	18.6882	$782.53

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53220	Treatment of urethra lesion	Y		A2	25.0613	$1,049.39
53230	Removal of urethra lesion	Y		A2	25.0613	$1,049.39
53235	Removal of urethra lesion	Y		A2	17.5058	$733.02
53240	Surgery for urethra pouch	Y		A2	25.0613	$1,049.39
53250	Removal of urethra gland	Y		A2	17.1402	$717.71
53260	Treatment of urethra lesion	Y		A2	17.1402	$717.71
53265	Treatment of urethra lesion	Y		A2	17.1402	$717.71
53270	Removal of urethra gland	Y		A2	17.1402	$717.71
53275	Repair of urethra defect	Y		A2	17.1402	$717.71
53400	Revise urethra, stage 1	Y		A2	25.4269	$1,064.70
53405	Revise urethra, stage 2	Y		A2	25.0613	$1,049.39
53410	Reconstruction of urethra	Y		A2	25.0613	$1,049.39
53420	Reconstruct urethra, stage 1	Y		A2	25.4269	$1,064.70
53425	Reconstruct urethra, stage 2	Y		A2	25.0613	$1,049.39
53430	Reconstruction of urethra	Y		A2	25.0613	$1,049.39
53431	Reconstruct urethra/bladder	Y		A2	25.0613	$1,049.39
53440	Male sling procedure	N		H8	124.7551	$5,223.87
53442	Remove/revise male sling	Y		A2	24.416	$1,022.37
53444	Insert tandem cuff	N		H8	124.7551	$5,223.87
53445	Insert uro/ves nck sphincter	N		H8	223.2126	$9,346.58
53446	Remove uro sphincter	Y		A2	24.416	$1,022.37
53447	Remove/replace ur sphincter	N		H8	223.2126	$9,346.58
53449	Repair uro sphincter	Y		A2	24.416	$1,022.37
53450	Revision of urethra	Y		A2	24.416	$1,022.37
53460	Revision of urethra	Y		A2	16.4949	$690.69
53502	Repair of urethra injury	Y		A2	17.1402	$717.71
53505	Repair of urethra injury	Y		A2	25.0613	$1,049.39
53510	Repair of urethra injury	Y		A2	17.1402	$717.71
53515	Repair of urethra injury	Y		A2	25.0613	$1,049.39

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53520	Repair of urethra defect	Y		A2	25.0613	$1,049.39
53600	Dilate urethra stricture	Y		P3		$31.80
53601	Dilate urethra stricture	Y	CH	P3		$36.91
53605	Dilate urethra stricture	Y		A2	14.7699	$618.46
53620	Dilate urethra stricture	Y		P3		$48.55
53621	Dilate urethra stricture	Y		P3		$51.10
53660	Dilation of urethra	Y	CH	P3		$36.05
53661	Dilation of urethra	Y	CH	P3		$35.20
53665	Dilation of urethra	Y		A2	16.4949	$690.69
53850	Prostatic microwave thermotx	Y	CH	P3		$1,567.95
53852	Prostatic rf thermotx	Y	CH	P3		$1,479.09
53855	Insert prost urethral stent	Y	NI	P2	1.932	$80.90
54000	Slitting of prepuce	Y		A2	17.1402	$717.71
54001	Slitting of prepuce	Y		A2	17.1402	$717.71
54015	Drain penis lesion	Y		A2	17.523	$733.74
54050	Destruction, penis lesion(s)	Y		P2	0.8408	$35.21
54055	Destruction, penis lesion(s)	Y		P3		$53.37
54056	Cryosurgery, penis lesion(s)	Y		P2	0.8408	$35.21
54057	Laser surg, penis lesion(s)	Y		A2	17.1605	$718.56
54060	Excision of penis lesion(s)	Y		A2	17.1605	$718.56
54065	Destruction, penis lesion(s)	Y		A2	17.1605	$718.56
54100	Biopsy of penis	Y		A2	14.457	$605.36
54105	Biopsy of penis	Y		A2	18.6836	$782.34
54110	Treatment of penis lesion	Y		A2	27.5774	$1,154.75
54111	Treat penis lesion, graft	Y		A2	27.5774	$1,154.75
54112	Treat penis lesion, graft	Y		A2	27.5774	$1,154.75
54115	Treatment of penis lesion	Y		A2	15.8264	$662.70
54120	Partial removal of penis	Y		A2	27.5774	$1,154.75
54150	Circumcision w/regionl block	Y		A2	18.6086	$779.20

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
54160	Circumcision, neonate	Y		A2	19.2542	$806.23
54161	Circum 28 days or older	Y		A2	19.2542	$806.23
54162	Lysis penil circumic lesion	Y		A2	19.2542	$806.23
54163	Repair of circumcision	Y		A2	19.2542	$806.23
54164	Frenulotomy of penis	Y		A2	19.2542	$806.23
54200	Treatment of penis lesion	Y		P3		$53.94
54205	Treatment of penis lesion	Y		A2	28.6285	$1,198.76
54220	Treatment of penis lesion	Y		A2	2.2002	$92.13
54230	Prepare penis study	N		N1		
54231	Dynamic cavernosometry	Y		P3		$51.10
54235	Penile injection	Y		P3		$36.34
54240	Penis study	Y		P3		$25.83
54250	Penis study	Y		P3		$9.08
54300	Revision of penis	Y		A2	27.9431	$1,170.06
54304	Revision of penis	Y		A2	27.9431	$1,170.06
54308	Reconstruction of urethra	Y		A2	27.9431	$1,170.06
54312	Reconstruction of urethra	Y		A2	27.9431	$1,170.06
54316	Reconstruction of urethra	Y		A2	27.9431	$1,170.06
54318	Reconstruction of urethra	Y		A2	27.9431	$1,170.06
54322	Reconstruction of urethra	Y		A2	27.9431	$1,170.06
54324	Reconstruction of urethra	Y		A2	27.9431	$1,170.06
54326	Reconstruction of urethra	Y		A2	27.9431	$1,170.06
54328	Revise penis/urethra	Y		A2	27.9431	$1,170.06
54340	Secondary urethral surgery	Y		A2	27.9431	$1,170.06
54344	Secondary urethral surgery	Y		A2	27.9431	$1,170.06
54348	Secondary urethral surgery	Y		A2	27.9431	$1,170.06
54352	Reconstruct urethra/penis	Y		A2	27.9431	$1,170.06
54360	Penis plastic surgery	Y		A2	27.9431	$1,170.06
54380	Repair penis	Y		A2	27.9431	$1,170.06

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54385	Repair penis	Y		A2	27.9431	$1,170.06
54400	Insert semi-rigid prosthesis	N		H8	125.1205	$5,239.17
54401	Insert self-contd prosthesis	N		H8	224.2235	$9,388.91
54405	Insert multi-comp penis pros	N		H8	224.2235	$9,388.91
54406	Remove muti-comp penis pros	Y		A2	27.9431	$1,170.06
54408	Repair multi-comp penis pros	Y		A2	27.9431	$1,170.06
54410	Remove/replace penis prosth	N		H8	224.2235	$9,388.91
54415	Remove self-contd penis pros	Y		A2	27.9431	$1,170.06
54416	Remv/repl penis contain pros	N		H8	224.2235	$9,388.91
54420	Revision of penis	Y		A2	28.6285	$1,198.76
54435	Revision of penis	Y		A2	28.6285	$1,198.76
54440	Repair of penis	Y		A2	28.6285	$1,198.76
54450	Preputial stretching	Y		A2	3.3645	$140.88
54500	Biopsy of testis	Y		A2	13.0239	$545.35
54505	Biopsy of testis	Y		A2	18.6086	$779.20
54512	Excise lesion testis	Y		A2	19.2542	$806.23
54520	Removal of testis	Y		A2	19.6196	$821.53
54522	Orchiectomy, partial	Y		A2	19.6196	$821.53
54530	Removal of testis	Y		A2	26.5364	$1,111.16
54550	Exploration for testis	Y		A2	26.5364	$1,111.16
54560	Exploration for testis	Y		G2	22.2756	$932.75
54600	Reduce testis torsion	Y		A2	20.3052	$850.24
54620	Suspension of testis	Y		A2	19.6196	$821.53
54640	Suspension of testis	Y		A2	26.5364	$1,111.16
54660	Revision of testis	Y		A2	19.2542	$806.23
54670	Repair testis injury	Y		A2	19.6196	$821.53
54680	Relocation of testis(es)	Y		A2	19.6196	$821.53
54690	Laparoscopy, orchiectomy	Y		A2	41.2571	$1,727.56
54692	Laparoscopy, orchiopexy	Y		G2	69.7991	$2,922.70

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54700	Drainage of scrotum	Y		A2	19.2542	$806.23
54800	Biopsy of epididymis	Y		A2	4.0262	$168.59
54830	Remove epididymis lesion	Y		A2	19.6196	$821.53
54840	Remove epididymis lesion	Y		A2	20.3052	$850.24
54860	Removal of epididymis	Y		A2	19.6196	$821.53
54861	Removal of epididymis	Y		A2	20.3052	$850.24
54865	Explore epididymis	Y		A2	18.6086	$779.20
54900	Fusion of spermatic ducts	Y		A2	20.3052	$850.24
54901	Fusion of spermatic ducts	Y		A2	20.3052	$850.24
55000	Drainage of hydrocele	Y		P3		$52.52
55040	Removal of hydrocele	Y		A2	25.851	$1,082.46
55041	Removal of hydroceles	Y		A2	27.0334	$1,131.97
55060	Repair of hydrocele	Y		A2	20.3052	$850.24
55100	Drainage of scrotum abscess	Y		A2	10.9586	$458.87
55110	Explore scrotum	Y		A2	19.2542	$806.23
55120	Removal of scrotum lesion	Y		A2	19.2542	$806.23
55150	Removal of scrotum	Y		A2	18.6086	$779.20
55175	Revision of scrotum	Y		A2	18.6086	$779.20
55180	Revision of scrotum	Y		A2	19.2542	$806.23
55200	Incision of sperm duct	Y		A2	19.2542	$806.23
55250	Removal of sperm duct(s)	Y		A2	19.2542	$806.23
55300	Prepare, sperm duct x-ray	N		N1		
55400	Repair of sperm duct	Y		A2	18.6086	$779.20
55450	Ligation of sperm duct	Y		P3		$166.65
55500	Removal of hydrocele	Y		A2	19.6196	$821.53
55520	Removal of sperm cord lesion	Y		A2	20.3052	$850.24
55530	Revise spermatic cord veins	Y		A2	20.3052	$850.24
55535	Revise spermatic cord veins	Y		A2	26.5364	$1,111.16
55540	Revise hernia & sperm veins	Y		A2	27.0334	$1,131.97

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55550	Laparo ligate spermatic vein	Y		A2	41.2571	$1,727.56
55600	Incise sperm duct pouch	Y		R2	22.2756	$932.75
55680	Remove sperm pouch lesion	Y		A2	18.6086	$779.20
55700	Biopsy of prostate	Y		A2	10.8951	$456.21
55705	Biopsy of prostate	Y		A2	10.8951	$456.21
55706	Prostate saturation sampling	Y		G2	11.893	$498.00
55720	Drainage of prostate abscess	Y		A2	20.2152	$846.47
55725	Drainage of prostate abscess	Y		A2	20.8605	$873.49
55860	Surgical exposure, prostate	Y		G2	19.1572	$802.17
55870	Electroejaculation	Y		P3		$63.02
55873	Cryoablate prostate	Y		H8	146.626	$6,139.67
55875	Transperi needle place, pros	N		A2	33.6233	$1,407.91
55876	Place rt device/marker, pros	N		P3		$57.63
55920	Place needles pelvic for rt	Y		G2	26.0084	$1,089.05
56405	I & D of vulva/perineum	Y		P3		$35.49
56420	Drainage of gland abscess	Y	CH	P3		$48.55
56440	Surgery for vulva lesion	Y		A2	16.9305	$708.93
56441	Lysis of labial lesion(s)	Y		A2	16.285	$681.90
56442	Hymenotomy	Y		A2	16.285	$681.90
56501	Destroy, vulva lesions, sim	Y		P3		$48.55
56515	Destroy vulva lesion/s compl	Y		A2	18.1714	$760.89
56605	Biopsy of vulva/perineum	Y		P3		$28.11
56606	Biopsy of vulva/perineum	Y		P3		$11.64
56620	Partial removal of vulva	Y		A2	18.4785	$773.75
56625	Complete removal of vulva	Y		A2	20.0664	$840.24
56700	Partial removal of hymen	Y		A2	16.285	$681.90
56740	Remove vagina gland lesion	Y		A2	17.2961	$724.24
56800	Repair of vagina	Y		A2	17.2961	$724.24
56805	Repair clitoris	Y		G2	19.1772	$803.01

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56810	Repair of perineum	Y		A2	18.4785	$773.75
56820	Exam of vulva w/scope	Y		P3		$36.05
56821	Exam/biopsy of vulva w/scope	Y	CH	P3		$46.56
57000	Exploration of vagina	Y		A2	16.285	$681.90
57010	Drainage of pelvic abscess	Y		A2	16.9305	$708.93
57020	Drainage of pelvic fluid	Y		A2	7.2135	$302.05
57022	I & d vaginal hematoma, pp	Y	CH	R2	12.0752	$505.62
57023	I & d vag hematoma, non-ob	Y		A2	15.8264	$662.70
57061	Destroy vag lesions, simple	Y		P3		$44.57
57065	Destroy vag lesions, complex	Y		A2	16.285	$681.90
57100	Biopsy of vagina	Y		P3		$28.67
57105	Biopsy of vagina	Y		A2	16.9305	$708.93
57130	Remove vagina lesion	Y		A2	16.9305	$708.93
57135	Remove vagina lesion	Y		A2	16.9305	$708.93
57150	Treat vagina infection	Y		P3		$19.87
57155	Insert uteri tandems/ovoids	Y		A2	7.2135	$302.05
57160	Insert pessary/other device	Y		P3		$29.81
57170	Fitting of diaphragm/cap	Y		P2	0.1263	$5.29
57180	Treat vaginal bleeding	Y		A2	2.1133	$88.49
57200	Repair of vagina	Y		A2	16.285	$681.90
57210	Repair vagina/perineum	Y		A2	16.9305	$708.93
57220	Revision of urethra	Y		A2	35.194	$1,473.68
57230	Repair of urethral lesion	Y		A2	28.2177	$1,181.56
57240	Repair bladder & vagina	Y		A2	29.4001	$1,231.07
57250	Repair rectum & vagina	Y		A2	29.4001	$1,231.07
57260	Repair of vagina	Y		A2	29.4001	$1,231.07
57265	Extensive repair of vagina	Y		A2	37.9643	$1,589.68
57267	Insert mesh/pelvic flr addon	Y		A2	30.988	$1,297.56
57268	Repair of bowel bulge	Y		A2	28.2177	$1,181.56

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57287	Revise/remove sling repair	Y		G2	33.7396	$1,412.78
57288	Repair bladder defect	Y		A2	36.3764	$1,523.19
57289	Repair bladder & vagina	Y		A2	29.4001	$1,231.07
57291	Construction of vagina	Y		A2	29.4001	$1,231.07
57295	Revise vag graft via vagina	Y	CH	G2	19.1772	$803.01
57300	Repair rectum-vagina fistula	Y		A2	28.2177	$1,181.56
57320	Repair bladder-vagina lesion	Y		G2	33.7396	$1,412.78
57400	Dilation of vagina	Y		A2	16.9305	$708.93
57410	Pelvic examination	Y		A2	16.9305	$708.93
57415	Remove vaginal foreign body	Y		A2	16.9305	$708.93
57420	Exam of vagina w/scope	Y		P3		$37.19
57421	Exam/biopsy of vag w/scope	Y		P3		$48.55
57426	Revise prosth vag graft lap	Y	NI	G2	19.1772	$803.01
57452	Exam of cervix w/scope	Y		P3		$35.20
57454	Bx/curett of cervix w/scope	Y		P3		$43.44
57455	Biopsy of cervix w/scope	Y		P3		$45.42
57456	Endocerv curettage w/scope	Y		P3		$44.00
57460	Bx of cervix w/scope, leep	Y		P3		$130.88
57461	Conz of cervix w/scope, leep	Y		P3		$139.68
57500	Biopsy of cervix	Y		P3		$60.19
57505	Endocervical curettage	Y		P3		$39.18
57510	Cauterization of cervix	Y		P3		$40.03
57511	Cryocautery of cervix	Y	CH	P3		$48.55
57513	Laser surgery of cervix	Y		A2	16.9305	$708.93
57520	Conization of cervix	Y		A2	16.9305	$708.93
57522	Conization of cervix	Y		A2	16.9305	$708.93
57530	Removal of cervix	Y		A2	28.2177	$1,181.56
57550	Removal of residual cervix	Y		A2	28.2177	$1,181.56
57556	Remove cervix, repair bowel	Y		A2	36.3764	$1,523.19

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57558	D&c of cervical stump	Y		A2	17.2961	$724.24
57700	Revision of cervix	Y		A2	16.285	$681.90
57720	Revision of cervix	Y		A2	17.2961	$724.24
57800	Dilation of cervical canal	Y		P3		$21.01
58100	Biopsy of uterus lining	Y		P3		$34.92
58110	Bx done w/colposcopy add-on	N		N1		
58120	Dilation and curettage	Y		A2	16.9305	$708.93
58145	Myomectomy vag method	Y		A2	29.4001	$1,231.07
58301	Remove intrauterine device	Y		P3		$32.36
58321	Artificial insemination	Y		P3		$30.38
58322	Artificial insemination	Y		P3		$30.94
58323	Sperm washing	Y		P3		$6.53
58340	Catheter for hysterography	N		N1		
58345	Reopen fallopian tube	Y		R2	19.1772	$803.01
58346	Insert heyman uteri capsule	Y		A2	16.9305	$708.93
58350	Reopen fallopian tube	Y		A2	28.2177	$1,181.56
58353	Endometr ablate, thermal	Y		A2	30.988	$1,297.56
58356	Endometrial cryoablation	Y	CH	P3		$1,301.94
58545	Laparoscopic myomectomy	Y		A2	34.9531	$1,463.59
58546	Laparo-myomectomy, complex	Y		A2	41.2571	$1,727.56
58550	Laparo-asst vag hysterectomy	Y		A2	59.9976	$2,512.28
58552	Laparo-vag hyst incl t/o	Y		G2	44.8118	$1,876.40
58555	Hysteroscopy, dx, sep proc	Y		A2	18.1129	$758.44
58558	Hysteroscopy, biopsy	Y		A2	19.1238	$800.77
58559	Hysteroscopy, lysis	Y		A2	18.7584	$785.47
58560	Hysteroscopy, resect septum	Y		A2	29.6193	$1,240.25
58561	Hysteroscopy, remove myoma	Y		A2	29.6193	$1,240.25
58562	Hysteroscopy, remove fb	Y		A2	19.1238	$800.77
58563	Hysteroscopy, ablation	Y		A2	34.3546	$1,438.53

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58565	Hysteroscopy, sterilization	Y		A2	39.9293	$1,671.96
58600	Division of fallopian tube	Y		G2	33.7396	$1,412.78
58615	Occlude fallopian tube(s)	Y		G2	19.1772	$803.01
58660	Laparoscopy, lysis	Y		A2	37.7042	$1,578.79
58661	Laparoscopy, remove adnexa	Y		A2	37.7042	$1,578.79
58662	Laparoscopy, excise lesions	Y		A2	37.7042	$1,578.79
58670	Laparoscopy, tubal cautery	Y		A2	36.5219	$1,529.28
58671	Laparoscopy, tubal block	Y		A2	36.5219	$1,529.28
58672	Laparoscopy, fimbrioplasty	Y		A2	37.7042	$1,578.79
58673	Laparoscopy, salpingostomy	Y		A2	37.7042	$1,578.79
58800	Drainage of ovarian cyst(s)	Y		A2	17.2961	$724.24
58805	Drainage of ovarian cyst(s)	Y		G2	33.7396	$1,412.78
58820	Drain ovary abscess, open	Y		A2	28.2177	$1,181.56
58900	Biopsy of ovary(s)	Y		A2	17.2961	$724.24
58970	Retrieval of oocyte	Y		A2	3.8502	$161.22
58974	Transfer of embryo	Y		A2	3.8502	$161.22
58976	Transfer of embryo	Y		A2	3.8502	$161.22
59000	Amniocentesis, diagnostic	Y		P3		$51.95
59001	Amniocentesis, therapeutic	Y		R2	6.5007	$272.20
59012	Fetal cord puncture,prenatal	Y		G2	3.2609	$136.54
59015	Chorion biopsy	Y		P3		$43.15
59020	Fetal contract stress test	Y		P3		$22.43
59025	Fetal non-stress test	Y		P3		$11.92
59070	Transabdom amnioinfus w/us	Y		G2	1.4616	$61.20
59072	Umbilical cord occlud w/us	Y		G2	3.2609	$136.54
59076	Fetal shunt placement, w/us	Y		G2	3.2609	$136.54
59100	Remove uterus lesion	Y		R2	33.7396	$1,412.78
59150	Treat ectopic pregnancy	Y		G2	44.8118	$1,876.40
59151	Treat ectopic pregnancy	Y		G2	44.8118	$1,876.40

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
59160	D & c after delivery	Y		A2	17.2961	$724.24
59200	Insert cervical dilator	Y		P3		$28.39
59300	Episiotomy or vaginal repair	Y		P3		$62.74
59320	Revision of cervix	Y		A2	16.285	$681.90
59412	Antepartum manipulation	Y		G2	19.1772	$803.01
59414	Deliver placenta	Y		G2	19.1772	$803.01
59812	Treatment of miscarriage	Y		A2	18.4785	$773.75
59820	Care of miscarriage	Y		A2	18.4785	$773.75
59821	Treatment of miscarriage	Y		A2	18.4785	$773.75
59840	Abortion	Y		A2	18.4785	$773.75
59841	Abortion	Y		A2	18.4785	$773.75
59866	Abortion (mpr)	Y		G2	3.2609	$136.54
59870	Evacuate mole of uterus	Y		A2	18.4785	$773.75
59871	Remove cerclage suture	Y		A2	18.4785	$773.75
60000	Drain thyroid/tongue cyst	Y		A2	7.3694	$308.58
60100	Biopsy of thyroid	Y		P3		$38.61
60200	Remove thyroid lesion	Y		A2	37.5311	$1,571.54
60210	Partial thyroid excision	Y	CH	G2	46.645	$1,953.17
60212	Partial thyroid excision	Y	CH	G2	46.645	$1,953.17
60220	Partial removal of thyroid	Y	CH	G2	46.645	$1,953.17
60225	Partial removal of thyroid	Y	CH	G2	46.645	$1,953.17
60280	Remove thyroid duct lesion	Y		A2	38.5821	$1,615.55
60281	Remove thyroid duct lesion	Y		A2	38.5821	$1,615.55
60300	Aspir/inj thyroid cyst	Y		P3		$51.95
61000	Remove cranial cavity fluid	Y		R2	6.8884	$288.44
61001	Remove cranial cavity fluid	Y		R2	6.8884	$288.44
61020	Remove brain cavity fluid	Y		A2	6.2164	$260.30
61026	Injection into brain canal	Y		A2	6.2164	$260.30
61050	Remove brain canal fluid	Y		A2	6.2164	$260.30

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
61055	Injection into brain canal	Y		A2	6.2164	$260.30
61070	Brain canal shunt procedure	Y		A2	5.6237	$235.48
61215	Insert brain-fluid device	Y		A2	32.3524	$1,354.69
61330	Decompress eye socket	Y		G2	41.1215	$1,721.88
61334	Explore orbit/remove object	Y		G2	41.1215	$1,721.88
61770	Incise skull for treatment	Y	CH	G2	35.6664	$1,493.46
61790	Treat trigeminal nerve	Y		A2	16.3451	$684.42
61791	Treat trigeminal tract	Y		A2	11.5129	$482.08
61795	Brain surgery using computer	N		N1		
61880	Revise/remove neuroelectrode	Y		G2	18.7878	$786.70
61885	Insrt/redo neurostim 1 array	N		H8	307.5302	$12,877.21
61886	Implant neurostim arrays	N		H8	416.231	$17,428.84
61888	Revise/remove neuroreceiver	Y		A2	22.4689	$940.84
62160	Neuroendoscopy add-on	N		N1		
62194	Replace/irrigate catheter	Y		A2	7.0685	$295.98
62225	Replace/irrigate catheter	Y		A2	12.8875	$539.64
62230	Replace/revise brain shunt	Y		A2	31.9867	$1,339.38
62252	Csf shunt reprogram	N		P3		$39.46
62263	Epidural lysis mult sessions	Y		A2	7.0685	$295.98
62264	Epidural lysis on single day	Y		A2	11.405	$477.56
62267	Interdiscal perq aspir, dx	Y		G2	4.4	$184.24
62268	Drain spinal cord cyst	Y		A2	6.2164	$260.30
62269	Needle biopsy, spinal cord	Y		A2	8.8382	$370.08
62270	Spinal fluid tap, diagnostic	Y		A2	3.4648	$145.08
62272	Drain cerebro spinal fluid	Y		A2	3.4648	$145.08
62273	Inject epidural patch	Y		A2	4.5729	$191.48
62280	Treat spinal cord lesion	Y		A2	7.0685	$295.98
62281	Treat spinal cord lesion	Y		A2	7.0685	$295.98
62282	Treat spinal canal lesion	Y		A2	7.0685	$295.98

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
62284	Injection for myelogram	N		N1		
62287	Percutaneous diskectomy	Y		A2	34.3981	$1,440.35
62290	Inject for spine disk x-ray	N		N1		
62291	Inject for spine disk x-ray	N		N1		
62292	Injection into disk lesion	Y		R2	6.8884	$288.44
62294	Injection into spinal artery	Y		A2	6.2164	$260.30
62310	Inject spine c/t	Y		A2	7.0685	$295.98
62311	Inject spine l/s (cd)	Y		A2	7.0685	$295.98
62318	Inject spine w/cath, c/t	Y		A2	7.0685	$295.98
62319	Inject spine w/cath l/s (cd)	Y		A2	7.0685	$295.98
62350	Implant spinal canal cath	Y		A2	31.9867	$1,339.38
62355	Remove spinal canal catheter	Y		A2	12.0502	$504.58
62360	Insert spine infusion device	Y		A2	31.9867	$1,339.38
62361	Implant spine infusion pump	Y		H8	291.6404	$12,211.86
62362	Implant spine infusion pump	Y		H8	291.6404	$12,211.86
62365	Remove spine infusion device	Y		A2	29.2974	$1,226.77
62367	Analyze spine infusion pump	N		P3		$14.76
62368	Analyze spine infusion pump	N		P3		$19.30
63600	Remove spinal cord lesion	Y		A2	15.9795	$669.11
63610	Stimulation of spinal cord	Y		A2	15.3342	$642.09
63615	Remove lesion of spinal cord	Y		R2	17.9094	$749.92
63650	Implant neuroelectrodes	N		H8	83.4896	$3,495.96
63655	Implant neuroelectrodes	N		J8	118.6891	$4,969.87
63660	Revise/remove neuroelectrode	N	CH	D5		
63661	Remove spine eltrd perq aray	Y	NI	G2	18.7878	$786.70
63662	Remove spine eltrd plate	Y	NI	G2	18.7878	$786.70
63663	Revise spine eltrd perq aray	Y	NI	G2	18.7878	$786.70
63664	Revise spine eltrd plate	Y	NI	G2	18.7878	$786.70
63685	Insrt/redo spine n generator	N		H8	307.5302	$12,877.21

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

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63688	Revise/remove neuroreceiver	Y		A2	22.4689	$940.84
63744	Revision of spinal shunt	Y		A2	32.3524	$1,354.69
63746	Removal of spinal shunt	Y		A2	12.0502	$504.58
64400	N block inj, trigeminal	Y		P3		$46.56
64402	N block inj, facial	Y		P3		$44.00
64405	N block inj, occipital	Y		P3		$38.33
64408	N block inj, vagus	Y		P3		$45.99
64410	N block inj, phrenic	Y		A2	7.0685	$295.98
64412	N block inj, spinal accessor	Y		P3		$68.99
64413	N block inj, cervical plexus	Y		P3		$42.87
64415	N block inj, brachial plexus	Y		A2	3.4648	$145.08
64416	N block cont infuse, b plex	Y		G2	6.8884	$288.44
64417	N block inj, axillary	Y		A2	3.4648	$145.08
64418	N block inj, suprascapular	Y		P3		$59.90
64420	N block inj, intercost, sng	Y		A2	3.4648	$145.08
64421	N block inj, intercost, mlt	Y		A2	7.0685	$295.98
64425	N block inj, ilio-ing/hypogi	Y		P3		$42.58
64430	N block inj, pudendal	Y		A2	5.9604	$249.58
64435	N block inj, paracervical	Y		P3		$59.62
64445	N block inj, sciatic, sng	Y		P3		$54.22
64446	N blk inj, sciatic, cont inf	Y		G2	6.8884	$288.44
64447	N block inj fem, single	Y		R2	3.5609	$149.11
64448	N block inj fem, cont inf	Y		G2	6.8884	$288.44
64449	N block inj, lumbar plexus	Y		G2	6.8884	$288.44
64450	N block, other peripheral	Y		P3		$37.47
64455*	N block inj, plantar digit	Y		P3		$15.61
64470	Inj paravertebral c/t	N	CH	D5		
64472	Inj paravertebral c/t add-on	N	CH	D5		
64475	Inj paravertebral l/s	N	CH	D5		

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64476	Inj paravertebral l/s add-on	N	CH	D5		
64479	Inj foramen epidural c/t	Y		A2	7.0685	$295.98
64480	Inj foramen epidural add-on	Y		A2	4.5729	$191.48
64483	Inj foramen epidural l/s	Y		A2	7.0685	$295.98
64484	Inj foramen epidural add-on	Y		A2	4.5729	$191.48
64490	Inj paravert f jnt c/t 1 lev	Y	NI	G2	6.8884	$288.44
64491	Inj paravert f jnt c/t 2 lev	Y	NI	G2	2.4451	$102.38
64492	Inj paravert f jnt c/t 3 lev	Y	NI	G2	2.4451	$102.38
64493	Inj paravert f jnt l/s 1 lev	Y	NI	G2	6.8884	$288.44
64494	Inj paravert f jnt l/s 2 lev	Y	NI	G2	2.4451	$102.38
64495	Inj paravert f jnt l/s 3 lev	Y	NI	G2	2.4451	$102.38
64505	N block, spenopalatine gangl	Y		P3		$32.93
64508	N block, carotid sinus s/p	Y		P3		$74.66
64510	N block, stellate ganglion	Y		A2	7.0685	$295.98
64517	N block inj, hypogas plxs	Y		A2	5.9604	$249.58
64520	N block, lumbar/thoracic	Y		A2	7.0685	$295.98
64530	N block inj, celiac pelus	Y		A2	7.0685	$295.98
64553	Implant neuroelectrodes	N		H8	82.8441	$3,468.93
64555	Implant neuroelectrodes	N		J8	87.5994	$3,668.05
64560	Implant neuroelectrodes	N		J8	87.5994	$3,668.05
64561	Implant neuroelectrodes	N		H8	83.8552	$3,511.27
64565	Implant neuroelectrodes	N		J8	87.5994	$3,668.05
64573	Implant neuroelectrodes	N		H8	218.1981	$9,136.61
64575	Implant neuroelectrodes	N		H8	113.0528	$4,733.86
64577	Implant neuroelectrodes	N		H8	113.0528	$4,733.86
64580	Implant neuroelectrodes	N		H8	113.0528	$4,733.86
64581	Implant neuroelectrodes	N		H8	114.064	$4,776.20
64585	Revise/remove neuroelectrode	Y		A2	15.9929	$669.67
64590	Insrt/redo pn/gastr stimul	N		H8	307.5302	$12,877.21

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64595	Revise/rmv pn/gastr stimul	Y		A2	22.4689	$940.84
64600	Injection treatment of nerve	Y		A2	11.405	$477.56
64605	Injection treatment of nerve	Y		A2	15.3342	$642.09
64610	Injection treatment of nerve	Y		A2	15.3342	$642.09
64612	Destroy nerve, face muscle	Y		P3		$54.79
64613	Destroy nerve, neck muscle	Y		P3		$51.95
64614	Destroy nerve, extrem musc	Y		P3		$59.05
64620	Injection treatment of nerve	Y		A2	7.0685	$295.98
64622	Destr paravertebrl nerve l/s	Y		A2	11.405	$477.56
64623	Destr paravertebral n add-on	Y		A2	7.0685	$295.98
64626	Destr paravertebrl nerve c/t	Y		A2	7.0685	$295.98
64627	Destr paravertebral n add-on	Y		A2	3.7361	$156.44
64630	Injection treatment of nerve	Y		A2	7.1765	$300.50
64632*	N block inj, common digit	Y		P3		$28.39
64640	Injection treatment of nerve	Y		P3		$80.63
64650	Chemodenerv eccrine glands	Y		P3		$28.67
64653	Chemodenerv eccrine glands	Y		P3		$31.51
64680	Injection treatment of nerve	Y		A2	7.3995	$309.84
64681	Injection treatment of nerve	Y		A2	12.0502	$504.58
64702	Revise finger/toe nerve	Y		A2	15.3342	$642.09
64704	Revise hand/foot nerve	Y		A2	15.3342	$642.09
64708	Revise arm/leg nerve	Y		A2	15.9795	$669.11
64712	Revision of sciatic nerve	Y		A2	15.9795	$669.11
64713	Revision of arm nerve(s)	Y		A2	15.9795	$669.11
64714	Revise low back nerve(s)	Y		A2	15.9795	$669.11
64716	Revision of cranial nerve	Y		A2	16.3451	$684.42
64718	Revise ulnar nerve at elbow	Y		A2	15.9795	$669.11
64719	Revise ulnar nerve at wrist	Y		A2	15.9795	$669.11
64721	Carpal tunnel surgery	Y		A2	15.9795	$669.11

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64722	Relieve pressure on nerve(s)	Y		A2	15.3342	$642.09
64726	Release foot/toe nerve	Y		A2	15.3342	$642.09
64727	Internal nerve revision	Y		A2	15.3342	$642.09
64732	Incision of brow nerve	Y		A2	15.9795	$669.11
64734	Incision of cheek nerve	Y		A2	15.9795	$669.11
64736	Incision of chin nerve	Y		A2	15.9795	$669.11
64738	Incision of jaw nerve	Y		A2	15.9795	$669.11
64740	Incision of tongue nerve	Y		A2	15.9795	$669.11
64742	Incision of facial nerve	Y		A2	15.9795	$669.11
64744	Incise nerve, back of head	Y		A2	15.9795	$669.11
64746	Incise diaphragm nerve	Y		A2	15.9795	$669.11
64761	Incision of pelvis nerve	Y		G2	17.9094	$749.92
64763	Incise hip/thigh nerve	Y		G2	17.9094	$749.92
64766	Incise hip/thigh nerve	Y		G2	35.6664	$1,493.46
64771	Sever cranial nerve	Y		A2	15.9795	$669.11
64772	Incision of spinal nerve	Y		A2	15.9795	$669.11
64774	Remove skin nerve lesion	Y		A2	15.9795	$669.11
64776	Remove digit nerve lesion	Y		A2	16.3451	$684.42
64778	Digit nerve surgery add-on	Y		A2	15.9795	$669.11
64782	Remove limb nerve lesion	Y		A2	16.3451	$684.42
64783	Limb nerve surgery add-on	Y		A2	15.9795	$669.11
64784	Remove nerve lesion	Y		A2	16.3451	$684.42
64786	Remove sciatic nerve lesion	Y		A2	29.6628	$1,242.07
64787	Implant nerve end	Y		A2	15.9795	$669.11
64788	Remove skin nerve lesion	Y		A2	16.3451	$684.42
64790	Removal of nerve lesion	Y		A2	16.3451	$684.42
64792	Removal of nerve lesion	Y		A2	29.6628	$1,242.07
64795	Biopsy of nerve	Y		A2	15.9795	$669.11
64802	Remove sympathetic nerves	Y		A2	15.9795	$669.11

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64820	Remove sympathetic nerves	Y		G2	17.9094	$749.92
64821	Remove sympathetic nerves	Y		A2	23.8595	$999.07
64822	Remove sympathetic nerves	Y		G2	27.0149	$1,131.19
64823	Remove sympathetic nerves	Y		G2	27.0149	$1,131.19
64831	Repair of digit nerve	Y		A2	30.3484	$1,270.78
64832	Repair nerve add-on	Y		A2	28.6519	$1,199.74
64834	Repair of hand or foot nerve	Y		A2	29.2974	$1,226.77
64835	Repair of hand or foot nerve	Y		A2	29.6628	$1,242.07
64836	Repair of hand or foot nerve	Y		A2	29.6628	$1,242.07
64837	Repair nerve add-on	Y		A2	28.6519	$1,199.74
64840	Repair of leg nerve	Y		A2	29.2974	$1,226.77
64856	Repair/transpose nerve	Y		A2	29.2974	$1,226.77
64857	Repair arm/leg nerve	Y		A2	29.2974	$1,226.77
64858	Repair sciatic nerve	Y		A2	29.2974	$1,226.77
64859	Nerve surgery	Y		A2	28.6519	$1,199.74
64861	Repair of arm nerves	Y		A2	29.6628	$1,242.07
64862	Repair of low back nerves	Y		A2	29.6628	$1,242.07
64864	Repair of facial nerve	Y		A2	29.6628	$1,242.07
64865	Repair of facial nerve	Y		A2	30.3484	$1,270.78
64870	Fusion of facial/other nerve	Y		A2	30.3484	$1,270.78
64872	Subsequent repair of nerve	Y		A2	29.2974	$1,226.77
64874	Repair & revise nerve add-on	Y		A2	29.6628	$1,242.07
64876	Repair nerve/shorten bone	Y		A2	29.6628	$1,242.07
64885	Nerve graft, head or neck	Y		A2	29.2974	$1,226.77
64886	Nerve graft, head or neck	Y		A2	29.2974	$1,226.77
64890	Nerve graft, hand or foot	Y		A2	29.2974	$1,226.77
64891	Nerve graft, hand or foot	Y		A2	29.2974	$1,226.77
64892	Nerve graft, arm or leg	Y		A2	29.2974	$1,226.77
64893	Nerve graft, arm or leg	Y		A2	29.2974	$1,226.77

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
64895	Nerve graft, hand or foot	Y		A2	29.6628	$1,242.07
64896	Nerve graft, hand or foot	Y		A2	29.6628	$1,242.07
64897	Nerve graft, arm or leg	Y		A2	29.6628	$1,242.07
64898	Nerve graft, arm or leg	Y		A2	29.6628	$1,242.07
64901	Nerve graft add-on	Y		A2	29.2974	$1,226.77
64902	Nerve graft add-on	Y		A2	29.2974	$1,226.77
64905	Nerve pedicle transfer	Y		A2	29.2974	$1,226.77
64907	Nerve pedicle transfer	Y		A2	28.6519	$1,199.74
64910	Nerve repair w/allograft	Y		G2	35.6664	$1,493.46
65091	Revise eye	Y		A2	30.9049	$1,294.08
65093	Revise eye with implant	Y		A2	30.9049	$1,294.08
65101	Removal of eye	Y		A2	30.9049	$1,294.08
65103	Remove eye/insert implant	Y		A2	30.9049	$1,294.08
65105	Remove eye/attach implant	Y		A2	31.5903	$1,322.78
65110	Removal of eye	Y		A2	32.0873	$1,343.59
65112	Remove eye/revise socket	Y		A2	33.6752	$1,410.08
65114	Remove eye/revise socket	Y		A2	33.6752	$1,410.08
65125	Revise ocular implant	Y		G2	25.6774	$1,075.19
65130	Insert ocular implant	Y		A2	22.1711	$928.37
65135	Insert ocular implant	Y		A2	21.8055	$913.06
65140	Attach ocular implant	Y		A2	30.9049	$1,294.08
65150	Revise ocular implant	Y		A2	21.8055	$913.06
65155	Reinsert ocular implant	Y		A2	30.9049	$1,294.08
65175	Removal of ocular implant	Y		A2	14.9309	$625.20
65205	Remove foreign body from eye	N		P3		$17.89
65210	Remove foreign body from eye	N		P3		$23.00
65220	Remove foreign body from eye	N		G2	0.9139	$38.27
65222	Remove foreign body from eye	N		P3		$24.98
65235	Remove foreign body from eye	Y		A2	14.2061	$594.85

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65260	Remove foreign body from eye	Y		A2	7.1103	$297.73
65265	Remove foreign body from eye	Y		A2	18.4618	$773.05
65270	Repair of eye wound	Y		A2	15.5764	$652.23
65272	Repair of eye wound	Y		A2	20.0566	$839.83
65275	Repair of eye wound	Y		A2	21.1076	$883.84
65280	Repair of eye wound	Y		A2	18.4618	$773.05
65285	Repair of eye wound	Y		A2	32.274	$1,351.41
65286	Repair of eye wound	Y		P2	4.3122	$180.56
65290	Repair of eye socket wound	Y		A2	19.7528	$827.11
65400	Removal of eye lesion	Y		A2	13.5608	$567.83
65410	Biopsy of cornea	Y		A2	14.2061	$594.85
65420	Removal of eye lesion	Y		A2	14.2061	$594.85
65426	Removal of eye lesion	Y		A2	21.6046	$904.65
65430	Corneal smear	N	CH	P3		$35.77
65435	Curette/treat cornea	Y		P3		$27.54
65436	Curette/treat cornea	Y		P3		$122.36
65450	Treatment of corneal lesion	N		G2	1.8727	$78.42
65600	Revision of cornea	Y		P3		$142.23
65710	Corneal transplant	Y		A2	32.6184	$1,365.83
65730	Corneal transplant	Y		A2	32.6184	$1,365.83
65750	Corneal transplant	Y		A2	32.6184	$1,365.83
65755	Corneal transplant	Y		A2	32.6184	$1,365.83
65756	Corneal trnspl, endothelial	Y		G2	35.9134	$1,503.80
65757	Prep corneal endo allograft	N		N1		
65770	Revise cornea with implant	Y		H8	134.3348	$5,625.00
65772	Correction of astigmatism	Y		A2	15.2571	$638.86
65775	Correction of astigmatism	Y		A2	15.2571	$638.86
65780	Ocular reconst, transplant	Y		A2	31.0305	$1,299.34
65781	Ocular reconst, transplant	Y		A2	31.0305	$1,299.34

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

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65782	Ocular reconst, transplant	Y		A2	31.0305	$1,299.34
65800	Drainage of eye	Y		A2	13.5608	$567.83
65805	Drainage of eye	Y		A2	13.5608	$567.83
65810	Drainage of eye	Y		A2	20.4222	$855.14
65815	Drainage of eye	Y		A2	20.0566	$839.83
65820	Relieve inner eye pressure	Y		A2	5.1362	$215.07
65850	Incision of eye	Y		A2	21.1076	$883.84
65855	Laser surgery of eye	Y		P3		$115.26
65860	Incise inner eye adhesions	Y		P3		$107.31
65865	Incise inner eye adhesions	Y		A2	13.5608	$567.83
65870	Incise inner eye adhesions	Y		A2	21.1076	$883.84
65875	Incise inner eye adhesions	Y		A2	21.1076	$883.84
65880	Incise inner eye adhesions	Y		A2	15.2571	$638.86
65900	Remove eye lesion	Y		A2	15.7541	$659.67
65920	Remove implant of eye	Y		A2	23.1925	$971.14
65930	Remove blood clot from eye	Y		A2	21.6046	$904.65
66020	Injection treatment of eye	Y		A2	13.5608	$567.83
66030	Injection treatment of eye	Y		A2	5.1362	$215.07
66130	Remove eye lesion	Y		A2	23.1925	$971.14
66150	Glaucoma surgery	Y		A2	21.1076	$883.84
66155	Glaucoma surgery	Y		A2	21.1076	$883.84
66160	Glaucoma surgery	Y		A2	20.0566	$839.83
66165	Glaucoma surgery	Y		A2	21.1076	$883.84
66170	Glaucoma surgery	Y		A2	21.1076	$883.84
66172	Incision of eye	Y		A2	21.1076	$883.84
66180	Implant eye shunt	Y		A2	34.1483	$1,429.89
66185	Revise eye shunt	Y		A2	20.0566	$839.83
66220	Repair eye lesion	Y		A2	31.5886	$1,322.71
66225	Repair/graft eye lesion	Y		A2	33.6513	$1,409.08

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66250	Follow-up surgery of eye	Y		A2	14.2061	$594.85
66500	Incision of iris	Y		A2	5.1362	$215.07
66505	Incision of iris	Y		A2	5.1362	$215.07
66600	Remove iris and lesion	Y		A2	20.4222	$855.14
66605	Removal of iris	Y		A2	20.4222	$855.14
66625	Removal of iris	Y		A2	13.7888	$577.38
66630	Removal of iris	Y		A2	20.4222	$855.14
66635	Removal of iris	Y		A2	20.4222	$855.14
66680	Repair iris & ciliary body	Y		A2	20.4222	$855.14
66682	Repair iris & ciliary body	Y		A2	20.0566	$839.83
66700	Destruction, ciliary body	Y		A2	14.2061	$594.85
66710	Ciliary transsleral therapy	Y		A2	14.2061	$594.85
66711	Ciliary endoscopic ablation	Y		A2	14.2061	$594.85
66720	Destruction, ciliary body	Y		A2	14.2061	$594.85
66740	Destruction, ciliary body	Y		A2	20.0566	$839.83
66761	Revision of iris	Y		P3		$160.97
66762	Revision of iris	Y		P3		$164.09
66770	Removal of inner eye lesion	Y	CH	P3		$178.29
66820	Incision, secondary cataract	Y		G2	4.3122	$180.56
66821	After cataract laser surgery	Y		A2	5.589	$234.03
66825	Reposition intraocular lens	Y		A2	21.1076	$883.84
66830	Removal of lens lesion	Y		A2	5.3646	$224.63
66840	Removal of lens material	Y		A2	14.9416	$625.65
66850	Removal of lens material	Y		A2	27.4454	$1,149.22
66852	Removal of lens material	Y		A2	25.3605	$1,061.92
66920	Extraction of lens	Y		A2	25.3605	$1,061.92
66930	Extraction of lens	Y		A2	25.8575	$1,082.73
66940	Extraction of lens	Y		A2	15.4386	$646.46
66982	Cataract surgery, complex	Y		A2	22.9847	$962.44

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66983	Cataract surg w/iol, 1 stage	Y		A2	22.9847	$962.44
66984	Cataract surg w/iol, 1 stage	Y		A2	22.9847	$962.44
66985	Insert lens prosthesis	Y		A2	22.1453	$927.29
66986	Exchange lens prosthesis	Y		A2	22.1453	$927.29
66990	Ophthalmic endoscope add-on	N		N1		
67005	Partial removal of eye fluid	Y		A2	18.4618	$773.05
67010	Partial removal of eye fluid	Y		A2	32.274	$1,351.41
67015	Release of eye fluid	Y		A2	30.5775	$1,280.37
67025	Replace eye fluid	Y		A2	16.7652	$702.01
67027	Implant eye drug system	Y		A2	32.274	$1,351.41
67028	Injection eye drug	Y		P3		$71.54
67030	Incise inner eye strands	Y		A2	16.7652	$702.01
67031	Laser surgery, eye strands	Y		A2	5.589	$234.03
67036	Removal of inner eye fluid	Y		A2	32.274	$1,351.41
67039	Laser treatment of retina	Y		A2	34.3589	$1,438.71
67040	Laser treatment of retina	Y		A2	34.3589	$1,438.71
67041	Vit for macular pucker	Y		G2	38.2338	$1,600.96
67042	Vit for macular hole	Y		G2	38.2338	$1,600.96
67043	Vit for membrane dissect	Y		G2	38.2338	$1,600.96
67101	Repair detached retina	Y	CH	P3		$271.12
67105	Repair detached retina	Y		P2	5.0718	$212.37
67107	Repair detached retina	Y		A2	32.771	$1,372.22
67108	Repair detached retina	Y		A2	34.3589	$1,438.71
67110	Repair detached retina	Y		P3		$290.71
67112	Rerepair detached retina	Y		A2	34.3589	$1,438.71
67113	Repair retinal detach, cplx	Y		G2	38.2338	$1,600.96
67115	Release encircling material	Y		A2	17.4107	$729.04
67120	Remove eye implant material	Y		A2	17.4107	$729.04
67121	Remove eye implant material	Y		A2	17.4107	$729.04

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67141	Treatment of retina	Y		A2	5.5783	$233.58
67145	Treatment of retina	Y		P3		$172.04
67208	Treatment of retinal lesion	Y		P3		$184.53
67210	Treatment of retinal lesion	Y	CH	P3		$197.02
67218	Treatment of retinal lesion	Y		A2	18.9585	$793.85
67220	Treatment of choroid lesion	Y		P2	5.5965	$234.34
67221	Ocular photodynamic ther	Y		P3		$100.50
67225	Eye photodynamic ther add-on	Y		P3		$7.38
67227	Treatment of retinal lesion	Y		A2	16.7652	$702.01
67228	Treatment of retinal lesion	Y		P2	5.0718	$212.37
67229*	Tr retinal les preterm inf	Y		R2	5.0718	$212.37
67250	Reinforce eye wall	Y		A2	15.942	$667.54
67255	Reinforce/graft eye wall	Y		A2	17.7761	$744.34
67311	Revise eye muscle	Y		A2	19.7528	$827.11
67312	Revise two eye muscles	Y		A2	20.4385	$855.82
67314	Revise eye muscle	Y		A2	20.4385	$855.82
67316	Revise two eye muscles	Y		A2	20.4385	$855.82
67318	Revise eye muscle(s)	Y		A2	20.4385	$855.82
67320	Revise eye muscle(s) add-on	Y		A2	20.4385	$855.82
67331	Eye surgery follow-up add-on	Y		A2	20.4385	$855.82
67332	Rerevise eye muscles add-on	Y		A2	20.4385	$855.82
67334	Revise eye muscle w/suture	Y		A2	20.4385	$855.82
67335	Eye suture during surgery	Y		A2	20.4385	$855.82
67340	Revise eye muscle add-on	Y		A2	20.4385	$855.82
67343	Release eye tissue	Y		A2	22.5231	$943.11
67345	Destroy nerve of eye muscle	Y		P3		$71.54
67346	Biopsy, eye muscle	Y		A2	13.053	$546.57
67400	Explore/biopsy eye socket	Y		A2	15.942	$667.54
67405	Explore/drain eye socket	Y		A2	22.8565	$957.07

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67412	Explore/treat eye socket	Y		A2	17.1244	$717.05
67413	Explore/treat eye socket	Y		A2	23.3535	$977.88
67414	Explr/decompress eye socket	Y		G2	37.3223	$1,562.80
67415	Aspiration, orbital contents	Y		A2	14.9309	$625.20
67420	Explore/treat eye socket	Y		A2	32.0873	$1,343.59
67430	Explore/treat eye socket	Y		A2	32.0873	$1,343.59
67440	Explore/drain eye socket	Y		A2	32.0873	$1,343.59
67445	Explr/decompress eye socket	Y		A2	32.0873	$1,343.59
67450	Explore/biopsy eye socket	Y		A2	32.0873	$1,343.59
67500	Inject/treat eye socket	N		G2	1.8727	$78.42
67505	Inject/treat eye socket	Y		P3		$23.85
67515	Inject/treat eye socket	Y		P3		$24.41
67550	Insert eye socket implant	Y		A2	31.5903	$1,322.78
67560	Revise eye socket implant	Y		A2	21.8055	$913.06
67570	Decompress optic nerve	Y		A2	31.5903	$1,322.78
67700	Drainage of eyelid abscess	Y		P2	3.087	$129.26
67710	Incision of eyelid	Y		P3		$119.80
67715	Incision of eyelid fold	Y		A2	14.9309	$625.20
67800	Remove eyelid lesion	Y		P3		$45.14
67801	Remove eyelid lesions	Y		P3		$54.79
67805	Remove eyelid lesions	Y		P3		$70.69
67808	Remove eyelid lesion(s)	Y		A2	15.5764	$652.23
67810	Biopsy of eyelid	Y	CH	P3		$108.73
67820	Revise eyelashes	N		P3		$14.76
67825	Revise eyelashes	Y		P3		$45.71
67830	Revise eyelashes	Y		A2	8.031	$336.28
67835	Revise eyelashes	Y		A2	15.5764	$652.23
67840	Remove eyelid lesion	Y		P3		$126.90
67850	Treat eyelid lesion	Y		P3		$99.93

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67875	Closure of eyelid by suture	Y		G2	7.3112	$306.14
67880	Revision of eyelid	Y		A2	14.5717	$610.16
67882	Revision of eyelid	Y		A2	15.942	$667.54
67900	Repair brow defect	Y		A2	22.8565	$957.07
67901	Repair eyelid defect	Y		A2	17.1244	$717.05
67902	Repair eyelid defect	Y		A2	23.3535	$977.88
67903	Repair eyelid defect	Y		A2	16.6274	$696.24
67904	Repair eyelid defect	Y		A2	16.6274	$696.24
67906	Repair eyelid defect	Y		A2	17.1244	$717.05
67908	Repair eyelid defect	Y		A2	16.6274	$696.24
67909	Revise eyelid defect	Y		A2	16.6274	$696.24
67911	Revise eyelid defect	Y		A2	15.942	$667.54
67912	Correction eyelid w/implant	Y		A2	15.942	$667.54
67914	Repair eyelid defect	Y		A2	15.942	$667.54
67915	Repair eyelid defect	Y		P3		$141.95
67916	Repair eyelid defect	Y		A2	16.6274	$696.24
67917	Repair eyelid defect	Y		A2	16.6274	$696.24
67921	Repair eyelid defect	Y		A2	15.942	$667.54
67922	Repair eyelid defect	Y		P3		$137.97
67923	Repair eyelid defect	Y		A2	16.6274	$696.24
67924	Repair eyelid defect	Y		A2	16.6274	$696.24
67930	Repair eyelid wound	Y		P3		$143.08
67935	Repair eyelid wound	Y		A2	15.5764	$652.23
67938	Remove eyelid foreign body	N		P2	1.8727	$78.42
67950	Revision of eyelid	Y		A2	15.5764	$652.23
67961	Revision of eyelid	Y		A2	15.942	$667.54
67966	Revision of eyelid	Y		A2	15.942	$667.54
67971	Reconstruction of eyelid	Y		A2	15.942	$667.54
67973	Reconstruction of eyelid	Y		A2	22.1711	$928.37

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
67974	Reconstruction of eyelid	Y		A2	15.942	$667.54
67975	Reconstruction of eyelid	Y		A2	15.942	$667.54
68020	Incise/drain eyelid lining	Y		P3		$40.03
68040	Treatment of eyelid lesions	N		P3		$19.87
68100	Biopsy of eyelid lining	Y		P3		$76.37
68110	Remove eyelid lining lesion	Y		P3		$99.36
68115	Remove eyelid lining lesion	Y		A2	15.5764	$652.23
68130	Remove eyelid lining lesion	Y		A2	14.2061	$594.85
68135	Remove eyelid lining lesion	Y		P3		$51.67
68200	Treat eyelid by injection	N		P3		$14.48
68320	Revise/graft eyelid lining	Y		A2	22.8565	$957.07
68325	Revise/graft eyelid lining	Y		A2	22.8565	$957.07
68326	Revise/graft eyelid lining	Y		A2	16.6274	$696.24
68328	Revise/graft eyelid lining	Y		A2	22.8565	$957.07
68330	Revise eyelid lining	Y		A2	21.1076	$883.84
68335	Revise/graft eyelid lining	Y		A2	22.8565	$957.07
68340	Separate eyelid adhesions	Y		A2	16.6274	$696.24
68360	Revise eyelid lining	Y		A2	20.0566	$839.83
68362	Revise eyelid lining	Y		A2	20.0566	$839.83
68371	Harvest eye tissue, alograft	Y		A2	14.2061	$594.85
68400	Incise/drain tear gland	Y		P2	3.087	$129.26
68420	Incise/drain tear sac	Y		P3		$148.19
68440	Incise tear duct opening	Y		P3		$43.15
68500	Removal of tear gland	Y		A2	22.1711	$928.37
68505	Partial removal, tear gland	Y		A2	22.1711	$928.37
68510	Biopsy of tear gland	Y		A2	14.9309	$625.20
68520	Removal of tear sac	Y		A2	22.1711	$928.37
68525	Biopsy of tear sac	Y		A2	14.9309	$625.20
68530	Clearance of tear duct	Y		P2	3.087	$129.26

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
68540	Remove tear gland lesion	Y		A2	15.942	$667.54
68550	Remove tear gland lesion	Y		A2	22.1711	$928.37
68700	Repair tear ducts	Y		A2	15.5764	$652.23
68705	Revise tear duct opening	Y		P3		$99.36
68720	Create tear sac drain	Y		A2	22.8565	$957.07
68745	Create tear duct drain	Y		A2	22.8565	$957.07
68750	Create tear duct drain	Y		A2	22.8565	$957.07
68760	Close tear duct opening	Y		P3		$84.60
68761	Close tear duct opening	Y		P3		$59.05
68770	Close tear system fistula	Y		A2	22.8565	$957.07
68801	Dilate tear duct opening	N		P2	0.9139	$38.27
68810	Probe nasolacrimal duct	Y		A2	3.0683	$128.48
68811	Probe nasolacrimal duct	Y		A2	15.5764	$652.23
68815	Probe nasolacrimal duct	Y		A2	15.5764	$652.23
68816	Probe nl duct w/balloon	Y		G2	17.3718	$727.41
68840	Explore/irrigate tear ducts	N		P3		$47.41
68850	Injection for tear sac x-ray	N		N1		
69000	Drain external ear lesion	Y		P2	1.3927	$58.32
69005	Drain external ear lesion	Y		P3		$88.86
69020	Drain outer ear canal lesion	Y		P2	1.3927	$58.32
69100	Biopsy of external ear	Y		P3		$51.10
69105	Biopsy of external ear canal	Y		P3		$74.95
69110	Remove external ear, partial	Y		A2	14.457	$605.36
69120	Removal of external ear	Y		A2	20.4597	$856.71
69140	Remove ear canal lesion(s)	Y		A2	20.4597	$856.71
69145	Remove ear canal lesion(s)	Y		A2	15.1023	$632.38
69150	Extensive ear canal surgery	Y		A2	8.1184	$339.94
69200	Clear outer ear canal	N		P2	0.6403	$26.81
69205	Clear outer ear canal	Y		A2	18.6836	$782.34

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
69210	Remove impacted ear wax	N		P3		$17.89
69220	Clean out mastoid cavity	Y		P2	0.8408	$35.21
69222	Clean out mastoid cavity	Y		P3		$114.69
69300	Revise external ear	Y		A2	20.8254	$872.02
69310	Rebuild outer ear canal	Y		A2	33.7542	$1,413.39
69320	Rebuild outer ear canal	Y		A2	36.5245	$1,529.39
69400	Inflate middle ear canal	Y		P3		$77.79
69401	Inflate middle ear canal	Y		P3		$41.45
69405	Catheterize middle ear canal	Y		P3		$108.16
69420	Incision of eardrum	Y		P3		$95.96
69421	Incision of eardrum	Y		A2	15.2459	$638.39
69424	Remove ventilating tube	Y		P3		$67.00
69433	Create eardrum opening	Y		P3		$95.96
69436	Create eardrum opening	Y		A2	15.2459	$638.39
69440	Exploration of middle ear	Y		A2	20.8254	$872.02
69450	Eardrum revision	Y		A2	32.7433	$1,371.06
69501	Mastoidectomy	Y		A2	36.5245	$1,529.39
69502	Mastoidectomy	Y		A2	23.5956	$988.02
69505	Remove mastoid structures	Y		A2	36.5245	$1,529.39
69511	Extensive mastoid surgery	Y		A2	36.5245	$1,529.39
69530	Extensive mastoid surgery	Y		A2	36.5245	$1,529.39
69540	Remove ear lesion	Y		P3		$112.14
69550	Remove ear lesion	Y		A2	34.9366	$1,462.90
69552	Remove ear lesion	Y		A2	36.5245	$1,529.39
69601	Mastoid surgery revision	Y		A2	36.5245	$1,529.39
69602	Mastoid surgery revision	Y		A2	36.5245	$1,529.39
69603	Mastoid surgery revision	Y		A2	36.5245	$1,529.39
69604	Mastoid surgery revision	Y		A2	36.5245	$1,529.39
69605	Mastoid surgery revision	Y		A2	36.5245	$1,529.39

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
69610	Repair of eardrum	Y		P3		$150.75
69620	Repair of eardrum	Y		A2	20.4597	$856.71
69631	Repair eardrum structures	Y		A2	34.9366	$1,462.90
69632	Rebuild eardrum structures	Y		A2	34.9366	$1,462.90
69633	Rebuild eardrum structures	Y		A2	34.9366	$1,462.90
69635	Repair eardrum structures	Y		A2	36.5245	$1,529.39
69636	Rebuild eardrum structures	Y		A2	36.5245	$1,529.39
69637	Rebuild eardrum structures	Y		A2	36.5245	$1,529.39
69641	Revise middle ear & mastoid	Y		A2	36.5245	$1,529.39
69642	Revise middle ear & mastoid	Y		A2	36.5245	$1,529.39
69643	Revise middle ear & mastoid	Y		A2	36.5245	$1,529.39
69644	Revise middle ear & mastoid	Y		A2	36.5245	$1,529.39
69645	Revise middle ear & mastoid	Y		A2	36.5245	$1,529.39
69646	Revise middle ear & mastoid	Y		A2	36.5245	$1,529.39
69650	Release middle ear bone	Y		A2	23.5956	$988.02
69660	Revise middle ear bone	Y		A2	34.9366	$1,462.90
69661	Revise middle ear bone	Y		A2	34.9366	$1,462.90
69662	Revise middle ear bone	Y		A2	34.9366	$1,462.90
69666	Repair middle ear structures	Y		A2	34.4396	$1,442.09
69667	Repair middle ear structures	Y		A2	34.4396	$1,442.09
69670	Remove mastoid air cells	Y		A2	33.7542	$1,413.39
69676	Remove middle ear nerve	Y		A2	33.7542	$1,413.39
69700	Close mastoid fistula	Y		A2	33.7542	$1,413.39
69711	Remove/repair hearing aid	Y		A2	32.7433	$1,371.06
69714	Implant temple bone w/stimul	Y		H8	153.8521	$6,442.25
69715	Temple bne implnt w/stimulat	Y		H8	153.8521	$6,442.25
69717	Temple bone implant revision	Y		H8	153.8521	$6,442.25
69718	Revise temple bone implant	Y		H8	153.8521	$6,442.25
69720	Release facial nerve	Y		A2	34.9366	$1,462.90

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HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
69740	Repair facial nerve	Y		A2	34.9366	$1,462.90
69745	Repair facial nerve	Y		A2	34.9366	$1,462.90
69801	Incise inner ear	Y		A2	22.0077	$921.53
69802	Incise inner ear	Y		A2	23.5956	$988.02
69805	Explore inner ear	Y		A2	36.5245	$1,529.39
69806	Explore inner ear	Y		A2	36.5245	$1,529.39
69820	Establish inner ear window	Y		A2	34.9366	$1,462.90
69840	Revise inner ear window	Y		A2	34.9366	$1,462.90
69905	Remove inner ear	Y		A2	36.5245	$1,529.39
69910	Remove inner ear & mastoid	Y		A2	36.5245	$1,529.39
69915	Incise inner ear nerve	Y		A2	36.5245	$1,529.39
69930	Implant cochlear device	Y		H8	636.8197	$26,665.55
69990	Microsurgery add-on	N		N1		
C9716	Radiofrequency energy to anu	Y		G2	30.7878	$1,289.18
C9724	EPS gast cardia plic	Y		G2	23.2194	$972.27
C9725	Place endorectal app	Y		G2	5.1327	$214.92
C9726	Rxt breast appl place/remov	Y		G2	23.6799	$991.55
C9727	Insert palate implants	Y		G2	7.2897	$305.24
C9728	Place device/marker, non pro	N		R2	13.1619	$551.13
G0104	CA screen;flexi sigmoidscope	N		P3		$70.12
G0105	Colorectal scrn; hi risk ind	Y		A2	8.3531	$349.77
G0121	Colon ca scrn not hi rsk ind	Y		A2	8.3531	$349.77
G0127	Trim nail(s)	Y		P3		$10.22
G0186	Dstry eye lesn,fdr vssl tech	Y		R2	5.5965	$234.34
G0247	Routine footcare pt w lops	Y		P3		$18.74
G0259	Inject for sacroiliac joint	N		N1		
G0260	Inj for sacroiliac jt anesth	Y		A2	7.0685	$295.98
G0268	Removal of impacted wax md	N		N1		
G0269	Occlusive device in vein art	N		N1		

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Addendum AA -- Final ASC Covered Surgical Procedures for CY 2010 (Including Surgical Procedures for Which Payment is Packaged)

HCPCS Code	Short Descriptor	Subject To Multiple Procedure Discounting	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
G0289	Arthro, loose body + chondro	N		N1		
G0364	Bone marrow aspirate &biopsy	N		P3		$4.54
G0392	AV fistula or graft arterial	N	CH	D5		
G0393	AV fistula or graft venous	N	CH	D5		

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Addendum BB -- Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2010 (Including Ancillary Services for Which Payment is Packaged)

HCPCS Code	Short Descriptor	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
0042T	Ct perfusion w/contrast, cbf		N1		
0067T	Ct colonography;dx	CH	D5		
0073T	Delivery, comp imrt		Z2	5.9784	$250.33
0126T	Chd risk imt study		N1		
0144T	CT heart wo dye; qual calc	CH	D5		
0145T	CT heart w/wo dye funct	CH	D5		
0146T	CCTA w/wo dye	CH	D5		
0147T	CCTA w/wo, quan calcium	CH	D5		
0148T	CCTA w/wo, strxr	CH	D5		
0149T	CCTA w/wo, strxr quan calc	CH	D5		
0150T	CCTA w/wo, disease strxr	CH	D5		
0151T	CT heart funct add-on	CH	D5		
0159T	Cad breast mri		N1		
0174T	Cad cxr with interp		N1		
0175T	Cad cxr remote		N1		
0182T	Hdr elect brachytherapy		Z2	11.0358	$462.10
0185T	Comptr probability analysis		N1		
70010	Contrast x-ray of brain		N1		
70015	Contrast x-ray of brain		N1		
70030	X-ray eye for foreign body		Z3		$14.48
70100	X-ray exam of jaw		Z3		$16.18
70110	X-ray exam of jaw		Z3		$19.59
70120	X-ray exam of mastoids		Z3		$18.17
70130	X-ray exam of mastoids		Z2	0.6373	$26.69
70134	X-ray exam of middle ear		Z3		$21.29
70140	X-ray exam of facial bones		Z3		$14.76
70150	X-ray exam of facial bones	CH	Z3		$21.58
70160	X-ray exam of nasal bones		Z3		$17.32
70170	X-ray exam of tear duct		N1		
70190	X-ray exam of eye sockets		Z3		$18.17
70200	X-ray exam of eye sockets	CH	Z3		$21.86
70210	X-ray exam of sinuses		Z3		$15.61
70220	X-ray exam of sinuses		Z3		$19.30
70240	X-ray exam, pituitary saddle		Z3		$14.48
70250	X-ray exam of skull		Z3		$17.60
70260	X-ray exam of skull		Z3		$22.14
70300	X-ray exam of teeth		Z3		$6.25

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NOTE 2: Payment indicators for radiology services (Z2, Z3) are based on a comparison of the final rates according to the ASC standard ratesetting methodology and the MPFS. Under current law, the MPFS payment rates will have a negative update for CY 2010. For a discussion of those rates, we refer readers to the CY 2010 MPFS final rule.

Addendum BB -- Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2010 (Including Ancillary Services for Which Payment is Packaged)

HCPCS Code	Short Descriptor	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
70310	X-ray exam of teeth		Z2	0.4275	$17.90
70320	Full mouth x-ray of teeth		Z2	0.4275	$17.90
70328	X-ray exam of jaw joint		Z3		$15.61
70330	X-ray exam of jaw joints	CH	Z3		$25.55
70332	X-ray exam of jaw joint		N1		
70336	Magnetic image, jaw joint		Z2	4.961	$207.73
70350	X-ray head for orthodontia		Z3		$8.52
70355	Panoramic x-ray of jaws		Z3		$8.23
70360	X-ray exam of neck		Z3		$13.63
70370	Throat x-ray & fluoroscopy	CH	Z3		$44.86
70371	Speech evaluation, complex	CH	Z3		$39.46
70373	Contrast x-ray of larynx		N1		
70380	X-ray exam of salivary gland		Z3		$21.01
70390	X-ray exam of salivary duct		N1		
70450	Ct head/brain w/o dye		Z2	2.7687	$115.93
70460	Ct head/brain w/dye	CH	Z3		$152.17
70470	Ct head/brain w/o & w/dye	CH	Z3		$187.37
70480	Ct orbit/ear/fossa w/o dye		Z2	2.7687	$115.93
70481	Ct orbit/ear/fossa w/dye		Z2	4.2158	$176.53
70482	Ct orbit/ear/fossa w/o&w/dye		Z2	4.7337	$198.21
70486	Ct maxillofacial w/o dye		Z2	2.7687	$115.93
70487	Ct maxillofacial w/dye		Z2	4.2158	$176.53
70488	Ct maxillofacial w/o & w/dye		Z2	4.7337	$198.21
70490	Ct soft tissue neck w/o dye		Z2	2.7687	$115.93
70491	Ct soft tissue neck w/dye		Z2	4.2158	$176.53
70492	Ct sft tsue nck w/o & w/dye		Z2	4.7337	$198.21
70496	Ct angiography, head		Z2	4.8324	$202.35
70498	Ct angiography, neck		Z2	4.8324	$202.35
70540	Mri orbit/face/neck w/o dye		Z2	4.961	$207.73
70542	Mri orbit/face/neck w/dye		Z2	6.0177	$251.98
70543	Mri orbt/fac/nck w/o & w/dye		Z2	7.5993	$318.21
70544	Mr angiography head w/o dye		Z2	4.961	$207.73
70545	Mr angiography head w/dye		Z2	6.0177	$251.98
70546	Mr angiograph head w/o&w/dye		Z2	7.5993	$318.21
70547	Mr angiography neck w/o dye		Z2	4.961	$207.73
70548	Mr angiography neck w/dye		Z2	6.0177	$251.98

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Addendum BB -- Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2010 (Including Ancillary Services for Which Payment is Packaged)

HCPCS Code	Short Descriptor	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
70549	Mr angiograph neck w/o&w/dye		Z2	7.5993	$318.21
70551	Mri brain w/o dye		Z2	4.961	$207.73
70552	Mri brain w/dye		Z2	6.0177	$251.98
70553	Mri brain w/o & w/dye		Z2	7.5993	$318.21
70554	Fmri brain by tech		Z2	4.961	$207.73
70555	Fmri brain by phys/psych		Z2	4.961	$207.73
70557	Mri brain w/o dye		Z2	4.961	$207.73
70558	Mri brain w/dye		Z2	6.0177	$251.98
70559	Mri brain w/o & w/dye		Z2	7.5993	$318.21
71010	Chest x-ray		Z3		$10.79
71015	Chest x-ray		Z3		$14.19
71020	Chest x-ray		Z3		$14.76
71021	Chest x-ray		Z3		$17.89
71022	Chest x-ray	CH	Z3		$22.43
71023	Chest x-ray and fluoroscopy		Z3		$35.77
71030	Chest x-ray	CH	Z3		$22.43
71034	Chest x-ray and fluoroscopy	CH	Z3		$48.55
71035	Chest x-ray		Z3		$18.74
71040	Contrast x-ray of bronchi		N1		
71060	Contrast x-ray of bronchi		N1		
71090	X-ray & pacemaker insertion		N1		
71100	X-ray exam of ribs		Z3		$15.61
71101	X-ray exam of ribs/chest		Z3		$19.02
71110	X-ray exam of ribs		Z3		$19.87
71111	X-ray exam of ribs/chest		Z3		$26.40
71120	X-ray exam of breastbone		Z3		$16.18
71130	X-ray exam of breastbone		Z3		$19.30
71250	Ct thorax w/o dye		Z2	2.7687	$115.93
71260	Ct thorax w/dye		Z2	4.2158	$176.53
71270	Ct thorax w/o & w/dye		Z2	4.7337	$198.21
71275	Ct angiography, chest		Z2	4.8324	$202.35
71550	Mri chest w/o dye		Z2	4.961	$207.73
71551	Mri chest w/dye		Z2	6.0177	$251.98
71552	Mri chest w/o & w/dye		Z2	7.5993	$318.21
72010	X-ray exam of spine	CH	Z3		$35.77
72020	X-ray exam of spine		Z3		$11.64

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72040	X-ray exam of neck spine		Z3		$19.02
72050	X-ray exam of neck spine		Z3		$26.69
72052	X-ray exam of neck spine	CH	Z3		$34.92
72069	X-ray exam of trunk spine		Z3		$17.89
72070	X-ray exam of thoracic spine		Z3		$16.47
72072	X-ray exam of thoracic spine		Z3		$19.59
72074	X-ray exam of thoracic spine	CH	Z3		$24.41
72080	X-ray exam of trunk spine		Z3		$17.60
72090	X-ray exam of trunk spine		Z3		$24.13
72100	X-ray exam of lower spine		Z3		$20.44
72110	X-ray exam of lower spine		Z3		$28.39
72114	X-ray exam of lower spine	CH	Z3		$39.46
72120	X-ray exam of lower spine		Z3		$27.82
72125	Ct neck spine w/o dye		Z2	2.7687	$115.93
72126	Ct neck spine w/dye		Z2	4.2158	$176.53
72127	Ct neck spine w/o & w/dye		Z2	4.7337	$198.21
72128	Ct chest spine w/o dye		Z2	2.7687	$115.93
72129	Ct chest spine w/dye		Z2	4.2158	$176.53
72130	Ct chest spine w/o & w/dye		Z2	4.7337	$198.21
72131	Ct lumbar spine w/o dye		Z2	2.7687	$115.93
72132	Ct lumbar spine w/dye		Z2	4.2158	$176.53
72133	Ct lumbar spine w/o & w/dye		Z2	4.7337	$198.21
72141	Mri neck spine w/o dye		Z2	4.961	$207.73
72142	Mri neck spine w/dye		Z2	6.0177	$251.98
72146	Mri chest spine w/o dye		Z2	4.961	$207.73
72147	Mri chest spine w/dye		Z2	6.0177	$251.98
72148	Mri lumbar spine w/o dye		Z2	4.961	$207.73
72149	Mri lumbar spine w/dye		Z2	6.0177	$251.98
72156	Mri neck spine w/o & w/dye		Z2	7.5993	$318.21
72157	Mri chest spine w/o & w/dye		Z2	7.5993	$318.21
72158	Mri lumbar spine w/o & w/dye		Z2	7.5993	$318.21
72170	X-ray exam of pelvis		Z3		$12.78
72190	X-ray exam of pelvis	CH	Z3		$21.29
72191	Ct angiograph pelv w/o&w/dye		Z2	4.8324	$202.35
72192	Ct pelvis w/o dye		Z2	2.7687	$115.93
72193	Ct pelvis w/dye		Z2	4.2158	$176.53

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72194	Ct pelvis w/o & w/dye		Z2	4.7337	$198.21
72195	Mri pelvis w/o dye		Z2	4.961	$207.73
72196	Mri pelvis w/dye		Z2	6.0177	$251.98
72197	Mri pelvis w/o & w/dye		Z2	7.5993	$318.21
72200	X-ray exam sacroiliac joints		Z3		$15.05
72202	X-ray exam sacroiliac joints		Z3		$18.17
72220	X-ray exam of tailbone		Z3		$15.05
72240	Contrast x-ray of neck spine		N1		
72255	Contrast x-ray, thorax spine		N1		
72265	Contrast x-ray, lower spine		N1		
72270	Contrast x-ray, spine		N1		
72275	Epidurography		N1		
72285	X-ray c/t spine disk		N1		
72291	Perq verte/sacroplsty, fluor		N1		
72292	Perq verte/sacroplsty, ct		N1		
72295	X-ray of lower spine disk		N1		
73000	X-ray exam of collar bone		Z3		$14.48
73010	X-ray exam of shoulder blade		Z3		$14.76
73020	X-ray exam of shoulder		Z3		$11.64
73030	X-ray exam of shoulder		Z3		$14.76
73040	Contrast x-ray of shoulder		N1		
73050	X-ray exam of shoulders		Z3		$19.02
73060	X-ray exam of humerus		Z3		$14.76
73070	X-ray exam of elbow		Z3		$14.48
73080	X-ray exam of elbow		Z3		$19.02
73085	Contrast x-ray of elbow		N1		
73090	X-ray exam of forearm		Z3		$14.19
73092	X-ray exam of arm, infant		Z3		$15.05
73100	X-ray exam of wrist		Z3		$15.33
73110	X-ray exam of wrist		Z3		$19.30
73115	Contrast x-ray of wrist		N1		
73120	X-ray exam of hand		Z3		$13.91
73130	X-ray exam of hand		Z3		$16.75
73140	X-ray exam of finger(s)		Z3		$17.03
73200	Ct upper extremity w/o dye		Z2	2.7687	$115.93
73201	Ct upper extremity w/dye		Z2	4.2158	$176.53

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73202	Ct uppr extremity w/o&w/dye		Z2	4.7337	$198.21
73206	Ct angio upr extrm w/o&w/dye		Z2	4.8324	$202.35
73218	Mri upper extremity w/o dye		Z2	4.961	$207.73
73219	Mri upper extremity w/dye		Z2	6.0177	$251.98
73220	Mri uppr extremity w/o&w/dye		Z2	7.5993	$318.21
73221	Mri joint upr extrem w/o dye		Z2	4.961	$207.73
73222	Mri joint upr extrem w/dye		Z2	6.0177	$251.98
73223	Mri joint upr extr w/o&w/dye		Z2	7.5993	$318.21
73500	X-ray exam of hip		Z3		$12.21
73510	X-ray exam of hip		Z3		$19.02
73520	X-ray exam of hips		Z3		$19.30
73525	Contrast x-ray of hip		N1		
73530	X-ray exam of hip		N1		
73540	X-ray exam of pelvis & hips		Z3		$20.44
73542	X-ray exam, sacroiliac joint		N1		
73550	X-ray exam of thigh		Z3		$14.19
73560	X-ray exam of knee, 1 or 2		Z3		$14.76
73562	X-ray exam of knee, 3		Z3		$18.45
73564	X-ray exam, knee, 4 or more		Z3		$21.29
73565	X-ray exam of knees		Z3		$16.47
73580	Contrast x-ray of knee joint		N1		
73590	X-ray exam of lower leg		Z3		$13.63
73592	X-ray exam of leg, infant		Z3		$15.33
73600	X-ray exam of ankle		Z3		$14.19
73610	X-ray exam of ankle		Z3		$16.75
73615	Contrast x-ray of ankle		N1		
73620	X-ray exam of foot		Z3		$13.63
73630	X-ray exam of foot		Z3		$16.47
73650	X-ray exam of heel		Z3		$13.91
73660	X-ray exam of toe(s)		Z3		$15.90
73700	Ct lower extremity w/o dye		Z2	2.7687	$115.93
73701	Ct lower extremity w/dye		Z2	4.2158	$176.53
73702	Ct lwr extremity w/o&w/dye		Z2	4.7337	$198.21
73706	Ct angio lwr extr w/o&w/dye		Z2	4.8324	$202.35
73718	Mri lower extremity w/o dye		Z2	4.961	$207.73
73719	Mri lower extremity w/dye		Z2	6.0177	$251.98

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73720	Mri lwr extremity w/o&w/dye		Z2	7.5993	$318.21
73721	Mri jnt of lwr extre w/o dye		Z2	4.961	$207.73
73722	Mri joint of lwr extr w/dye		Z2	6.0177	$251.98
73723	Mri joint lwr extr w/o&w/dye		Z2	7.5993	$318.21
74000	X-ray exam of abdomen		Z3		$11.92
74010	X-ray exam of abdomen		Z3		$19.02
74020	X-ray exam of abdomen		Z3		$19.30
74022	X-ray exam series, abdomen		Z3		$23.56
74150	Ct abdomen w/o dye		Z2	2.7687	$115.93
74160	Ct abdomen w/dye		Z2	4.2158	$176.53
74170	Ct abdomen w/o & w/dye		Z2	4.7337	$198.21
74175	Ct angio abdom w/o & w/dye		Z2	4.8324	$202.35
74181	Mri abdomen w/o dye		Z2	4.961	$207.73
74182	Mri abdomen w/dye		Z2	6.0177	$251.98
74183	Mri abdomen w/o & w/dye		Z2	7.5993	$318.21
74190	X-ray exam of peritoneum		N1		
74210	Contrst x-ray exam of throat	CH	Z3		$43.15
74220	Contrast x-ray, esophagus	CH	Z3		$47.98
74230	Cine/vid x-ray, throat/esoph	CH	Z3		$46.56
74235	Remove esophagus obstruction		N1		
74240	X-ray exam, upper gi tract		Z2	1.2423	$52.02
74241	X-ray exam, upper gi tract		Z2	1.2423	$52.02
74245	X-ray exam, upper gi tract		Z2	2.0092	$84.13
74246	Contrst x-ray uppr gi tract		Z2	1.2423	$52.02
74247	Contrst x-ray uppr gi tract		Z2	1.2423	$52.02
74249	Contrst x-ray uppr gi tract		Z2	2.0092	$84.13
74250	X-ray exam of small bowel		Z2	1.2423	$52.02
74251	X-ray exam of small bowel		Z2	2.0092	$84.13
74260	X-ray exam of small bowel		Z2	1.2423	$52.02
74261	Ct colonography, w/o dye	NI	Z2	2.7687	$115.93
74262	Ct colonography, w/dye	NI	Z2	4.2158	$176.53
74270	Contrast x-ray exam of colon		Z2	1.2423	$52.02
74280	Contrast x-ray exam of colon		Z2	2.0092	$84.13
74283	Contrast x-ray exam of colon		Z2	1.2423	$52.02
74290	Contrast x-ray, gallbladder		Z3		$36.91
74291	Contrast x-rays, gallbladder		Z3		$36.62

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74300	X-ray bile ducts/pancreas		N1		
74301	X-rays at surgery add-on		N1		
74305	X-ray bile ducts/pancreas		N1		
74320	Contrast x-ray of bile ducts		N1		
74327	X-ray bile stone removal		N1		
74328	X-ray bile duct endoscopy		N1		
74329	X-ray for pancreas endoscopy		N1		
74330	X-ray bile/panc endoscopy		N1		
74340	X-ray guide for GI tube		N1		
74355	X-ray guide, intestinal tube		N1		
74360	X-ray guide, GI dilation		N1		
74363	X-ray, bile duct dilation		N1		
74400	Contrst x-ray, urinary tract		Z3		$62.74
74410	Contrst x-ray, urinary tract		Z3		$66.15
74415	Contrst x-ray, urinary tract		Z3		$80.34
74420	Contrst x-ray, urinary tract		Z2	2.4358	$101.99
74425	Contrst x-ray, urinary tract		N1		
74430	Contrast x-ray, bladder		N1		
74440	X-ray, male genital tract		N1		
74445	X-ray exam of penis		N1		
74450	X-ray, urethra/bladder		N1		
74455	X-ray, urethra/bladder		N1		
74470	X-ray exam of kidney lesion		N1		
74475	X-ray control, cath insert		N1		
74480	X-ray control, cath insert		N1		
74485	X-ray guide, GU dilation		N1		
74710	X-ray measurement of pelvis		Z3		$17.60
74740	X-ray, female genital tract		N1		
74742	X-ray, fallopian tube		N1		
74775	X-ray exam of perineum		Z2	2.4358	$101.99
75557	Cardiac mri for morph		Z2	4.961	$207.73
75559	Cardiac mri w/stress img		Z2	4.961	$207.73
75561	Cardiac mri for morph w/dye		Z2	7.5993	$318.21
75563	Card mri w/stress img & dye		Z2	7.5993	$318.21
75565	Card mri vel flw map add-on	NI	N1		
75571	Ct hrt w/o dye w/ca test	NI	Z2	0.6403	$26.81

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75572	Ct hrt w/3d image	NI	Z3		$139.68
75573	Ct hrt w/3d image, congen	NI	Z2	3.82	$159.95
75574	Ct angio hrt w/3d image	NI	Z2	3.82	$159.95
75600	Contrast x-ray exam of aorta		N1		
75605	Contrast x-ray exam of aorta		N1		
75625	Contrast x-ray exam of aorta		N1		
75630	X-ray aorta, leg arteries		N1		
75635	Ct angio abdominal arteries		N1		
75650	Artery x-rays, head & neck		N1		
75658	Artery x-rays, arm		N1		
75660	Artery x-rays, head & neck		N1		
75662	Artery x-rays, head & neck		N1		
75665	Artery x-rays, head & neck		N1		
75671	Artery x-rays, head & neck		N1		
75676	Artery x-rays, neck		N1		
75680	Artery x-rays, neck		N1		
75685	Artery x-rays, spine		N1		
75705	Artery x-rays, spine		N1		
75710	Artery x-rays, arm/leg		N1		
75716	Artery x-rays, arms/legs		N1		
75722	Artery x-rays, kidney		N1		
75724	Artery x-rays, kidneys		N1		
75726	Artery x-rays, abdomen		N1		
75731	Artery x-rays, adrenal gland		N1		
75733	Artery x-rays, adrenals		N1		
75736	Artery x-rays, pelvis		N1		
75741	Artery x-rays, lung		N1		
75743	Artery x-rays, lungs		N1		
75746	Artery x-rays, lung		N1		
75756	Artery x-rays, chest		N1		
75774	Artery x-ray, each vessel		N1		
75790	Visualize A-V shunt	CH	D5		
75791	Av dialysis shunt imaging	NI	N1		
75801	Lymph vessel x-ray, arm/leg		N1		
75803	Lymph vessel x-ray,arms/legs		N1		
75805	Lymph vessel x-ray, trunk		N1		

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75807	Lymph vessel x-ray, trunk		N1		
75809	Nonvascular shunt, x-ray		N1		
75810	Vein x-ray, spleen/liver		N1		
75820	Vein x-ray, arm/leg		N1		
75822	Vein x-ray, arms/legs		N1		
75825	Vein x-ray, trunk		N1		
75827	Vein x-ray, chest		N1		
75831	Vein x-ray, kidney		N1		
75833	Vein x-ray, kidneys		N1		
75840	Vein x-ray, adrenal gland		N1		
75842	Vein x-ray, adrenal glands		N1		
75860	Vein x-ray, neck		N1		
75870	Vein x-ray, skull		N1		
75872	Vein x-ray, skull		N1		
75880	Vein x-ray, eye socket		N1		
75885	Vein x-ray, liver		N1		
75887	Vein x-ray, liver		N1		
75889	Vein x-ray, liver		N1		
75891	Vein x-ray, liver		N1		
75893	Venous sampling by catheter		N1		
75894	X-rays, transcath therapy		N1		
75896	X-rays, transcath therapy		N1		
75898	Follow-up angiography		N1		
75901	Remove cva device obstruct		N1		
75902	Remove cva lumen obstruct		N1		
75940	X-ray placement, vein filter		N1		
75945	Intravascular us		N1		
75946	Intravascular us add-on		N1		
75960	Transcath iv stent rs&i		N1		
75961	Retrieval, broken catheter		N1		
75962	Repair arterial blockage		N1		
75964	Repair artery blockage, each		N1		
75966	Repair arterial blockage		N1		
75968	Repair artery blockage, each		N1		
75970	Vascular biopsy		N1		
75978	Repair venous blockage		N1		

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75980	Contrast xray exam bile duct		N1		
75982	Contrast xray exam bile duct		N1		
75984	Xray control catheter change		N1		
75989	Abscess drainage under x-ray		N1		
75992	Atherectomy, x-ray exam		N1		
75993	Atherectomy, x-ray exam		N1		
75994	Atherectomy, x-ray exam		N1		
75995	Atherectomy, x-ray exam		N1		
75996	Atherectomy, x-ray exam		N1		
76000	Fluoroscope examination		N1		
76001	Fluoroscope exam, extensive		N1		
76010	X-ray, nose to rectum		Z3		$13.63
76080	X-ray exam of fistula		N1		
76098	X-ray exam, breast specimen	CH	N1		
76100	X-ray exam of body section		Z2	1.0678	$44.71
76101	Complex body section x-ray	CH	Z3		$111.00
76102	Complex body section x-rays		Z2	2.9841	$124.95
76120	Cine/video x-rays	CH	Z3		$42.02
76125	Cine/video x-rays add-on		N1		
76150	X-ray exam, dry process		Z3		$14.48
76350	Special x-ray contrast study		N1		
76376	3d render w/o postprocess		N1		
76377	3d rendering w/postprocess		N1		
76380	CAT scan follow-up study		Z2	1.5586	$65.26
76496	Fluoroscopic procedure		Z2	1.2143	$50.85
76497	Ct procedure		Z2	1.5586	$65.26
76498	Mri procedure		Z2	4.961	$207.73
76499	Radiographic procedure		Z2	0.6373	$26.69
76506	Echo exam of head		Z2	0.8866	$37.12
76510	Ophth us, b & quant a		Z3		$52.52
76511	Ophth us, quant a only		Z3		$35.20
76512	Ophth us, b w/non-quant a		Z3		$29.81
76513	Echo exam of eye, water bath		Z3		$38.04
76514	Echo exam of eye, thickness		Z3		$2.84
76516	Echo exam of eye		Z3		$29.81
76519	Echo exam of eye		Z3		$33.22

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76529	Echo exam of eye		Z3		$28.96
76536	Us exam of head and neck		Z2	1.3809	$57.82
76604	Us exam, chest		Z2	0.8866	$37.12
76645	Us exam, breast(s)		Z2	0.8866	$37.12
76700	Us exam, abdom, complete		Z2	1.3809	$57.82
76705	Echo exam of abdomen	CH	Z3		$55.64
76770	Us exam abdo back wall, comp		Z2	1.3809	$57.82
76775	Us exam abdo back wall, lim		Z2	1.3809	$57.82
76776	Us exam k transpl w/doppler		Z2	1.3809	$57.82
76800	Us exam, spinal canal	CH	Z3		$53.37
76801	Ob us < 14 wks, single fetus		Z2	1.3809	$57.82
76802	Ob us < 14 wks, addl fetus		Z3		$21.58
76805	Ob us >/= 14 wks, sngl fetus		Z2	1.3809	$57.82
76810	Ob us >/= 14 wks, addl fetus		Z3		$35.49
76811	Ob us, detailed, sngl fetus	CH	Z3		$74.66
76812	Ob us, detailed, addl fetus		Z2	0.8866	$37.12
76813	Ob us nuchal meas, 1 gest		Z2	0.8866	$37.12
76814	Ob us nuchal meas, add-on		Z3		$23.56
76815	Ob us, limited, fetus(s)		Z2	0.8866	$37.12
76816	Ob us, follow-up, per fetus		Z2	0.8866	$37.12
76817	Transvaginal us, obstetric		Z2	0.8866	$37.12
76818	Fetal biophys profile w/nst	CH	Z3		$51.10
76819	Fetal biophys profil w/o nst		Z3		$39.75
76820	Umbilical artery echo		Z3		$18.17
76821	Middle cerebral artery echo		Z2	0.8866	$37.12
76825	Echo exam of fetal heart		Z3		$96.52
76826	Echo exam of fetal heart		Z3		$58.77
76827	Echo exam of fetal heart	CH	Z3		$29.24
76828	Echo exam of fetal heart		Z3		$16.75
76830	Transvaginal us, non-ob		Z2	1.3809	$57.82
76831	Echo exam, uterus		Z3		$64.16
76856	Us exam, pelvic, complete		Z2	1.3809	$57.82
76857	Us exam, pelvic, limited		Z2	0.8866	$37.12
76870	Us exam, scrotum		Z2	1.3809	$57.82
76872	Us, transrectal		Z2	1.3809	$57.82
76873	Echograp trans r, pros study		Z2	1.3809	$57.82

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76880	Us exam, extremity		Z2	1.3809	$57.82
76885	Us exam infant hips, dynamic		Z2	0.8866	$37.12
76886	Us exam infant hips, static		Z2	0.8866	$37.12
76930	Echo guide, cardiocentesis		N1		
76932	Echo guide for heart biopsy		N1		
76936	Echo guide for artery repair		Z2	1.5379	$64.40
76937	Us guide, vascular access		N1		
76940	Us guide, tissue ablation		N1		
76941	Echo guide for transfusion		N1		
76942	Echo guide for biopsy		N1		
76945	Echo guide, villus sampling		N1		
76946	Echo guide for amniocentesis		N1		
76948	Echo guide, ova aspiration		N1		
76950	Echo guidance radiotherapy		N1		
76965	Echo guidance radiotherapy		N1		
76970	Ultrasound exam follow-up		Z2	0.8866	$37.12
76975	GI endoscopic ultrasound		N1		
76977	Us bone density measure		Z3		$6.53
76998	Us guide, intraop		N1		
76999	Echo examination procedure		Z2	0.8866	$37.12
77001	Fluoroguide for vein device		N1		
77002	Needle localization by xray		N1		
77003	Fluoroguide for spine inject		N1		
77011	Ct scan for localization		N1		
77012	Ct scan for needle biopsy		N1		
77013	Ct guide for tissue ablation		N1		
77014	Ct scan for therapy guide		N1		
77021	Mr guidance for needle place		N1		
77022	Mri for tissue ablation		N1		
77031	Stereotact guide for brst bx		N1		
77032	Guidance for needle, breast		N1		
77053	X-ray of mammary duct		N1		
77054	X-ray of mammary ducts		N1		
77071	X-ray stress view		Z3		$19.59
77072	X-rays for bone age		Z3		$9.94
77073	X-rays, bone length studies		Z3		$17.32

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77074	X-rays, bone survey, limited		Z3		$34.07
77075	X-rays, bone survey complete		Z2	1.0678	$44.71
77076	X-rays, bone survey, infant		Z2	1.0678	$44.71
77077	Joint survey, single view		Z3		$18.74
77078	Ct bone density, axial		Z2	1.0289	$43.08
77079	Ct bone density, peripheral		Z3		$32.08
77080	Dxa bone density, axial	CH	Z3		$40.31
77081	Dxa bone density/peripheral		Z3		$13.34
77082	Dxa bone density, vert fx		Z3		$14.76
77083	Radiographic absorptiometry		Z3		$11.36
77084	Magnetic image, bone marrow		Z2	4.961	$207.73
77280	Set radiation therapy field		Z2	1.461	$61.18
77285	Set radiation therapy field		Z2	3.7799	$158.28
77290	Set radiation therapy field		Z2	3.7799	$158.28
77295	Set radiation therapy field		Z3		$284.75
77299	Radiation therapy planning		Z2	1.461	$61.18
77300	Radiation therapy dose plan		Z3		$29.24
77301	Radiotherapy dose plan, imrt		Z2	13.1619	$551.13
77305	Teletx isodose plan simple		Z3		$25.27
77310	Teletx isodose plan intermed		Z3		$32.93
77315	Teletx isodose plan complex		Z3		$49.68
77321	Special teletx port plan		Z3		$48.83
77326	Brachytx isodose calc simp		Z2	1.461	$61.18
77327	Brachytx isodose calc interm		Z3		$100.21
77328	Brachytx isodose plan compl	CH	Z3		$128.89
77331	Special radiation dosimetry		Z3		$14.19
77332	Radiation treatment aid(s)		Z3		$38.04
77333	Radiation treatment aid(s)		Z3		$15.61
77334	Radiation treatment aid(s)		Z3		$69.55
77336	Radiation physics consult		Z3		$41.73
77338	Design mlc device for imrt	NI	Z2	2.7055	$113.29
77370	Radiation physics consult		Z2	1.461	$61.18
77371	Srs, multisource		Z2	104.238	$4,364.76
77399	External radiation dosimetry		Z2	1.461	$61.18
77401	Radiation treatment delivery		Z3		$20.16
77402	Radiation treatment delivery		Z2	1.3168	$55.14

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77403	Radiation treatment delivery		Z2	1.3168	$55.14
77404	Radiation treatment delivery		Z2	1.3168	$55.14
77406	Radiation treatment delivery		Z2	2.2033	$92.26
77407	Radiation treatment delivery		Z2	1.3168	$55.14
77408	Radiation treatment delivery		Z2	1.3168	$55.14
77409	Radiation treatment delivery		Z2	1.3168	$55.14
77411	Radiation treatment delivery		Z2	2.2033	$92.26
77412	Radiation treatment delivery		Z2	2.2033	$92.26
77413	Radiation treatment delivery		Z2	2.2033	$92.26
77414	Radiation treatment delivery		Z2	2.2033	$92.26
77416	Radiation treatment delivery		Z2	2.2033	$92.26
77417	Radiology port film(s)		N1		
77418	Radiation tx delivery, imrt		Z2	5.9784	$250.33
77421	Stereoscopic x-ray guidance		N1		
77422	Neutron beam tx, simple		Z2	2.2033	$92.26
77423	Neutron beam tx, complex		Z2	2.2033	$92.26
77435	Sbrt management		N1		
77470	Special radiation treatment		Z3		$88.29
77520	Proton trmt, simple w/o comp		Z2	13.3743	$560.02
77522	Proton trmt, simple w/comp		Z2	13.3743	$560.02
77523	Proton trmt, intermediate		Z2	17.4955	$732.59
77525	Proton treatment, complex		Z2	17.4955	$732.59
77600	Hyperthermia treatment		Z2	5.4016	$226.18
77605	Hyperthermia treatment		Z2	5.4016	$226.18
77610	Hyperthermia treatment		Z2	5.4016	$226.18
77615	Hyperthermia treatment		Z2	5.4016	$226.18
77620	Hyperthermia treatment		Z2	5.4016	$226.18
77750	Infuse radioactive materials		Z3		$72.39
77761	Apply intrcav radiat simple		Z3		$126.90
77762	Apply intrcav radiat interm		Z3		$149.04
77763	Apply intrcav radiat compl	CH	Z2	4.2904	$179.65
77776	Apply interstit radiat simpl		Z3		$136.55
77777	Apply interstit radiat inter		Z3		$147.34
77778	Apply interstit radiat compl		Z3		$198.44
77785	Hdr brachytx, 1 channel		Z3		$86.59
77786	Hdr brachytx, 2-12 channel		Z3		$279.64

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77787	Hdr brachytx over 12 chan	CH	Z3		$425.84
77789	Apply surface radiation		Z3		$38.33
77790	Radiation handling		N1		
77799	Radium/radioisotope therapy		Z2	4.2904	$179.65
78000	Thyroid, single uptake		Z3		$44.29
78001	Thyroid, multiple uptakes	CH	Z3		$55.93
78003	Thyroid suppress/stimul		Z3		$45.14
78006	Thyroid imaging with uptake		Z2	3.147	$131.77
78007	Thyroid image, mult uptakes		Z3		$77.50
78010	Thyroid imaging		Z2	2.066	$86.51
78011	Thyroid imaging with flow		Z2	2.066	$86.51
78015	Thyroid met imaging		Z3		$128.32
78016	Thyroid met imaging/studies		Z2	4.1171	$172.40
78018	Thyroid met imaging, body		Z2	4.1171	$172.40
78020	Thyroid met uptake		N1		
78070	Parathyroid nuclear imaging		Z3		$93.69
78075	Adrenal nuclear imaging		Z3		$278.50
78099	Endocrine nuclear procedure		Z2	2.066	$86.51
78102	Bone marrow imaging, ltd		Z3		$99.36
78103	Bone marrow imaging, mult	CH	Z3		$132.30
78104	Bone marrow imaging, body	CH	Z2		$152.45
78110	Plasma volume, single		Z3		$51.10
78111	Plasma volume, multiple		Z3		$59.33
78120	Red cell mass, single		Z3		$53.94
78121	Red cell mass, multiple		Z3		$60.19
78122	Blood volume		Z3		$71.26
78130	Red cell survival study		Z3		$89.43
78135	Red cell survival kinetics	CH	Z3		$218.32
78140	Red cell sequestration		Z3		$81.19
78185	Spleen imaging	CH	Z3		$126.62
78190	Platelet survival, kinetics		Z2	2.5656	$107.43
78191	Platelet survival		Z2	2.5656	$107.43
78195	Lymph system imaging		Z2	3.6682	$153.60
78199	Blood/lymph nuclear exam		Z2	3.6682	$153.60
78201	Liver imaging		Z3		$115.26
78202	Liver imaging with flow	CH	Z3		$129.17

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78205	Liver imaging (3D)	CH	Z3		$143.37
78206	Liver image (3d) with flow		Z2	4.1271	$172.81
78215	Liver and spleen imaging		Z3		$119.24
78216	Liver & spleen image/flow		Z3		$77.22
78220	Liver function study		Z3		$84.32
78223	Hepatobiliary imaging		Z2	4.1271	$172.81
78230	Salivary gland imaging		Z3		$101.07
78231	Serial salivary imaging		Z3		$76.08
78232	Salivary gland function exam		Z3		$75.23
78258	Esophageal motility study	CH	Z3		$137.97
78261	Gastric mucosa imaging		Z2	3.5113	$147.03
78262	Gastroesophageal reflux exam		Z2	3.5113	$147.03
78264	Gastric emptying study		Z2	3.5113	$147.03
78270	Vit B-12 absorption exam		Z3		$50.82
78271	Vit b-12 absrp exam, int fac		Z3		$53.37
78272	Vit B-12 absorp, combined		Z3		$56.21
78278	Acute GI blood loss imaging		Z2	3.5113	$147.03
78282	GI protein loss exam		Z2	3.5113	$147.03
78290	Meckels divert exam		Z2	3.5113	$147.03
78291	Leveen/shunt patency exam		Z2	3.5113	$147.03
78299	GI nuclear procedure		Z2	3.5113	$147.03
78300	Bone imaging, limited area		Z3		$102.77
78305	Bone imaging, multiple areas	CH	Z3		$135.99
78306	Bone imaging, whole body		Z2	3.5118	$147.05
78315	Bone imaging, 3 phase		Z2	3.5118	$147.05
78320	Bone imaging (3D)	CH	Z3		$143.08
78399	Musculoskeletal nuclear exam		Z2	3.5118	$147.05
78414	Non-imaging heart function		Z2	4.3402	$181.74
78428	Cardiac shunt imaging		Z3		$114.69
78445	Vascular flow imaging	CH	Z3		$105.04
78451	Ht muscle image spect, sing	NI	Z3		$122.07
78452	Ht muscle image spect, mult	NI	Z3		$236.20
78453	Ht muscle image,planar,sing	NI	Z3		$113.84
78454	Ht musc image, planar, mult	NI	Z3		$95.67
78456	Acute venous thrombus image		Z2	2.8394	$118.89
78457	Venous thrombosis imaging	CH	Z3		$112.42

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78458	Ven thrombosis images, bilat	CH	Z3		$115.55
78459	Heart muscle imaging (PET)		Z2	20.3369	$851.57
78460	Heart muscle blood, single	CH	D5		
78461	Heart muscle blood, multiple	CH	D5		
78464	Heart image (3d), single	CH	D5		
78465	Heart image (3d), multiple	CH	D5		
78466	Heart infarct image		Z3		$105.61
78468	Heart infarct image (ef)		Z3		$132.86
78469	Heart infarct image (3D)	CH	Z3		$151.60
78472	Gated heart, planar, single	CH	Z3		$150.46
78473	Gated heart, multiple		Z2	4.3402	$181.74
78478	Heart wall motion add-on	CH	D5		
78480	Heart function add-on	CH	D5		
78481	Heart first pass, single		Z3		$122.64
78483	Heart first pass, multiple	CH	Z3		$167.21
78491	Heart image (pet), single		Z2	20.3369	$851.57
78492	Heart image (pet), multiple		Z2	20.3369	$851.57
78494	Heart image, spect	CH	Z3		$157.28
78496	Heart first pass add-on		N1		
78499	Cardiovascular nuclear exam		Z2	4.3402	$181.74
78580	Lung perfusion imaging		Z2	2.9299	$122.68
78584	Lung V/Q image single breath		Z3		$76.08
78585	Lung V/Q imaging		Z2	4.5952	$192.41
78586	Aerosol lung image, single	CH	Z3		$103.62
78587	Aerosol lung image, multiple		Z2	2.9299	$122.68
78588	Perfusion lung image		Z2	4.5952	$192.41
78591	Vent image, 1 breath, 1 proj	CH	Z3		$105.04
78593	Vent image, 1 proj, gas	CH	Z3		$122.36
78594	Vent image, mult proj, gas		Z2	2.9299	$122.68
78596	Lung differential function		Z2	4.5952	$192.41
78599	Respiratory nuclear exam		Z2	2.9299	$122.68
78600	Brain image < 4 views	CH	Z3		$112.42
78601	Brain image w/flow < 4 views	CH	Z3		$134.00
78605	Brain image 4+ views		Z2	2.7917	$116.90
78606	Brain image w/flow 4 + views		Z3		$206.68
78607	Brain imaging (3D)		Z3		$218.88

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Addendum BB -- Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2010 (Including Ancillary Services for Which Payment is Packaged)

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78608	Brain imaging (PET)		Z2	14.7231	$616.50
78610	Brain flow imaging only	CH	Z2	2.7917	$116.90
78630	Cerebrospinal fluid scan		Z3		$214.62
78635	CSF ventriculography		Z3		$202.13
78645	CSF shunt evaluation		Z2	2.7917	$116.90
78647	Cerebrospinal fluid scan		Z3		$207.24
78650	CSF leakage imaging		Z3		$211.22
78660	Nuclear exam of tear flow	CH	Z3		$103.34
78699	Nervous system nuclear exam		Z2	2.7917	$116.90
78700	Kidney imaging, morphol		Z3		$109.58
78701	Kidney imaging with flow		Z3		$134.85
78707	K flow/funct image w/o drug		Z3		$138.54
78708	K flow/funct image w/drug		Z3		$91.41
78709	K flow/funct image, multiple		Z2	4.6133	$193.17
78710	Kidney imaging (3D)		Z3		$141.95
78725	Kidney function study		Z3		$59.62
78730	Urinary bladder retention		Z3		$48.83
78740	Ureteral reflux study		Z3		$134.00
78761	Testicular imaging w/flow		Z3		$125.48
78799	Genitourinary nuclear exam		Z2	4.6133	$193.17
78800	Tumor imaging, limited area		Z3		$111.29
78801	Tumor imaging, mult areas		Z3		$151.60
78802	Tumor imaging, whole body		Z3		$204.69
78803	Tumor imaging (3D)		Z3		$217.46
78804	Tumor imaging, whole body		Z3		$382.41
78805	Abscess imaging, ltd area		Z3		$107.03
78806	Abscess imaging, whole body		Z3		$214.34
78807	Nuclear localization/abscess	CH	Z2	4.1171	$172.40
78808	Iv inj ra drug dx study		N1		
78811	Pet image, ltd area		Z2	14.7231	$616.50
78812	Pet image, skull-thigh		Z2	14.7231	$616.50
78813	Pet image, full body		Z2	14.7231	$616.50
78814	Pet image w/ct, lmtd		Z2	14.7231	$616.50
78815	Pet image w/ct, skull-thigh		Z2	14.7231	$616.50
78816	Pet image w/ct, full body		Z2	14.7231	$616.50
78999	Nuclear diagnostic exam		Z2	1.5972	$66.88

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79005	Nuclear rx, oral admin		Z3		$42.30
79101	Nuclear rx, iv admin		Z3		$45.99
79200	Nuclear rx, intracav admin		Z3		$51.10
79300	Nuclr rx, interstit colloid		Z2	3.0955	$129.62
79403	Hematopoietic nuclear tx		Z3		$71.83
79440	Nuclear rx, intra-articular		Z3		$40.31
79445	Nuclear rx, intra-arterial		Z2	3.0955	$129.62
79999	Nuclear medicine therapy		Z2	3.0955	$129.62
90371	Hep b ig, im		K2		$111.20
90375	Rabies ig, im/sc		K2		$142.79
90376	Rabies ig, heat treated		K2		$130.16
90378	Rsv, mab, im, 50mg		K2		$937.29
90385	Rh ig, minidose, im		N1		
90396	Varicella-zoster ig, im		K2		$130.49
90476	Adenovirus vaccine, type 4	CH	K2		$72.17
90585	Bcg vaccine, percut		K2		$111.66
90632	Hep a vaccine, adult im		N1		
90633	Hep a vacc, ped/adol, 2 dose		N1		
90634	Hep a vacc, ped/adol, 3 dose		N1		
90636	Hep a/hep b vacc, adult im		N1		
90645	Hib vaccine, hboc, im		N1		
90646	Hib vaccine, prp-d, im		N1		
90647	Hib vaccine, prp-omp, im		N1		
90648	Hib vaccine, prp-t, im		N1		
90655	Flu vaccine no preserv 6-35m		L1		
90656	Flu vaccine no preserv 3 & >		L1		
90657	Flu vaccine, 3 yrs, im		L1		
90658	Flu vaccine, 3 yrs & >, im		L1		
90660	Flu vaccine, nasal		L1		
90665	Lyme disease vaccine, im		K2		$0.93
90669	Pneumococcal vacc, 7 val im		L1		
90675	Rabies vaccine, im		K2		$151.97
90676	Rabies vaccine, id		K2		$96.27
90680	Rotovirus vacc 3 dose, oral	CH	K2		$72.37
90681	Rotavirus vacc 2 dose oral		K2		$106.60
90690	Typhoid vaccine, oral		N1		

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90691	Typhoid vaccine, im		N1		
90692	Typhoid vaccine, h-p, sc/id		N1		
90696	Dtap-ipv vacc 4-6 yr im	CH	N1		
90698	Dtap-hib-ip vaccine, im		N1		
90700	Dtap vaccine, < 7 yrs, im		N1		
90701	Dtp vaccine, im		N1		
90702	Dt vaccine < 7, im		N1		
90703	Tetanus vaccine, im		N1		
90704	Mumps vaccine, sc		N1		
90705	Measles vaccine, sc		N1		
90706	Rubella vaccine, sc		N1		
90707	Mmr vaccine, sc		N1		
90708	Measles-rubella vaccine, sc		N1		
90710	Mmrv vaccine, sc		N1		
90712	Oral poliovirus vaccine		N1		
90713	Poliovirus, ipv, sc/im		N1		
90714	Td vaccine no prsrv >/= 7 im		N1		
90715	Tdap vaccine >7 im		N1		
90717	Yellow fever vaccine, sc		N1		
90718	Td vaccine > 7, im		N1		
90719	Diphtheria vaccine, im		N1		
90720	Dtp/hib vaccine, im		N1		
90721	Dtap/hib vaccine, im		N1		
90725	Cholera vaccine, injectable	CH	K2		$0.16
90732	Pneumococcal vaccine		L1		
90733	Meningococcal vaccine, sc		K2		$96.66
90734	Meningococcal vaccine, im		K2		$102.46
90735	Encephalitis vaccine, sc	CH	K2		$100.15
90740	Hepb vacc, ill pat 3 dose im		F4		
90743	Hep b vacc, adol, 2 dose, im		F4		
90744	Hepb vacc ped/adol 3 dose im		F4		
90746	Hep b vaccine, adult, im		F4		
90747	Hepb vacc, ill pat 4 dose im		F4		
90749	Vaccine toxoid		N1		
A4218	Sterile saline or water		N1		
A4220	Infusion pump refill kit		N1		

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A4248	Chlorhexidine antisept		N1		
A4262	Temporary tear duct plug		N1		
A4263	Permanent tear duct plug		N1		
A4270	Disposable endoscope sheath		N1		
A4300	Cath impl vasc access portal		N1		
A4301	Implantable access syst perc		N1		
A4305	Drug delivery system >=50 ML		N1		
A4306	Drug delivery system <=50 ml		N1		
A4641	Radiopharm dx agent noc		N1		
A4642	In111 satumomab		N1		
A4648	Implantable tissue marker		N1		
A4650	Implant radiation dosimeter		N1		
A9500	Tc99m sestamibi		N1		
A9501	Technetium TC-99m teboroxime		N1		
A9502	Tc99m tetrofosmin		N1		
A9503	Tc99m medronate		N1		
A9504	Tc99m apcitide		N1		
A9505	TL201 thallium		N1		
A9507	In111 capromab		N1		
A9508	I131 iodobenguate, dx		N1		
A9509	Iodine I-123 sod iodide mil		N1		
A9510	Tc99m disofenin		N1		
A9512	Tc99m pertechnetate		N1		
A9516	Iodine I-123 sod iodide mic		N1		
A9521	Tc99m exametazime		N1		
A9524	I131 serum albumin, dx		N1		
A9526	Nitrogen N-13 ammonia		N1		
A9527	Iodine I-125 sodium iodide	CH	H2		$37.92
A9528	Iodine I-131 iodide cap, dx		N1		
A9529	I131 iodide sol, dx		N1		
A9531	I131 max 100uCi		N1		
A9532	I125 serum albumin, dx		N1		
A9535	Injection, methylene blue	CH	D5		
A9536	Tc99m depreotide		N1		
A9537	Tc99m mebrofenin		N1		
A9538	Tc99m pyrophosphate		N1		

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A9539	Tc99m pentetate		N1		
A9540	Tc99m MAA		N1		
A9541	Tc99m sulfur colloid		N1		
A9542	In111 ibritumomab, dx		N1		
A9544	I131 tositumomab, dx		N1		
A9546	Co57/58		N1		
A9547	In111 oxyquinoline		N1		
A9548	In111 pentetate		N1		
A9550	Tc99m gluceptate		N1		
A9551	Tc99m succimer		N1		
A9552	F18 fdg		N1		
A9553	Cr51 chromate		N1		
A9554	I125 iothalamate, dx		N1		
A9555	Rb82 rubidium		N1		
A9556	Ga67 gallium		N1		
A9557	Tc99m bicisate		N1		
A9558	Xe133 xenon 10mci		N1		
A9559	Co57 cyano		N1		
A9560	Tc99m labeled rbc		N1		
A9561	Tc99m oxidronate		N1		
A9562	Tc99m mertiatide		N1		
A9566	Tc99m fanolesomab		N1		
A9567	Technetium TC-99m aerosol		N1		
A9568	Technetium tc99m arcitumomab		N1		
A9569	Technetium TC-99m auto WBC		N1		
A9570	Indium In-111 auto WBC		N1		
A9571	Indium IN-111 auto platelet		N1		
A9572	Indium In-111 pentetreotide		N1		
A9576	Inj prohance multipack		N1		
A9577	Inj multihance		N1		
A9578	Inj multihance multipack		N1		
A9579	Gad-base MR contrast NOS,1ml		N1		
A9580	Sodium fluoride F-18		N1		
A9581	Gadoxetate disodium inj	NI	K2		$13.50
A9582	Iodine I-123 iobenguane	NI	K2		$2,329.83
A9583	Gadofosveset trisodium inj	NI	K2		$1.29

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A9698	Non-rad contrast materialNOC		N1		
C1713	Anchor/screw bn/bn,tis/bn		N1		
C1714	Cath, trans atherectomy, dir		N1		
C1715	Brachytherapy needle		N1		
C1716	Brachytx, non-str, Gold-198	CH	H2		$42.85
C1717	Brachytx, non-str,HDR Ir-192	CH	H2		$231.38
C1719	Brachytx, NS, Non-HDRIr-192	CH	H2		$64.02
C1721	AICD, dual chamber		N1		
C1722	AICD, single chamber		N1		
C1724	Cath, trans atherec,rotation		N1		
C1725	Cath, translumin non-laser		N1		
C1726	Cath, bal dil, non-vascular		N1		
C1727	Cath, bal tis dis, non-vas		N1		
C1728	Cath, brachytx seed adm		N1		
C1729	Cath, drainage		N1		
C1730	Cath, EP, 19 or few elect		N1		
C1731	Cath, EP, 20 or more elec		N1		
C1732	Cath, EP, diag/abl, 3D/vect		N1		
C1733	Cath, EP, othr than cool-tip		N1		
C1750	Cath, hemodialysis,long-term		N1		
C1751	Cath, inf, per/cent/midline		N1		
C1752	Cath,hemodialysis,short-term		N1		
C1753	Cath, intravas ultrasound		N1		
C1754	Catheter, intradiscal		N1		
C1755	Catheter, intraspinal		N1		
C1756	Cath, pacing, transesoph		N1		
C1757	Cath, thrombectomy/embolect		N1		
C1758	Catheter, ureteral		N1		
C1759	Cath, intra echocardiography		N1		
C1760	Closure dev, vasc		N1		
C1762	Conn tiss, human(inc fascia)		N1		
C1763	Conn tiss, non-human		N1		
C1764	Event recorder, cardiac		N1		
C1765	Adhesion barrier		N1		
C1766	Intro/sheath,strble,non-peel		N1		
C1767	Generator, neuro non-recharg		N1		

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C1768	Graft, vascular		N1		
C1769	Guide wire		N1		
C1770	Imaging coil, MR, insertable		N1		
C1771	Rep dev, urinary, w/sling		N1		
C1772	Infusion pump, programmable		N1		
C1773	Ret dev, insertable		N1		
C1776	Joint device (implantable)		N1		
C1777	Lead, AICD, endo single coil		N1		
C1778	Lead, neurostimulator		N1		
C1779	Lead, pmkr, transvenous VDD		N1		
C1780	Lens, intraocular (new tech)		N1		
C1781	Mesh (implantable)		N1		
C1782	Morcellator		N1		
C1783	Ocular imp, aqueous drain de		N1		
C1784	Ocular dev, intraop, det ret		N1		
C1785	Pmkr, dual, rate-resp		N1		
C1786	Pmkr, single, rate-resp		N1		
C1787	Patient progr, neurostim		N1		
C1788	Port, indwelling, imp		N1		
C1789	Prosthesis, breast, imp		N1		
C1813	Prosthesis, penile, inflatab		N1		
C1814	Retinal tamp, silicone oil		N1		
C1815	Pros, urinary sph, imp		N1		
C1816	Receiver/transmitter, neuro		N1		
C1817	Septal defect imp sys		N1		
C1818	Integrated keratoprosthesis		N1		
C1819	Tissue localization-excision		N1		
C1820	Generator neuro rechg bat sy		N1		
C1821	Interspinous implant		N1		
C1874	Stent, coated/cov w/del sys		N1		
C1875	Stent, coated/cov w/o del sy		N1		
C1876	Stent, non-coa/non-cov w/del		N1		
C1877	Stent, non-coat/cov w/o del		N1		
C1878	Matrl for vocal cord		N1		
C1879	Tissue marker, implantable		N1		
C1880	Vena cava filter		N1		

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C1881	Dialysis access system		N1		
C1882	AICD, other than sing/dual		N1		
C1883	Adapt/ext, pacing/neuro lead		N1		
C1884	Embolization Protect syst		N1		
C1885	Cath, translumin angio laser		N1		
C1887	Catheter, guiding		N1		
C1888	Endovas non-cardiac abl cath		N1		
C1891	Infusion pump,non-prog, perm		N1		
C1892	Intro/sheath,fixed,peel-away		N1		
C1893	Intro/sheath, fixed,non-peel		N1		
C1894	Intro/sheath, non-laser		N1		
C1895	Lead, AICD, endo dual coil		N1		
C1896	Lead, AICD, non sing/dual		N1		
C1897	Lead, neurostim test kit		N1		
C1898	Lead, pmkr, other than trans		N1		
C1899	Lead, pmkr/AICD combination		N1		
C1900	Lead, coronary venous		N1		
C2614	Probe, perc lumb disc		N1		
C2615	Sealant, pulmonary, liquid		N1		
C2616	Brachytx, non-str,Yttrium-90	CH	H2		$15,779.35
C2617	Stent, non-cor, tem w/o del		N1		
C2618	Probe, cryoablation		N1		
C2619	Pmkr, dual, non rate-resp		N1		
C2620	Pmkr, single, non rate-resp		N1		
C2621	Pmkr, other than sing/dual		N1		
C2622	Prosthesis, penile, non-inf		N1		
C2625	Stent, non-cor, tem w/del sy		N1		
C2626	Infusion pump, non-prog,temp		N1		
C2627	Cath, suprapubic/cystoscopic		N1		
C2628	Catheter, occlusion		N1		
C2629	Intro/sheath, laser		N1		
C2630	Cath, EP, cool-tip		N1		
C2631	Rep dev, urinary, w/o sling		N1		
C2634	Brachytx, non-str, HA, I-125	CH	H2		$59.80
C2635	Brachytx, non-str, HA, P-103	CH	H2		$28.59
C2636	Brachy linear, non-str,P-103	CH	H2		$19.37

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C2638	Brachytx, stranded, I-125	CH	H2		$42.48
C2639	Brachytx, non-stranded,I-125	CH	H2		$36.18
C2640	Brachytx, stranded, P-103	CH	H2		$60.36
C2641	Brachytx, non-stranded,P-103	CH	H2		$57.12
C2642	Brachytx, stranded, C-131	CH	H2		$109.84
C2643	Brachytx, non-stranded,C-131	CH	H2		$66.09
C2698	Brachytx, stranded, NOS	CH	H2		$42.48
C2699	Brachytx, non-stranded, NOS	CH	H2		$28.59
C8900	MRA w/cont, abd		Z2	6.0177	$251.98
C8901	MRA w/o cont, abd		Z2	4.961	$207.73
C8902	MRA w/o fol w/cont, abd		Z2	7.5993	$318.21
C8903	MRI w/cont, breast, uni		Z2	6.0177	$251.98
C8904	MRI w/o cont, breast, uni		Z2	4.961	$207.73
C8905	MRI w/o fol w/cont, brst, un		Z2	7.5993	$318.21
C8906	MRI w/cont, breast, bi		Z2	6.0177	$251.98
C8907	MRI w/o cont, breast, bi		Z2	4.961	$207.73
C8908	MRI w/o fol w/cont, breast,		Z2	7.5993	$318.21
C8909	MRA w/cont, chest		Z2	6.0177	$251.98
C8910	MRA w/o cont, chest		Z2	4.961	$207.73
C8911	MRA w/o fol w/cont, chest		Z2	7.5993	$318.21
C8912	MRA w/cont, lwr ext		Z2	6.0177	$251.98
C8913	MRA w/o cont, lwr ext		Z2	4.961	$207.73
C8914	MRA w/o fol w/cont, lwr ext		Z2	7.5993	$318.21
C8918	MRA w/cont, pelvis		Z2	6.0177	$251.98
C8919	MRA w/o cont, pelvis		Z2	4.961	$207.73
C8920	MRA w/o fol w/cont, pelvis		Z2	7.5993	$318.21
C9113	Inj pantoprazole sodium, via		N1		
C9121	Injection, argatroban		K2		$18.10
C9245	Injection, romiplostim	CH	D5		
C9246	Inj, gadoxetate disodium	CH	D5		
C9247	Inj, iobenguane, I-123, dx	CH	D5		
C9248	Inj, clevidipine butyrate		K2		$3.39
C9249	Inj, certolizumab pegol	CH	D5		
C9250	Artiss fibrin sealant		K2		$138.20
C9251	Inj, C1 esterase inhibitor	CH	D5		
C9252	Injection, plerixafor	CH	D5		

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C9253	Injection, temozolomide	CH	D5		
C9254	Injection, lacosamide	NI	K2		$0.18
C9255	Paliperidone palmitate inj	NI	K2		$6.71
C9256	Dexamethasone intravitreal	NI	K2		$196.10
C9257	Bevacizumab injection	NI	K2		$1.41
C9352	Neuragen nerve guide, per cm		N1		
C9353	Neurawrap nerve protector,cm		N1		
C9354	Veritas collagen matrix, cm2	CH	N1		
C9355	Neuromatrix nerve cuff, cm	CH	N1		
C9356	TenoGlide tendon prot, cm2		K2		$24.86
C9358	SurgiMend, fetal		K2		$10.76
C9359	Implnt,bon void filler-putty		K2		$63.54
C9360	SurgiMend, neonatal		K2		$10.67
C9361	NeuroMend nerve wrap		K2		$247.29
C9362	Implnt,bon void filler-strip		K2		$63.60
C9363	Integra Meshed Bil Wound Mat		K2		$25.62
C9364	Porcine implant, Permacol		K2		$17.21
C9399	Unclassified drugs or biolog		K7		
E0616	Cardiac event recorder		N1		
E0749	Elec osteogen stim implanted		N1		
E0782	Non-programble infusion pump		N1		
E0783	Programmable infusion pump		N1		
E0785	Replacement impl pump cathet		N1		
E0786	Implantable pump replacement		N1		
G0130	Single energy x-ray study		Z3		$15.90
G0173	Linear acc stereo radsur com		Z2	50.6947	$2,122.74
G0251	Linear acc based stero radio		Z2	13.6624	$572.09
G0288	Recon, CTA for surg plan		N1		
G0339	Robot lin-radsurg com, first		Z2	50.6947	$2,122.74
G0340	Robt lin-radsurg fractx 2-5		Z2	35.3136	$1,478.69
J0120	Tetracyclin injection		N1		
J0129	Abatacept injection		K2		$18.98
J0130	Abciximab injection		K2		$459.36
J0132	Acetylcysteine injection		K2		$2.29
J0133	Acyclovir injection		N1		
J0135	Adalimumab injection		K2		$357.53

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J0150	Injection adenosine 6 MG		K2		$9.50
J0152	Adenosine injection		K2		$76.42
J0170	Adrenalin epinephrin inject		N1		
J0180	Agalsidase beta injection		K2		$133.69
J0190	Inj biperiden lactate/5 mg		N1		
J0200	Alatrofloxacin mesylate		N1		
J0205	Alglucerase injection		K2		$41.19
J0207	Amifostine		K2		$350.07
J0210	Methyldopate hcl injection		K2		$27.64
J0215	Alefacept		K2		$30.02
J0220	Alglucosidase alfa injection		K2		$124.69
J0256	Alpha 1 proteinase inhibitor		K2		$3.63
J0278	Amikacin sulfate injection		N1		
J0280	Aminophyllin 250 MG inj		N1		
J0282	Amiodarone HCl		N1		
J0285	Amphotericin B		N1		
J0287	Amphotericin b lipid complex		K2		$9.66
J0288	Ampho b cholesteryl sulfate		K2		$13.74
J0289	Amphotericin b liposome inj		K2		$14.96
J0290	Ampicillin 500 MG inj		N1		
J0295	Ampicillin sodium per 1.5 gm		N1		
J0300	Amobarbital 125 MG inj		N1		
J0330	Succinycholine chloride inj		N1		
J0348	Anidulafungin injection		K2		$1.21
J0360	Hydralazine hcl injection		N1		
J0364	Apomorphine hydrochloride		N1		
J0365	Aprotonin, 10,000 kiu		K2		$2.60
J0380	Inj metaraminol bitartrate		N1		
J0390	Chloroquine injection		N1		
J0400	Aripiprazole injection		N1		
J0456	Azithromycin		N1		
J0460	Atropine sulfate injection	CH	D5		
J0461	Atropine sulfate injection	NI	N1		
J0470	Dimecaprol injection		K2		$26.81
J0475	Baclofen 10 MG injection		K2		$195.31
J0476	Baclofen intrathecal trial		K2		$71.24

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J0480	Basiliximab		K2		$1,624.44
J0500	Dicyclomine injection		N1		
J0515	Inj benztropine mesylate		N1		
J0520	Bethanechol chloride inject		N1		
J0530	Penicillin g benzathine inj	CH	D5		
J0540	Penicillin g benzathine inj	CH	D5		
J0550	Penicillin g benzathine inj	CH	D5		
J0559	PenG benzathine/procaine inj	NI	N1		
J0560	Penicillin g benzathine inj		N1		
J0570	Penicillin g benzathine inj		N1		
J0580	Penicillin g benzathine inj		N1		
J0583	Bivalirudin		K2		$2.40
J0585	Injection,onabotulinumtoxinA		K2		$5.40
J0586	AbobotulinumtoxintypeA	NI	K2		$8.23
J0587	Inj, rimabotulinumtoxinB		K2		$10.38
J0592	Buprenorphine hydrochloride		N1		
J0594	Busulfan injection		K2		$14.18
J0595	Butorphanol tartrate 1 mg		N1		
J0598	C1 esterase inhibitor inj	NI	K2		$41.34
J0600	Edetate calcium disodium inj		K2		$78.86
J0610	Calcium gluconate injection		N1		
J0620	Calcium glycer & lact/10 ML		N1		
J0630	Calcitonin salmon injection		K2		$48.37
J0636	Inj calcitriol per 0.1 mcg		N1		
J0637	Caspofungin acetate		K2		$11.52
J0640	Leucovorin calcium injection		N1		
J0641	Levoleucovorin injection		K2		$0.99
J0670	Inj mepivacaine HCL/10 ml		N1		
J0690	Cefazolin sodium injection		N1		
J0692	Cefepime HCl for injection		N1		
J0694	Cefoxitin sodium injection		N1		
J0696	Ceftriaxone sodium injection		N1		
J0697	Sterile cefuroxime injection		N1		
J0698	Cefotaxime sodium injection		N1		
J0702	Betamethasone acet&sod phosp		N1		
J0704	Betamethasone sod phosp/4 MG		N1		

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J0706	Caffeine citrate injection		N1		
J0710	Cephapirin sodium injection		N1		
J0713	Inj ceftazidime per 500 mg		N1		
J0715	Ceftizoxime sodium / 500 MG		N1		
J0718	Certolizumab pegol inj	NI	K2		$3.80
J0720	Chloramphenicol sodium injec		N1		
J0725	Chorionic gonadotropin/1000u		N1		
J0735	Clonidine hydrochloride		K2		$109.75
J0740	Cidofovir injection		K2		$746.46
J0743	Cilastatin sodium injection		N1		
J0744	Ciprofloxacin iv		N1		
J0745	Inj codeine phosphate /30 MG		N1		
J0760	Colchicine injection		N1		
J0770	Colistimethate sodium inj		N1		
J0780	Prochlorperazine injection		N1		
J0795	Corticorelin ovine triflutal		K2		$4.24
J0800	Corticotropin injection		K2		$2,394.93
J0833	Cosyntropin injection NOS	NI	K2		$91.84
J0834	Cosyntropin cortrosyn inj	NI	K2		$91.84
J0835	Inj cosyntropin per 0.25 MG	CH	D5		
J0850	Cytomegalovirus imm IV /vial		K2		$862.24
J0878	Daptomycin injection		K2		$0.40
J0881	Darbepoetin alfa, non-esrd		K2		$2.76
J0885	Epoetin alfa, non-esrd		K2		$9.40
J0894	Decitabine injection		K2		$28.42
J0895	Deferoxamine mesylate inj		N1		
J0900	Testosterone enanthate inj		N1		
J0945	Brompheniramine maleate inj	CH	K2		$0.75
J0970	Estradiol valerate injection		N1		
J1000	Depo-estradiol cypionate inj		N1		
J1020	Methylprednisolone 20 MG inj		N1		
J1030	Methylprednisolone 40 MG inj		N1		
J1040	Methylprednisolone 80 MG inj		N1		
J1051	Medroxyprogesterone inj		N1		
J1060	Testosterone cypionate 1 ML		N1		
J1070	Testosterone cypionat 100 MG		N1		

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J1080	Testosterone cypionat 200 MG		N1		
J1094	Inj dexamethasone acetate		N1		
J1100	Dexamethasone sodium phos		N1		
J1110	Inj dihydroergotamine mesylt		N1		
J1120	Acetazolamid sodium injectio		N1		
J1160	Digoxin injection		N1		
J1162	Digoxin immune fab (ovine)		K2		$474.73
J1165	Phenytoin sodium injection		N1		
J1170	Hydromorphone injection		N1		
J1180	Dyphylline injection		N1		
J1190	Dexrazoxane HCl injection		K2		$340.03
J1200	Diphenhydramine hcl injectio		N1		
J1205	Chlorothiazide sodium inj		K2		$292.02
J1212	Dimethyl sulfoxide 50% 50 ML		K2		$67.46
J1230	Methadone injection		N1		
J1240	Dimenhydrinate injection		N1		
J1245	Dipyridamole injection		N1		
J1250	Inj dobutamine HCL/250 mg		N1		
J1260	Dolasetron mesylate	CH	N1		
J1265	Dopamine injection		N1		
J1267	Doripenem injection		K2		$0.57
J1270	Injection, doxercalciferol		N1		
J1300	Eculizumab injection		K2		$177.57
J1320	Amitriptyline injection		N1		
J1324	Enfuvirtide injection	CH	K2		$0.47
J1325	Epoprostenol injection		N1		
J1327	Eptifibatide injection		K2		$18.57
J1330	Ergonovine maleate injection		N1		
J1335	Ertapenem injection		N1		
J1364	Erythro lactobionate /500 MG		N1		
J1380	Estradiol valerate 10 MG inj		N1		
J1390	Estradiol valerate 20 MG inj		N1		
J1410	Inj estrogen conjugate 25 MG		K2		$83.21
J1430	Ethanolamine oleate 100 mg		K2		$147.14
J1435	Injection estrone per 1 MG		N1		
J1436	Etidronate disodium inj		K2		$70.06

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J1438	Etanercept injection		K2		$183.61
J1440	Filgrastim 300 mcg injection		K2		$208.54
J1441	Filgrastim 480 mcg injection		K2		$324.44
J1450	Fluconazole		N1		
J1451	Fomepizole, 15 mg		K2		$7.99
J1453	Fosaprepitant injection		K2		$1.58
J1455	Foscarnet sodium injection	CH	N1		
J1457	Gallium nitrate injection		K2		$1.71
J1458	Galsulfase injection		K2		$339.04
J1459	Inj IVIG privigen 500 mg		K2		$35.05
J1460	Gamma globulin 1 CC inj		K2		$15.05
J1470	Gamma globulin 2 CC inj		K2		$30.10
J1480	Gamma globulin 3 CC inj		K2		$45.14
J1490	Gamma globulin 4 CC inj		K2		$60.20
J1500	Gamma globulin 5 CC inj		K2		$75.26
J1510	Gamma globulin 6 CC inj		K2		$90.35
J1520	Gamma globulin 7 CC inj		K2		$105.27
J1530	Gamma globulin 8 CC inj		K2		$120.40
J1540	Gamma globulin 9 CC inj		K2		$150.50
J1550	Gamma globulin 10 CC inj		K2		$150.50
J1560	Gamma globulin > 10 CC inj		K2		$150.50
J1561	Gamunex injection		K2		$36.71
J1562	Vivaglobin, inj		K2		$7.05
J1565	RSV-ivig	CH	D5		
J1566	Immune globulin, powder		K2		$29.83
J1568	Octagam injection		K2		$37.03
J1569	Gammagard liquid injection		K2		$37.85
J1570	Ganciclovir sodium injection		N1		
J1571	Hepagam b im injection		K2		$50.04
J1572	Flebogamma injection		K2		$36.51
J1573	Hepagam b intravenous, inj		K2		$50.04
J1580	Garamycin gentamicin inj		N1		
J1590	Gatifloxacin injection		N1		
J1595	Injection glatiramer acetate		K2		$81.23
J1600	Gold sodium thiomaleate inj		N1		
J1610	Glucagon hydrochloride/1 MG		K2		$79.20

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J1620	Gonadorelin hydroch/ 100 mcg		K2		$176.89
J1626	Granisetron hcl injection	CH	N1		
J1630	Haloperidol injection		N1		
J1631	Haloperidol decanoate inj		N1		
J1640	Hemin, 1 mg		K2		$7.73
J1642	Inj heparin sodium per 10 u		N1		
J1644	Inj heparin sodium per 1000u		N1		
J1645	Dalteparin sodium		N1		
J1650	Inj enoxaparin sodium		N1		
J1652	Fondaparinux sodium		K2		$5.98
J1655	Tinzaparin sodium injection		N1		
J1670	Tetanus immune globulin inj		K2		$199.91
J1680	Human fibrinogen conc inj	NI	K2		$96.46
J1700	Hydrocortisone acetate inj		N1		
J1710	Hydrocortisone sodium ph inj		N1		
J1720	Hydrocortisone sodium succ i		N1		
J1730	Diazoxide injection		K2		$112.16
J1740	Ibandronate sodium injection		K2		$139.22
J1742	Ibutilide fumarate injection		K2		$404.01
J1743	Idursulfase injection		K2		$446.44
J1745	Infliximab injection		K2		$57.60
J1750	Inj iron dextran		K2		$14.11
J1756	Iron sucrose injection		K2		$0.37
J1785	Injection imiglucerase /unit		K2		$4.12
J1790	Droperidol injection		N1		
J1800	Propranolol injection		N1		
J1815	Insulin injection		N1		
J1817	Insulin for insulin pump use	CH	K2		$3.34
J1830	Interferon beta-1b / .25 MG		K2		$168.90
J1835	Itraconazole injection	CH	N1		
J1840	Kanamycin sulfate 500 MG inj		N1		
J1850	Kanamycin sulfate 75 MG inj		N1		
J1885	Ketorolac tromethamine inj		N1		
J1890	Cephalothin sodium injection		N1		
J1930	Lanreotide injection		K2		$28.65
J1931	Laronidase injection		K2		$25.08

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J1940	Furosemide injection		N1		
J1945	Lepirudin		K2		$174.51
J1950	Leuprolide acetate /3.75 MG		K2		$480.20
J1953	Levetiracetam injection		K2		$0.75
J1956	Levofloxacin injection		N1		
J1960	Levorphanol tartrate inj		N1		
J1980	Hyoscyamine sulfate inj		N1		
J1990	Chlordiazepoxide injection		N1		
J2001	Lidocaine injection		N1		
J2010	Lincomycin injection		N1		
J2020	Linezolid injection		K2		$29.37
J2060	Lorazepam injection		N1		
J2150	Mannitol injection		N1		
J2170	Mecasermin injection		N1		
J2175	Meperidine hydrochl /100 MG		N1		
J2180	Meperidine/promethazine inj		N1		
J2185	Meropenem		N1		
J2210	Methylergonovin maleate inj		N1		
J2248	Micafungin sodium injection		K2		$1.08
J2250	Inj midazolam hydrochloride		N1		
J2260	Inj milrinone lactate / 5 MG		N1		
J2270	Morphine sulfate injection		N1		
J2271	Morphine so4 injection 100mg		N1		
J2275	Morphine sulfate injection		N1		
J2278	Ziconotide injection		K2		$6.65
J2280	Inj, moxifloxacin 100 mg		N1		
J2300	Inj nalbuphine hydrochloride		N1		
J2310	Inj naloxone hydrochloride		N1		
J2315	Naltrexone, depot form		K2		$2.14
J2320	Nandrolone decanoate 50 MG	CH	K2		$7.00
J2321	Nandrolone decanoate 100 MG	CH	K2		$7.00
J2322	Nandrolone decanoate 200 MG	CH	K2		$14.74
J2323	Natalizumab injection		K2		$8.32
J2325	Nesiritide injection		K2		$36.07
J2353	Octreotide injection, depot		K2		$105.27
J2354	Octreotide inj, non-depot		N1		

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J2355	Oprelvekin injection		K2		$242.16
J2357	Omalizumab injection		K2		$18.86
J2360	Orphenadrine injection		N1		
J2370	Phenylephrine hcl injection		N1		
J2400	Chloroprocaine hcl injection		N1		
J2405	Ondansetron hcl injection	CH	N1		
J2410	Oxymorphone hcl injection		N1		
J2425	Palifermin injection		K2		$11.06
J2430	Pamidronate disodium /30 MG		K2		$18.42
J2440	Papaverin hcl injection		N1		
J2469	Palonosetron hcl		K2		$17.19
J2501	Paricalcitol		N1		
J2503	Pegaptanib sodium injection		K2		$1,014.11
J2504	Pegademase bovine, 25 iu		K2		$242.67
J2505	Injection, pegfilgrastim 6mg		K2		$2,222.07
J2510	Penicillin g procaine inj		N1		
J2513	Pentastarch 10% solution		K2		$1,270.88
J2515	Pentobarbital sodium inj	CH	N1		
J2540	Penicillin g potassium inj		N1		
J2543	Piperacillin/tazobactam		N1		
J2550	Promethazine hcl injection		N1		
J2560	Phenobarbital sodium inj		N1		
J2562	Plerixafor injection	NI	K2		$268.51
J2590	Oxytocin injection		N1		
J2597	Inj desmopressin acetate		N1		
J2650	Prednisolone acetate inj		N1		
J2670	Totazoline hcl injection		N1		
J2675	Inj progesterone per 50 MG		N1		
J2680	Fluphenazine decanoate 25 MG		N1		
J2690	Procainamide hcl injection		N1		
J2700	Oxacillin sodium injeciton		N1		
J2710	Neostigmine methylslfte inj		N1		
J2720	Inj protamine sulfate/10 MG		N1		
J2724	Protein c concentrate		K2		$11.96
J2725	Inj protirelin per 250 mcg		N1		
J2730	Pralidoxime chloride inj		K2		$85.83

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J2760	Phentolaine mesylate inj		N1		
J2765	Metoclopramide hcl injection		N1		
J2770	Quinupristin/dalfopristin		K2		$144.08
J2778	Ranibizumab injection		K2		$398.11
J2780	Ranitidine hydrochloride inj		N1		
J2783	Rasburicase		K2		$164.00
J2785	Regadenoson injection		K2		$50.78
J2788	Rho d immune globulin 50 mcg		K2		$25.76
J2790	Rho d immune globulin inj		K2		$84.39
J2791	Rhophylac injection		K2		$5.13
J2792	Rho(D) immune globulin h, sd		K2		$18.39
J2793	Rilonacept injection	NI	K2		$23.64
J2794	Risperidone, long acting		K2		$4.93
J2795	Ropivacaine HCl injection		N1		
J2796	Romiplostim injection	NI	K2		$43.75
J2800	Methocarbamol injection		N1		
J2805	Sincalide injection	CH	N1		
J2810	Inj theophylline per 40 MG		N1		
J2820	Sargramostim injection		K2		$23.31
J2850	Inj secretin synthetic human		K2		$19.93
J2910	Aurothioglucose injeciton		N1		
J2916	Na ferric gluconate complex		N1		
J2920	Methylprednisolone injection		N1		
J2930	Methylprednisolone injection		N1		
J2940	Somatrem injection		K2		$43.99
J2941	Somatropin injection		K2		$53.47
J2950	Promazine hcl injection		N1		
J2993	Reteplase injection		K2		$1,230.80
J2995	Inj streptokinase /250000 IU		K2		$78.00
J2997	Alteplase recombinant		K2		$35.03
J3000	Streptomycin injection		N1		
J3010	Fentanyl citrate injeciton		N1		
J3030	Sumatriptan succinate / 6 MG		K2		$55.49
J3070	Pentazocine injection		N1		
J3101	Tenecteplase injection		K2		$40.10
J3105	Terbutaline sulfate inj		N1		

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HCPCS Code	Short Descriptor	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
J3120	Testosterone enanthate inj		N1		
J3130	Testosterone enanthate inj		N1		
J3140	Testosterone suspension inj		N1		
J3150	Testosteron propionate inj		N1		
J3230	Chlorpromazine hcl injection		N1		
J3240	Thyrotropin injection		K2		$948.38
J3243	Tigecycline injection		K2		$1.15
J3246	Tirofiban HCl		K2		$7.83
J3250	Trimethobenzamide hcl inj		N1		
J3260	Tobramycin sulfate injection		N1		
J3265	Injection torsemide 10 mg/ml		N1		
J3280	Thiethylperazine maleate inj		N1		
J3285	Treprostinil injection		K2		$54.83
J3300	Triamcinolone A inj PRS-free		K2		$3.20
J3301	Triamcinolone acet inj NOS		N1		
J3302	Triamcinolone diacetate inj		N1		
J3303	Triamcinolone hexacetonl inj		N1		
J3305	Inj trimetrexate glucoronate		K2		$124.80
J3310	Perphenazine injeciton		N1		
J3315	Triptorelin pamoate		K2		$160.83
J3320	Spectinomycn di-hcl inj		N1		
J3350	Urea injection	CH	N1		
J3355	Urofollitropin, 75 iu		K2		$59.26
J3360	Diazepam injection		N1		
J3364	Urokinase 5000 IU injection		N1		
J3365	Urokinase 250,000 IU inj		K2		$449.09
J3370	Vancomycin hcl injection		N1		
J3396	Verteporfin injection		K2		$9.31
J3400	Triflupromazine hcl inj	CH	N1		
J3410	Hydroxyzine hcl injection		N1		
J3411	Thiamine hcl 100 mg		N1		
J3415	Pyridoxine hcl 100 mg		N1		
J3420	Vitamin b12 injection		N1		
J3430	Vitamin k phytonadione inj		N1		
J3465	Injection, voriconazole		K2		$5.26
J3470	Hyaluronidase injection		N1		

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HCPCS Code	Short Descriptor	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
J3471	Ovine, up to 999 USP units		N1		
J3472	Ovine, 1000 USP units	CH	N1		
J3473	Hyaluronidase recombinant	CH	N1		
J3475	Inj magnesium sulfate		N1		
J3480	Inj potassium chloride		N1		
J3485	Zidovudine		N1		
J3486	Ziprasidone mesylate		N1		
J3487	Zoledronic acid		K2		$214.94
J3488	Reclast injection		K2		$218.59
J3490	Drugs unclassified injection		N1		
J3530	Nasal vaccine inhalation		N1		
J3590	Unclassified biologics		N1		
J7030	Normal saline solution infus		N1		
J7040	Normal saline solution infus		N1		
J7042	5% dextrose/normal saline		N1		
J7050	Normal saline solution infus		N1		
J7060	5% dextrose/water		N1		
J7070	D5w infusion		N1		
J7100	Dextran 40 infusion		N1		
J7110	Dextran 75 infusion		N1		
J7120	Ringers lactate infusion		N1		
J7130	Hypertonic saline solution		N1		
J7185	Xyntha inj	NI	K2		$1.06
J7186	Antihemophilic viii/vwf comp		K2		$0.84
J7187	Humate-P, inj		K2		$0.87
J7189	Factor viia		K2		$1.29
J7190	Factor viii		K2		$0.84
J7191	Factor VIII (porcine)		K2		$2.00
J7192	Factor viii recombinant NOS		K2		$1.08
J7193	Factor IX non-recombinant		K2		$0.88
J7194	Factor ix complex		K2		$0.85
J7195	Factor IX recombinant		K2		$1.06
J7197	Antithrombin iii injection	CH	K2		$2.28
J7198	Anti-inhibitor		K2		$1.53
J7308	Aminolevulinic acid hcl top		K2		$127.60
J7310	Ganciclovir long act implant		K2		$16,640.00

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J7311	Fluocinolone acetonide implt		K2		$18,980.00
J7321	Hyalgan/supartz inj per dose		K2		$91.87
J7322	Synvisc inj per dose	CH	D5		
J7323	Euflexxa inj per dose		K2		$113.96
J7324	Orthovisc inj per dose		K2		$177.68
J7325	Synvisc or Synvisc-One	NI	K2		$11.47
J7500	Azathioprine oral 50mg		N1		
J7501	Azathioprine parenteral		K2		$90.64
J7502	Cyclosporine oral 100 mg		K2		$3.22
J7504	Lymphocyte immune globulin		K2		$453.67
J7505	Monoclonal antibodies		K2		$1,109.45
J7506	Prednisone oral		N1		
J7507	Tacrolimus oral per 1 MG		K2		$3.96
J7509	Methylprednisolone oral		N1		
J7510	Prednisolone oral per 5 mg		N1		
J7511	Antithymocyte globuln rabbit		K2		$414.44
J7513	Daclizumab, parenteral		K2		$378.20
J7515	Cyclosporine oral 25 mg	CH	K2		$0.82
J7516	Cyclosporin parenteral 250mg		K2		$21.24
J7517	Mycophenolate mofetil oral		K2		$2.45
J7518	Mycophenolic acid	CH	N1		
J7520	Sirolimus, oral		K2		$9.44
J7525	Tacrolimus injection		K2		$136.82
J7599	Immunosuppressive drug noc		N1		
J7674	Methacholine chloride, neb		N1		
J7799	Non-inhalation drug for DME		N1		
J8501	Oral aprepitant		K2		$5.42
J8510	Oral busulfan	CH	N1		
J8520	Capecitabine, oral, 150 mg		K2		$5.68
J8521	Capecitabine, oral, 500 mg		K2		$18.73
J8530	Cyclophosphamide oral 25 MG		N1		
J8540	Oral dexamethasone		N1		
J8560	Etoposide oral 50 MG		K2		$0.45
J8597	Antiemetic drug oral NOS		N1		
J8600	Melphalan oral 2 MG		N1		
J8610	Methotrexate oral 2.5 MG		N1		

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J8650	Nabilone oral	CH	N1		
J8700	Temozolomide		K2		$8.59
J8705	Topotecan oral		K2		$71.35
J9000	Doxorubicin hcl injection		N1		
J9001	Doxorubicin hcl liposome inj		K2		$450.51
J9010	Alemtuzumab injection		K2		$559.46
J9015	Aldesleukin injection		K2		$831.49
J9017	Arsenic trioxide injection		K2		$36.73
J9020	Asparaginase injection		K2		$56.92
J9025	Azacitidine injection		K2		$4.78
J9027	Clofarabine injection		K2		$114.21
J9031	Bcg live intravesical vac		K2		$111.08
J9033	Bendamustine injection		K2		$18.53
J9035	Bevacizumab injection		K2		$56.39
J9040	Bleomycin sulfate injection		N1		
J9041	Bortezomib injection		K2		$36.54
J9045	Carboplatin injection		N1		
J9050	Carmustine injection		K2		$173.73
J9055	Cetuximab injection		K2		$48.79
J9060	Cisplatin 10 MG injection		N1		
J9062	Cisplatin 50 MG injection		N1		
J9065	Inj cladribine per 1 MG		K2		$25.15
J9070	Cyclophosphamide 100 MG inj		N1		
J9080	Cyclophosphamide 200 MG inj		N1		
J9090	Cyclophosphamide 500 MG inj		N1		
J9091	Cyclophosphamide 1.0 grm inj		N1		
J9092	Cyclophosphamide 2.0 grm inj		N1		
J9093	Cyclophosphamide lyophilized		N1		
J9094	Cyclophosphamide lyophilized		N1		
J9095	Cyclophosphamide lyophilized		N1		
J9096	Cyclophosphamide lyophilized		N1		
J9097	Cyclophosphamide lyophilized		N1		
J9098	Cytarabine liposome inj		K2		$480.19
J9100	Cytarabine hcl 100 MG inj		N1		
J9110	Cytarabine hcl 500 MG inj		N1		
J9120	Dactinomycin injection		K2		$533.21

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J9130	Dacarbazine 100 mg inj		N1		
J9140	Dacarbazine 200 MG inj		N1		
J9150	Daunorubicin injection		K2		$14.95
J9151	Daunorubicin citrate inj		K2		$55.27
J9155	Degarelix injection	NI	K2		$2.23
J9160	Denileukin diftitox inj		K2		$1,448.32
J9165	Diethylstilbestrol injection		K2		$1,257.36
J9170	Docetaxel injection	CH	D5		
J9171	Docetaxel injection	NI	K2		$16.95
J9175	Elliotts b solution per ml		N1		
J9178	Inj, epirubicin hcl, 2 mg		K2		$2.55
J9181	Etoposide injection		N1		
J9185	Fludarabine phosphate inj		K2		$151.36
J9190	Fluorouracil injection		N1		
J9200	Floxuridine injection		K2		$46.60
J9201	Gemcitabine hcl injection		K2		$139.10
J9202	Goserelin acetate implant		K2		$193.02
J9206	Irinotecan injection		K2		$13.18
J9207	Ixabepilone injection		K2		$63.74
J9208	Ifosfomide injection		K2		$29.39
J9209	Mesna injection		K2		$4.34
J9211	Idarubicin hcl injection		K2		$96.70
J9212	Interferon alfacon-1 inj	CH	K2		$6.75
J9213	Interferon alfa-2a inj		K2		$10.60
J9214	Interferon alfa-2b inj		K2		$15.54
J9215	Interferon alfa-n3 inj		K2		$17.89
J9216	Interferon gamma 1-b inj		K2		$294.03
J9217	Leuprolide acetate suspnsion		K2		$210.52
J9218	Leuprolide acetate injeciton		K2		$5.29
J9219	Leuprolide acetate implant		K2		$4,728.88
J9225	Vantas implant		K2		$1,473.60
J9226	Supprelin LA implant		K2		$14,875.43
J9230	Mechlorethamine hcl inj		K2		$144.56
J9245	Inj melphalan hydrochl 50 MG		K2		$1,622.81
J9250	Methotrexate sodium inj		N1		
J9260	Methotrexate sodium inj		N1		

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J9261	Nelarabine injection		K2		$101.28
J9263	Oxaliplatin		K2		$9.55
J9264	Paclitaxel protein bound		K2		$9.09
J9265	Paclitaxel injection	CH	N1		
J9266	Pegaspargase injection		K2		$2,695.67
J9268	Pentostatin injection		K2		$1,399.56
J9270	Plicamycin (mithramycin) inj	CH	N1		
J9280	Mitomycin 5 MG inj		K2		$17.74
J9290	Mitomycin 20 MG inj		K2		$70.98
J9291	Mitomycin 40 MG inj		K2		$141.95
J9293	Mitoxantrone hydrochl / 5 MG		K2		$65.51
J9300	Gemtuzumab ozogamicin inj		K2		$2,572.82
J9303	Panitumumab injection		K2		$85.21
J9305	Pemetrexed injection		K2		$48.50
J9310	Rituximab injection		K2		$552.70
J9320	Streptozocin injection		K2		$278.35
J9328	Temozolomide injection	NI	K2		$4.90
J9330	Temsirolimus injection		K2		$47.93
J9340	Thiotepa injection		K2		$97.69
J9350	Topotecan injection		K2		$988.88
J9355	Trastuzumab injection		K2		$63.51
J9357	Valrubicin injection		K2		$953.16
J9360	Vinblastine sulfate inj		N1		
J9370	Vincristine sulfate 1 MG inj		N1		
J9375	Vincristine sulfate 2 MG inj		N1		
J9380	Vincristine sulfate 5 MG inj		N1		
J9390	Vinorelbine tartrate inj	CH	N1		
J9395	Injection, Fulvestrant		K2		$80.63
J9600	Porfimer sodium injection		K2		$2,745.46
J9999	Chemotherapy drug		N1		
L8600	Implant breast silicone/eq		N1		
L8603	Collagen imp urinary 2.5 ml		N1		
L8604	Dextranomer/hyaluronic acid		N1		
L8606	Synthetic implnt urinary 1ml		N1		
L8609	Artificial cornea		N1		
L8610	Ocular implant		N1		

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L8612	Aqueous shunt prosthesis		N1		
L8613	Ossicular implant		N1		
L8614	Cochlear device		N1		
L8630	Metacarpophalangeal implant		N1		
L8631	MCP joint repl 2 pc or more		N1		
L8641	Metatarsal joint implant		N1		
L8642	Hallux implant		N1		
L8658	Interphalangeal joint spacer		N1		
L8659	Interphalangeal joint repl		N1		
L8670	Vascular graft, synthetic		N1		
L8682	Implt neurostim radiofq rec		N1		
L8690	Aud osseo dev, int/ext comp		N1		
L8699	Prosthetic implant NOS		N1		
P9041	Albumin (human),5%, 50ml		K2		$16.89
P9045	Albumin (human), 5%, 250 ml		K2		$60.58
P9046	Albumin (human), 25%, 20 ml		K2		$25.67
P9047	Albumin (human), 25%, 50ml		K2		$62.05
Q0138	Ferumoxytol, non-esrd	NI	K2		$0.82
Q0163	Diphenhydramine HCl 50mg		N1		
Q0164	Prochlorperazine maleate 5mg		N1		
Q0166	Granisetron hcl 1 mg oral	CH	N1		
Q0167	Dronabinol 2.5mg oral		N1		
Q0169	Promethazine HCl 12.5mg oral		N1		
Q0171	Chlorpromazine HCl 10mg oral		N1		
Q0173	Trimethobenzamide HCl 250mg		N1		
Q0174	Thiethylperazine maleate10mg		N1		
Q0175	Perphenazine 4mg oral		N1		
Q0177	Hydroxyzine pamoate 25mg		N1		
Q0179	Ondansetron hcl 8 mg oral	CH	N1		
Q0180	Dolasetron mesylate oral	CH	N1		
Q0515	Sermorelin acetate injection		K2		$1.77
Q1003	Ntiol category 3		L6		$50.00
Q2004	Bladder calculi irrig sol	CH	K2		$29.28
Q2009	Fosphenytoin inj PE		N1		
Q2017	Teniposide, 50 mg		K2		$319.43
Q2023	Xyntha, inj	CH	D5		

NOTE 1: The Medicare program payment is 80 percent of the total payment amount and beneficiary coinsurance is 20 percent of the total payment amount, except for screening flexible sigmoidoscopies and screening colonoscopies for which the program payment is 75 percent and the beneficiary coinsurance is 25 percent.

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Addendum BB -- Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2010 (Including Ancillary Services for Which Payment is Packaged)

HCPCS Code	Short Descriptor	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
Q2024	Bevacizumab injection	CH	D5		
Q3025	IM inj interferon beta 1-a		K2		$187.24
Q4100	Skin substitute, NOS		N1		
Q4101	Apligraf skin sub		K2		$32.16
Q4102	Oasis wound matrix skin sub		K2		$4.12
Q4103	Oasis burn matrix skin sub		K2		$4.12
Q4104	Integra BMWD skin sub		K2		$11.77
Q4105	Integra DRT skin sub		K2		$11.77
Q4106	Dermagraft skin sub		K2		$39.25
Q4107	Graftjacket skin sub		K2		$89.23
Q4108	Integra matrix skin sub		K2		$17.98
Q4109	Tissuemend skin sub		N1		
Q4110	Primatrix skin sub		K2		$33.99
Q4111	Gammagraft skin sub		K2		$7.13
Q4112	Cymetra allograft		K2		$327.47
Q4113	Graftjacket express allograf		K2		$327.47
Q4114	Integra flowable wound matri		K2		$907.36
Q4115	Alloskin skin sub		K2		$9.36
Q4116	Alloderm skin sub		K2		$31.72
Q9951	LOCM >= 400 mg/ml iodine,1ml		N1		
Q9953	Inj Fe-based MR contrast,1ml		N1		
Q9954	Oral MR contrast, 100 ml		N1		
Q9955	Inj perflexane lip micros,ml		N1		
Q9956	Inj octafluoropropane mic,ml		N1		
Q9957	Inj perflutren lip micros,ml		N1		
Q9958	HOCM <=149 mg/ml iodine, 1ml		N1		
Q9959	HOCM 150-199mg/ml iodine,1ml		N1		
Q9960	HOCM 200-249mg/ml iodine,1ml		N1		
Q9961	HOCM 250-299mg/ml iodine,1ml		N1		
Q9962	HOCM 300-349mg/ml iodine,1ml		N1		
Q9963	HOCM 350-399mg/ml iodine,1ml		N1		
Q9964	HOCM>= 400mg/ml iodine, 1ml		N1		
Q9965	LOCM 100-199mg/ml iodine,1ml		N1		
Q9966	LOCM 200-299mg/ml iodine,1ml		N1		
Q9967	LOCM 300-399mg/ml iodine,1ml		N1		
Q9968	Visualization adjunct	NI	K2		$4.11

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HCPCS Code	Short Descriptor	CY 2010 Comment Indicator	CY 2010 Payment Indicator	CY 2010 Third Year Transition Payment Weight	CY 2010 Third Year Transition Payment
V2630	Anter chamber intraocul lens		N1		
V2631	Iris support intraoclr lens		N1		
V2632	Post chmbr intraocular lens		N1		
V2785	Corneal tissue processing		F4		
V2790	Amniotic membrane		N1		

NOTE 1: The Medicare program payment is 80 percent of the total payment amount and beneficiary coinsurance is 20 percent of the total payment amount, except for screening flexible sigmoidoscopies and screening colonoscopies for which the program payment is 75 percent and the beneficiary coinsurance is 25 percent.

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H.R. 4165/P.L. 111–120
To extend through December 31, 2010, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits. (Dec. 22, 2009; 123 Stat. 3478)

H.J. Res. 62/P.L. 111–121
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S. 1472/P.L. 111–122
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